



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
801 NORTH QUINCY STREET
SUITE 300
ARLINGTON, VA 22203

SAN DIEGO GAS & ELECTRIC COMPANY,)	Pre-Docketing Notice, Order
Appellant,)	Concerning Statement of Reasons, and
)	Order for the Administrative Record
v.)	
)	Docket No. IBIA _____
PACIFIC REGIONAL DIRECTOR,)	
BUREAU OF INDIAN AFFAIRS,)	
Appellee.)	January 10, 2013

On December 26, 2012, the Board of Indian Appeals (Board) received a notice of appeal from San Diego Gas & Electric Company (Appellant), through Lynn H. Slade, Esq. of Modrall, Sperling, Roehl, Harris & Sisk, P.A. Appellant seeks review of an October 19, 2012, decision (Decision) by the Pacific Regional Director (Regional Director), Bureau of Indian Affairs (BIA), to accept approximately 1411.11 acres of land, located in San Diego County, California, in trust for the Sycuan Band of the Kumeyaay Nation.¹

Procedural regulations governing administrative appeals to the Board are found in 43 Code of Federal Regulations (C.F.R.) Part 4. A copy of these regulations is enclosed for the non-Federal parties.

Order Concerning Supplemental Statement of Reasons

Included in Appellant's notice of appeal is a motion for leave to file a supplemental statement of reasons within 30 days. The statement of reasons contained in Appellant's notice of appeal is sufficient for purposes of complying with 43 C.F.R. 4.332(a)(2), and a supplemental statement of reasons is not required for purposes of preserving and presenting Appellant's arguments on appeal. Upon receipt of the administrative record, the Board will issue an order setting a briefing schedule, pursuant to 43 C.F.R. § 4.311(e), and at that time Appellant will be afforded an opportunity to file an opening brief to present in full its

¹ The Dehesa Valley Community Council also filed an appeal from the Decision. The Board is issuing a separate pre-docketing notice and order to show cause for that appeal, and declines, at this time, to consolidate the appeals.

arguments on appeal. Therefore, although Appellant is not precluded from filing a supplemental statement of reasons prior to formal briefing, it is not necessary for Appellant to do so.²

Order for Administrative Record

The Regional Director is requested to take the following steps in accordance with the procedural regulations in 43 C.F.R. § 4.335. Within 20 days after receipt of a copy of the notice of appeal or after receipt of this notice from the Board:

1. Assemble and transmit the administrative record to the Board. The administrative record shall include, but not be limited to, a copy of the decision being appealed; all documents that were considered by the deciding official when he or she issued the decision; all documents, petitions, or applications by which the appeal was initiated or which set forth claims, arguments, or evidence presented by interested parties; and copies of any transcripts of testimony taken;
2. Prepare a table of contents to serve as an index to the record; and
3. Include as part of the record a written confirmation that it contains all information and documents utilized by the deciding official in rendering the decision appealed.

If the Regional Director is unable to transmit the record within 20 days, the Regional Director should inform the Board and the parties when the record will be sent.

Further Proceedings

In accordance with 43 C.F.R. § 4.336, this case will be assigned a docket number 20 days after the date of receipt noted above unless the Board has been properly notified before that date that the Assistant Secretary - Indian Affairs has assumed jurisdiction over the appeal. Upon receipt of the record, a Notice of Docketing, setting forth the briefing schedule or other procedures, will be sent to all interested parties as shown by the administrative record. If the Assistant Secretary - Indian Affairs properly notifies the Board

² Appellant indicates that it is performing additional legal and factual research. The Board strongly encourages Appellant to consult with the Regional Director and the Tribe to determine whether this appeal is suitable for voluntary resolution among the parties.

of an assumption of jurisdiction under 25 C.F.R. § 2.20(c) and 43 C.F.R. § 4.332(b), the parties will be so informed, and the appeal will be transmitted to him.



Steven K. Linscheid
Chief Administrative Judge

Enclosure (for non-Federal parties)

Distribution: See attached list.

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**Board of Indian Appeals
Office of Hearing and Appeals
U.S. Department of the Interior**

**DECLARATION OF ALLEN K. TRIAL ACCOMPANYING
SDG&E'S NOTICE OF APPEAL OF REGIONAL DIRECTOR'S OCTOBER 19, 2012
DECISION APPROVING THE SYCUAN BAND OF THE KUMEYAAY NATION FEE-
TO-TRUST APPLICATION**

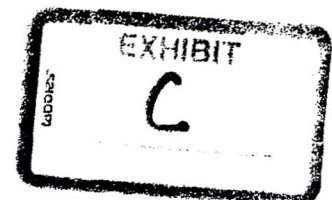
I, Allen K. Trial, declare as follows:

1. I presently serve as Senior Regulatory Counsel for San Diego Gas & Electric Company (SDG&E), a Sempra Energy Utility. My business address is 101 Ash Street, HQ12B, San Diego, California, 92101. The statements in this affidavit are based on my personal knowledge.

2. As legal counsel for SDG&E, my responsibilities include regulatory oversight and management of the sale, lease, assign, mortgage, or otherwise disposal of, or encumbrance of, the whole or any part of any line, plant, system, or other property necessary and useful in the performance of the regulated utility's duties to the public, or any franchise or any right thereunder, or by any other means whatsoever, directly or indirectly, obtained, transferred, merged or consolidated from SDG&E to any other entity.

3. On October 19, 2012, the Regional Director, Pacific Region, Bureau of Indian Affairs apparently issued a Notice of Decision apparently approving an application by the Sycuan Band of the Kumeyaay Nation ("Sycuan Band") to take certain lands into trust ("Notice of Decision"), a copy of which is attached as Exhibit A to this Affidavit.

4. San Diego Gas and Electric Company ("SDG&E") has multiple pre-existing valid public utility easements on the lands that are identified in the Notice of Decision.



5. I did not learn of the Sycuan Band's application or of the Regional Director's Notice of Decision to take the land into trust until November 20, 2012.

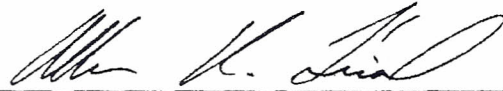
6. On November 20, 2012, I received an e-mail to my personal home email address from Ms. Lorie Walls, Deheesa Valley Community Council, that provided a link to Stand Up for California's website.

7. On November 26, 2012, I reviewed Stand Up for California's website, which included a link to the Notice of Decision.

8. I have never officially or unofficially received a copy of the Notice of Decision from the Regional Director either personally or on behalf of Sempra or SDG&E.

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

Executed on December 19, 2012.



Allen K. Trial
Attorney for:

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