

Hingtgen, Robert J

From: Donna Tisdale <tisdale.donna@gmail.com>
Sent: Saturday, March 22, 2014 5:04 PM
To: Hingtgen, Robert J; Fogg, Mindy; Gungle, Ashley; Bennett, Jim; Jacob, Dianne; Wilson, Adam; Gretler, Darren M
Subject: BAD vs SDG&E amended water use complaint
Attachments: BAD vs SDG&E Amended Complaint 3-21-14.pdf

Please find the amended BAD vs SDG&E complaint filed by Volker Law with the CPUC and SDG&E on 3-21-14, for violations related to their water supply plan for the ongoing ECO Substation construction through Jacumba Hot Springs and Boulevard neighborhoods.

The complaint was amended to address new information from the City of San Diego that conflicted with previous information provided on bulk water sales for the ECO Substation project.

It also addresses controversial cumulative impact bulk water sales from the Jacumba Community Services District, outside their sphere of influence, and the now curtailed bulk water sales from Live Oak Springs and from unauthorized wells on the Campo Reservation.

As you know, some of the same groundwater resources are contracted to sell water for the Tule Wind Phase I, Tule Wind Phase II, Energia Sierra Juarez cross-border 230-500kV line, Soitec's Rugged Solar, Soitec's Tierra Del Sol Solar, Rough Acres Campground and Conference Center, and more.

We still don't know where SDG&E proposes to get the additional millions of gallons of water needed for their Master Special Use Permit and Permit to Construction their wood-to steel replacement project for 1800 poles and with increased carrying capacity and wider easements, through the backcountry and Cleveland National Forest.

Regards,

Donna Tisdale
619-766-4170

bcc interested parties

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Backcountry Against Dumps,)	
Complainant,)	
)	
vs.)	Docket No. C.14-03-010
)	
San Diego Gas and Electric Company (U-902-M),)	
Defendant.)	
)	
)	
)	

AMENDED COMPLAINT

STEPHAN C. VOLKER (CSB #63093)
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Attorney for
BACKCOUNTRY AGAINST DUMPS

March 21, 2014

INTRODUCTION

1. Pursuant to California Public Utilities Code section 1702 and Rule 4.1 of the California Public Utilities Commission's ("CPUC's" or "Commission's") Rules of Practice and Procedure, Backcountry Against Dumps ("Backcountry") hereby files this Amended Complaint against San Diego Gas and Electric Company ("SDG&E") with regard to its East County Substation Project, Application 09-08-003 ("ECO Substation" or the "Project"), for which the Commission approved a permit to construct ("PTC") in its June 21, 2012 Decision 12-06-039 (attached hereto as Exhibit 1). This Amended Complaint supersedes and replaces Backcountry's March 10, 2014 Complaint. Pursuant to Rule 1.8, Backcountry Against Dumps authorizes the Law Offices of Stephan C. Volker to file this Amended Complaint on its behalf.

2. The Amended Complaint of Backcountry Against Dumps (P.O. Box 1275, Boulevard, CA 91905; (619) 766-4170) respectfully shows that SDG&E (101 Ash St., HQ 12, San Diego, CA, 92101; (800) 411-7343) has violated mitigation measure HYD-3 ("MM HYD-3") – compliance with which is a condition of the Commission's PTC grant to SDG&E for the Project – by failing to identify in its Water Supply Plan "one or more confirmed reliable water sources that when combined meet the project's full water supply construction needs." Exhibit 1, Attachment, p. 39, (provisions of MMHYD-3); SDG&E, East County Substation Project Amended Construction Water Supply Plan, Revised September 30, 2013 (hereinafter "Water Supply Plan") (attached hereto as Exhibit 2) . At least two of SDG&E's identified sources of water – the Live Oak Springs Water Company and groundwater from the Campo Indian Reservation – are unconfirmed, if not entirely unavailable. Furthermore the Water Supply Plan does not adequately show that Jacumba Community Service District and the City of San Diego

are authorized to provide water to the Project. Complainant Backcountry is injured by SDG&E's failure to comply with MM HYD-3 and its impacts on eastern San Diego County's already strained water supplies, concerns Backcountry has repeatedly raised since it intervened in the Commission's proceeding on SDG&E's PTC application for the Project. *See* Opening Brief of Backcountry Against Dumps, In the Matter of the Application of SDG&E (U902 E) 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 November 7, 2011, pp. 17-18 (attached hereto as Exhibit 3). The details of Backcountry's Amended Complaint are explicated below.

3. Backcountry seeks as a remedy an Order from the Commission (1) finding SDG&E's Water Supply Plan has violated MM HYD-3 and Commission Decision 12-06-039; (2) directing SDG&E to rescind its September 30, 2013 Water Supply Plan; (3) ordering SDG&E to develop a new water supply plan that complies with Decision 12-06-039 and MM HYD-3; (4) suspending SDG&E's Permit to Construct the ECO Substation Project; and (5) rescinding the Energy Division's approval of SDG&E's Minor Project Refinement Request #8.

SPECIFIC GROUNDS FOR AMENDED COMPLAINT

SDG&E's Water Supply Plan Violates MM HYD-3 and Decision 12-06-039 Because the Live Oak Springs Water Company Is an Unconfirmed and Unreliable Water Source for the Project.

4. In its Water Supply Plan and other Commission filings, SDG&E has continuously represented that Live Oak Springs Water Company (hereinafter "Live Oak") is a "viable and reliable source[]" that SDG&E can and will use to provide up to 35 million gallons of construction water to the Project. Exhibit 2, p. 3; East County Substation Project Minor Project

Refinement Request, No. 8, September 20, 2013 (original submission), October 1, 2013 (resubmitted) (“MPRR-8”), Attachment A, p. A-4 (attached hereto as Exhibit 4). SDG&E further maintains that Live Oak has “been confirmed as compliant with applicable laws and regulations to provide water for construction of the Project” Exhibit 2, p. 5.

5. SDG&E’s Water Supply Plan is doubly wrong. Live Oak is neither compliant with applicable laws and regulations to provide water for construction, nor a reliable and confirmed source of water. Indeed, as discussed below, Live Oak is *prohibited* from “supply[ing] water to Beta Engineering” for Project use. December 19, 2013 letter from Bruce DeBerry to Nazar Najor Re: Rejection of Advice Letter 28 (attached hereto as Exhibit 5).

6. SDG&E’s Water Supply Plan cites an October 26, 2012 service confirmation letter from Live Oak to support its claim that the water company could provide up to 35 million gallons of water for Project construction. Exhibit 2, Attachment C. On February 1, 2013, Live Oak transmitted Advice letter 28 to the Commission, in which it requested approval of a contract to supply water to Beta Engineering (SDG&E’s construction contractor) for Project construction. Live Oak, Advice Letter 28, February 1, 2013 (attached hereto as Exhibit 6). The Commission suspended Live Oak’s Advice Letter 28 because Live Oak had not provided sufficient information confirming its rights and ability to supply water for the Project, including the requisite approvals from the State Water Resources Control Board and San Diego County’s Office of Environmental Health. CPUC Advice Letter Suspension Notice February 21, 2013, at p. 2 (attached hereto as Exhibit 7). As a result, immediately after Project construction began in March 2013, the Commission found that the Live Oak was selling water for the Project in violation of the Commission’s suspension of Advice Letter 28. CPUC Violation Notice March

21, 2013 (attached hereto as Exhibit 8). Live Oak never corrected these omissions.

7. As a result of Live Oak's failure to confirm its rights and ability to supply water for the Project, along with the many other legal violations discovered during "the Commission's investigation into the operations and practices of the utility," the Commission "reject[ed] Advice Letter no. 28 with prejudice" in a December 19, 2013 letter to Live Oak. Exhibit 5. Without an approved tariff schedule, Live Oak is prohibited from selling trucked water for the Project. *Id.*

8. Furthermore, the Commission found in its July 29, 2013 Decision 13-07-036 (attached hereto as Exhibit 9) that the utility has consistently operated in violation of numerous Commission rules, including an improper commingling of utility and non-utility business interests, failing to receive Commission approval for changes in ownership, and use of the utility property as collateral. Exhibit 9, pp. 16-18, 22; *see also* CPUC March 28, 2013 Notice of Violation (attached hereto as Exhibit 10). As a result, the Commission initiated receivership proceedings against Live Oak, further undermining its reliability as a water source. Exhibit 5.

9. Because Live Oak is – and has been for most of the Project construction period – prohibited from selling trucked water to Beta Engineering for Project use, Live Oak is not a reliable water source for the Project. By including Live Oak in its Water Supply Plan for the ECO Substation Project, and by continuing to identify Live Oak as a water source in its Water Use Reports, SDG&E is in violation of MM HYD-3 and Commission Decision 12-06-039. Exhibit 1, Attachment p. 39; Exhibit 2, p. 3; SDG&E East County Substation Project Construction Water Use Report, January 1, 2014 - January 31, 2014 ("January Water Use Report"), p. 1 (attached hereto as Exhibit 11).

**The Water Supply Plan Violates MM HYD-3 and Decision 12-06-039
Because It Fails to Demonstrate That the City of San Diego Is a Confirmed
and Reliable Water Source for the Project.**

10. SDG&E's Water Supply Plan asserts that the City of San Diego ("City") is a "viable and reliable source[]" that SDG&E can and will use to provide up to 50 million gallons of construction water to the Project. Exhibit 2, p. 3. However, the Water Supply Plan fails to demonstrate that the City can and will supply sufficient water for the Project's needs.

11. The City issued two conflicting letters regarding its provision of water to SDG&E and its construction contractor – Beta Engineering – for the Project. The first, dated January 11, 2013 ("2013 Letter"), is the only document that the Water Supply Plan discusses regarding the availability of City water. Exhibit 2, Attachment A. It states that pursuant to the Fire Hydrant Meter Permit ("Permit") issued by the City to Beta Engineering on November 14, 2012, "up to 50 million gallons of water shall be available for Project use during the period November 26, 2012 *through November 26, 2013.*" *Id.* It also provides that if the applicant requests an extension "*prior to expiration of the Permit,*" "[u]pon approval . . . the use period may be extended through November 26, 2014." *Id.* (emphasis added). It does *not* provide for any increase in water use above 50 million gallons). *Id.*

12. The second letter, dated one month ago on February 18, 2014 ("2014 Letter," attached hereto as Exhibit 12), purports to *retroactively* authorize SDG&E's use of City water starting nearly *three months earlier* on November 26, 2013. *Id.* The 2014 Letter makes no mention of the previous Permit, any extension, or any new permit. *Id.* And, it purports to allow SDG&E to use an *additional* 66.5 million gallons of water "through December 28, 2014." *Id.* However, it fails to identify the source of this water. Moreover, because it was issued three

months *after* the Permit expired, it could not as a matter of law resurrect, let alone extend, that expired permit.

13. The Water Supply Plan violates MM HYD-3 and Commission Decision 12-06-039 because it relies solely on the City's 2013 Letter, under which the City's provision of water was limited to 50 million gallons and expired on November 26, 2013. Exhibit 2, Attachment A; Exhibit 1, Attachment, p. 39. Since the Water Supply Plan relies on documentation that no longer allows the City to supply water for the Project, it fails to identify "confirmed, reliable water sources." Exhibit 1, Attachment, p. 39.

14. In summary, because the Water Supply Plan fails to show that a firm and adequate water supply for the Project from the City, it violates MM HYD-3 and Decision 12-06-039. Exhibit 1, Attachment, p. 39. For the same reasons, the Commission's approval of SDG&E's Minor Project Refinement Request #8 (increasing the total construction water usage from 50 million gallons to 90 million gallons) is in error, since it is predicated on the unsupported assumption that the City of San Diego will provide the *entire* 40 million gallons of additional water needed for Project construction. CPUC letter to SDG&E, Minor Project Refinement Request (MPRR) #8 – Construction Water Use – East County Substation Project (Application No. 09-08-008), October 1, 2013 (attached hereto as Exhibit 13); Exhibit 11, p. 1. As shown above, the Water Supply Plan fails to support that assumption.

SDG&E's Water Supply Plan Violates MM HYD-3 and Decision 12-06-039 Because It Relies on Unconfirmed and Unreliable Campo Groundwater, the Use of Which SDG&E Has Failed to Demonstrate Complies with All Applicable Laws and Regulations.

15. SDG&E's largest claimed "viable and reliable source[]" of Project construction water is a group of "[w]ells located on the southeastern portion of the Campo Indian

Reservation.” Exhibit 2, pp. 3 (first quote), 4 (second quote). According to SDG&E, these Campo Reservation wells have a “[m]aximum total volume [of] 52.75 million gallons.” *Id.* at p. 4. But they have thus far produced barely one-fifth of that volume – 12,181,187 gallons as of January 31, 2014 – and may not produce any more. Exhibit 11, p. 1. As discussed below, the Campo Reservation groundwater is simply not a “confirmed, reliable water source[]” on which SDG&E may rely to comply with MM HYD-3 and the Commission’s Order in Decision 12-06-039. Exhibit 1, Attachment, p. 39.

16. Far from a “confirmed, reliable” water source, the “Campo Indian Reservation (Campo) [has *entirely*] stopped providing construction water deliveries to the Project” as of November 18, 2013. Exhibit 11, p. 1. And SDG&E has provided no evidence in its Water Supply Plan, its monthly water use reports or, to Backcountry’s knowledge anywhere else that the Campo Band of Mission Indians (“Campo Band”) will ever reverse its decision to terminate its water deliveries.

17. Furthermore, in violation of MM HYD-3, SDG&E has never “demonstrat[ed]” in its Water Supply Plan, its monthly water use reports or, to Backcountry’s knowledge anywhere else, that its (or its contractors’) purchase – and off-Reservation use – of Campo’s well water “compli[es] [with] all applicable laws and regulations.” Exhibit 1, Attachment, p. 39. SDG&E asserts in its Water Supply Plan that “Attachment 4 to Attachment F: Environmental Navigation Services Inc. Report includes a letter from Muht-Hei, Inc. confirming the legal authority of the Campo Band of Mission Indians to sell water for off-reservation use for construction purposes without an MUP from San Diego County.” Exhibit 2, p. 4. Wrong. The undated letter from Muht-Hei, Inc. (“MHI”) – a Campo Band corporation – to Jed Francis, Inc. (“MHI letter”) does

not “demonstrat[e] . . . compliance [with] all applicable laws and regulations” for at least two reasons. Exhibit 1, Attachment, p. 39 (quote); Exhibit 2, Attachment 4 to Attachment F.

18. First, MHI admits in its letter that the Campo General Council *never* approved the pumping, sale, and off-reservation use of Campo Reservation groundwater. Exhibit 2, Attachment 4 to Attachment F. MHI asserts in its letter that no “additional Council approval” was required, but it provides *no supporting authorities whatsoever*. *Id.*

19. Second, despite MHI’s contention in its letter that the sale of Campo Reservation groundwater to Jed Francis, Inc. complies with applicable laws, it *never* states *how much* water can be legally pumped and used. Exhibit 2, Attachment 4 to Attachment F. Furthermore, while the MHI letter limits pumping to wells at the Campo Materials Company facility, there is no information about the number or location of those wells. *Id.* This omission is troubling in view of the fact that the Campo Materials facility, located at 36501 Church Road in Campo, California 91960, is located *miles* to the north of the Campo Reservation wells that SDG&E identifies elsewhere as being available for Project use. Exhibit 2, Attachment F. Without this critical information, there is simply no evidence that there are “53.75 million gallons” – or indeed *any* specific quantity – of Campo Reservation groundwater legally available for extraction and use. Exhibit 2, p. 4.

20. In sum, with water deliveries indefinitely – if not permanently – stopped, and insufficient evidence “demonstrat[ing] . . . compliance [with] all applicable laws and regulations,” the Campo Reservation groundwater is not a “confirmed, reliable water source[.]” on which SDG&E may rely to comply with MM HYD-3 and the Commission’s Decision 12-06-039. Exhibit 1, Attachment, p. 39. The risks of relying on this unconfirmed and unreliable water

source are exacerbated by the fact that the Campo Reservation wells – like the Live Oak wells – draw from the fragile Campo-Cottonwood Sole Source Aquifer, which is the “sole or principal source of drinking water for the population in the vicinity of the communities of Boulevard, Campo, and Pine Valley in eastern San Diego County.” 58 Fed.Reg. 31024-04, May 28, 1993; Official Environmental Protection Agency Campo-Cottonwood Sole Source Aquifer Map (attached hereto as Exhibit 14).

The Water Supply Plan Fails to Confirm that the Jacumba Community Service District Is a Reliable Water Source that Will “Meet the Project’s Full Water Supply Construction Needs.”

21. Commission Decision 12-06-039 and MM HYD-3 require SDG&E to prepare a Water Supply Plan identifying “one or more confirmed reliable water sources that *when combined meet the project’s full water supply construction needs.*” Exhibit 1, Attachment, p. 39 (emphasis added). SDG&E’s Water Supply Plan has failed to meet this requirement. As discussed above, the Water Supply Plan fails to demonstrate that the Live Oak, City of San Diego, and Campo Indian Reservation water sources are reliable, confirmed and able to provide the water volumes asserted. Thus, pursuant to SDG&E’s Water Supply Plan, the lone water source still available to SDG&E for Project construction is the Jacumba Community Service District. But by itself, the Jacumba Community Service District *cannot come close* to fulfilling SDG&E’s remaining Project construction water needs, due to (1) limitations on the amount of water available for the Project, and (2) the boundaries of the District’s Sphere of Influence.

22. According to its October 2, 2012 water service confirmation letter to Beta Engineering, the Jacumba Community Service District can only supply “*up to 15 million gallons*” of water for the Project. Exhibit 2, Attachment B (emphasis added). However, SDG&E

has *already used* 10,474,626 of those 15 million gallons. Exhibit 11, p. 1. Therefore, *fewer than 5 million gallons* remain available for Project use ($15,000,000 - 10,474,626 = 4,525,374$). *Id.* This small quantity of water cannot meet the Project's remaining water supply needs. As of January 31, 2014, SDG&E had used approximately 60.5 million of the 90 million gallons of water it estimates will be required for Project construction, leaving a remainder of *nearly 30 million gallons* ($90,000,000 - 60,578,263 = 29,421,737$). *Id.* Even if the Jacumba Community Service District delivers the entire remaining 4,525,374 gallons of water it approved for Project use, SDG&E would still need nearly *25 million gallons* more to complete construction. As discussed above, the Water Supply Plan fails to show that any of the other three water sources identified by SDG&E are currently capable of delivering that much water, either individually or together. As a result, SDG&E has violated Decision 12-06-039 and MM HYD-3, which require SDG&E to develop a Water Supply Plan that identifies "one or more confirmed reliable water sources that when combined meet the project's full water supply construction needs." Exhibit 1, Attachment, p. 39.

23. The Jacumba Community Service District is limited to delivering water within its Sphere of Influence, unless it "first requests and receives written approval" from the San Diego County Local Agency Formation Commission ("LAFCO"). Government Code §§ 56133(a) (quote), 61100. Since the ECO Substation is outside the Jacumba Community Service District's Sphere of Influence, and the Water Supply Plan provides no evidence that the District ever requested or received written approval from LAFCO, the Jacumba Community Service District is not authorized to provide water to the Project. Exhibit 2, Attachment B; Jacumba Community Service District Sphere of Influence Map (attached hereto as Exhibit 15); East County

Substation/Tule Wind/ Energia Sierra Juarez Gen-Tie Projects Final Environmental Impact Report/ Environmental Impact Statement, Figure D.14-2B (attached hereto as Exhibit 16). By relying on water from the Jacumba Community Service District for the Project, SDG&E violated Decision 12-06-039 and MM HYD-3, which require that a Water Supply Plan identify “one or more confirmed reliable water sources that . . . meet the Project’s full water . . . needs.” Exhibit 1, Attachment, p. 39.

24. SDG&E also fails to meet MM HYD-3’s requirement that SDG&E identify “one or more confirmed reliable water sources that when combined meet the project’s full water supply construction needs” because its Water Supply Plan omits any mention of other projects in the area and fails to account for overlapping water use that will reduce the water available for this Project. Exhibit 1, Attachment, p. 39; Exhibit 2, pp. 1-5. Indeed, there are numerous projects in the area that will require water from the same unreliable sources SDG&E contends will meet this Project’s needs. Since these sources are not “confirmed, reliable water sources” and moreover, are subject to competing demands, SDG&E cannot rely upon the Water Supply Plan to satisfy MM HYD-3’s requirement that it demonstrate a firm water supply for this Project.

25. For example, the Jacumba Community Service District is required to supply approximately 780,000 gallons of water for Sempra’s Energia Sierra Juarez transmission line project (2,500 gallons per day x 6 days a week). San Diego County Department of Planning and Land Use, Memorandum from Patrick Brown, Project Planner, to Jim Bennett, Groundwater Geologist, Groundwater Supply Options; Project Numbers P09-008, March 4, 2010, p. 1 (attached hereto as Exhibit 17); 77 Fed.Reg. 49790, August 17, 2012 (“ESJ plans to access water from the Jacumba Community Services District”). It has also confirmed that it will supply up to

40,000 gallons per day for the Tule Wind Project. Letter from Jacumba Community Service District's General Manager, Debby Troutt, to Iberdrola Renewables, Re: Tule Wind Project Construction Water, December 23, 2013 (attached hereto as Exhibit 18). Additionally, the Jacumba Community Service District claims it has facilities available to provide water to the Soitec Solar project, despite its location outside its service area. San Diego County Department of Planning and Land Use, Zoning Facility Availability Form, Water, December 12, 2012 (attached hereto as Exhibit 19).

26. The Jacumba Community Service District's numerous and competing obligations to provide water for projects in the area besides the ECO Substation Project conflict with its ability to provide water for the Project, yet they were never disclosed and discussed in the Water Supply Plan. Its over-commitment of regional groundwater supplies undermines the short- and long-term sustainability of those water sources. Without an analysis of these cumulative water supply constraints and impacts, SDG&E's Water Supply Plan fails to meet the requirements of Decision 12-06-039 and MM HYD-3. Exhibit 1, Attachment, p. 39.

BACKCOUNTRY'S INJURY

27. Backcountry is a community organization whose primary mission is to protect the limited and ever-threatened water resources of Eastern San Diego County on which its members rely. As such, Backcountry has been vitally interested and involved in the ECO Substation Project PTC approval process since it began, and has repeatedly raised its concerns about hydrologic impacts – and specifically its concern regarding the lack of regional water supplies – to both SDG&E and the Commission. See Exhibit 3, pp. 17-18.

28. Backcountry and its members will be injured if Project construction is allowed to

continue without the Water Supply Plan first identifying “reliable confirmed water sources” to “meet the project’s full water supply construction needs.” Exhibit 1, Attachment, p. 39. By tapping unvetted and/or unapproved water sources, SDG&E risks appropriating water to which it has no legal right, exceeding the sustainable yield of the regional water sources and harming the local residents – including Backcountry’s members – who rely on those limited water sources for their livelihoods. *See* Exhibit 3, pp. 17-18. Furthermore, as both a group with a beneficial interest in the regional groundwater supplies and a Party to CPUC Proceeding A.09-08-003 (on SDG&E’s PTC for the Project), Backcountry has a protectable interest in ensuring that the mitigation measures – including MM HYD-3, on which the Commission conditioned its ECO Substation PTC grant in that proceeding – are implemented and enforced. *Cf. Consolidated Irrigation District v. City of Selma* (2012) 204 Cal.App.4th 187, 206 (plaintiff had standing to challenge the City of Selma’s mitigated negative declaration for a residential development under the California Environmental Quality Act because it had “beneficial interests” in “the local groundwater” and its groundwater basin recharge efforts, which could have been hampered by “development projects that use groundwater”). SDG&E’s inadequate Water Supply Plan and continued violation of MM HYD-3 and Commission Decision 12-06-039 prejudices Backcountry’s interest in having these Commission rulings enforced.

CATEGORY AND HEARING

29. The proposed category for this Amended Complaint is ratesetting, pursuant to Rule 7.1(e)(2). Due to the nature of this Amended Complaint there has been no attempt to informally resolve the matter with the Commission’s Consumer Affairs staff. A hearing is required on the Commission’s regular complaint schedule.

30. The issues to be considered are whether SDG&E's Water Supply Plan (1) complies with MM HYD-3 and Commission Decision 12-06-039, and (2) identifies sufficient confirmed, reliable and legal water sources to meet the Project's remaining need for construction water supplies.

31. The proposed schedule for resolving the Amended Complaint within the normal 18-month schedule for proceedings categorized as ratesetting is as follows:

- Prehearing Conference: April 11, 2014
- Hearing: May 15, 2014

Complainant also requests that the prehearing conference and the hearing be held in Jacumba.

32. Wherefore, complainant requests that this Commission:

1. Issue an Order finding that SDG&E has violated MM HYD-3 and Commission Decision 12-06-039;
2. Order SDG&E to rescind its September 30, 2013 Water Supply Plan;
3. Order SDG&E to develop a new water supply plan that complies with Decision 12-06-039 and MM HYD-3;
4. Suspend SDG&E's Permit to Construct the ECO Substation Project, and order that all Project construction activities cease, until such time as SDG&E has fully complied with Decision 12-06-039, including developing a new water supply plan that identifies "one or more confirmed reliable water sources that when combined meet the project's full water supply construction needs." Exhibit 1, Attachment, p. 39; and
5. Rescind the Energy Division's approval of SDG&E's Minor Project

Request Form #8, which increased the total construction water usage for the ECO Substation Project from 50 million gallons to 90 million gallons.

33. Please send the answer and other filings of the defendant and information and notices from the Commission by electronic mail to the addresses listed in the caption for Backcountry's counsel, to wit:

svolker@volkerlaw.com

akrieg@volkerlaw.com

sclarke@volkerlaw.com

jvolker@volkerlaw.com

Dated in Oakland, California this 21st day of March, 2014.

STEPHAN C. VOLKER
436 14th Street, Suite 1300
Oakland, California 94612
510-496-0600
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Attorney for Backcountry Against Dumps

VERIFICATION

I, Stephan C. Volker, am the attorney for the complainant in this action. Pursuant to Rule 1.11(d) of the Commission's Rules of Practice and Procedure, I make this verification on behalf of complainant Backcountry Against Dumps because its members are absent from the county in which my office is located. I have read the foregoing Amended Complaint and know its contents. The facts therein alleged are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this Verification was executed in Oakland, California, on March 21, 2014.

STEPHAN C. VOLKER

AMENDED COMPLAINT EXHIBIT LIST

- Exhibit 1: CPUC Decision Granting San Diego Gas & Electric Company A Permit To Construct the East County Substation Project, Decision 12-06-039, Application 09-08-003, June 21, 2012
- Attachment: Mitigation Monitoring and Reporting Plan
- Exhibit 2: San Diego Gas & Electric Company, East County Substation Project Amended Construction Water Supply Plan, Revised September 30, 2013 (“Water Supply Plan”)
- Attachment A: City of San Diego Service Confirmation Letter, January 11, 2013
 - Attachment B: Jacumba Community Service District Service Confirmation Letter, October 2, 2012
 - Attachment C: Live Oak Springs Service Confirmation Letter October 26, 2012
 - Attachment D: Cal. Dept. of Health Services Domestic Water Supply Permit, December 30, 2002
 - Attachment E: County of San Diego Withdrawal of Major Use Permit Application, November 21, 2011
 - Attachment F: Environmental Navigation Services Inc. Report, June 14, 2013 (with sub-attachments 1-4)
- Exhibit 3: Opening Brief of Backcountry Against Dumps, In the Matter of the Application of SDG&E (U902 E) 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 November 7, 2011, 17-18
- Exhibit 4: East County Substation Project Minor Refinement Request Form, No. 8, September 20, 2013 (original submission), October 1, 2013 (resubmitted) (“MPRR-8”)
- Attachment A: Minor Project Refinement Request Screening Form
- Exhibit 5: December 19, 2013 letter from Bruce DeBerry to Nazar Najor Re: Rejection of Advice Letter 28
- Exhibit 6: Live Oak, Advice Letter 28, February 1, 2013
- Exhibit 7: CPUC Advice Letter Suspension Notice February 21, 2013
- Exhibit 8: CPUC Violation Notice March 21, 2013

- Exhibit 9: CPUC Decision 13-07-036, July 29, 2013
- Exhibit 10: CPUC, Notice of Violation, March 28, 2013
- Exhibit 12: Letter from City of San Diego's Public Utilities Department to SDG&E, February 18, 2014
- Exhibit 13: CPUC letter to SDG&E, Minor Project Refinement Request (MPRR) #8 – Construction Water Use – East County Substation Project (Application No. 09-08-008), October 1, 2013
- Exhibit 14: Official Environmental Protection Agency Campo-Cottonwood Sole Source Aquifer Map
- Exhibit 15: Jacumba Community Service District Sphere of Influence Map
- Exhibit 16: East County Substation/Tule Wind/ Energia Sierra Juarez Gen-Tie Projects Final Environmental Impact Report/ Environmental Impact Statement, Figure D.14-2B
- Exhibit 17: San Diego County Department of Planning and Land Use, Memorandum from Patrick Brown, Project Planner, to Jim Bennett, Groundwater Geologist, *Groundwater Supply Options; Project Numbers P09-008*, March 4, 2010
- Exhibit 18: Letter from Jacumba Community Service District's General Manager, Debby Troutt, to Iberdrola Renewables, Re: Tule Wind Project Construction Water, December 23, 2013
- Exhibit 19: San Diego County Department of Planning and Land Use, *Zoning Facility Availability Form, Water*, December 12, 2012

PROOF OF SERVICE

I am a citizen of the United States of America; I am over the age of 18 years and not a party to within entitled action. My business address is 436 14th Street, Suite 1300, Oakland, California 94612.

On March 21, 2014, I served the following document:

AMENDED COMPLAINT

by placing true copies thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Oakland, California, addressed as set forth below.

San Diego Gas and Electric Company
c/o Allen K. Trial
101 Ash Street, HQ12B
San Diego, CA 92101

I certify under penalty of perjury that the foregoing is true and correct.

Dated: March 21, 2014

Teddy Ann Fuss