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5 Attorneys for Plaintiffs  
 6 BACKCOUNTRY AGAINST DUMPS, THE  
 PROTECT OUR COMMUNITIES FOUNDATION,  
 7 EAST COUNTY COMMUNITY ACTION  
 COALITION, and DONNA TISDALE

8 **UNITED STATES DISTRICT COURT**

9 **EASTERN DISTRICT OF CALIFORNIA**

10 BACKCOUNTRY AGAINST DUMPS, THE  
 11 PROTECT OUR COMMUNITIES FOUNDATION,  
 EAST COUNTY COMMUNITY ACTION  
 12 COALITION, and DONNA TISDALE,

13 Plaintiffs,

14 v.

15 JIM ABBOTT, in his official capacity as California  
 State Director of the United States Bureau of Land  
 16 Management, REN LOHOEFENER, in his official  
 capacity as Pacific Southwest Regional Director of  
 17 the United States Fish and Wildlife Service,  
 KEN SALAZAR, in his official capacity as Secretary  
 18 of the United States Department of the Interior,  
 BOB ABBEY, in his official capacity as the Director  
 19 of the Bureau of Land Management, MIKE POOL, in  
 his official capacity as the Deputy Director of the  
 20 Bureau of Land Management, SAM HAMILTON, in  
 his official capacity as the Director of the Fish and  
 21 Wildlife Service, UNITED STATES DEPARTMENT  
 OF THE INTERIOR, BUREAU OF LAND  
 22 MANAGEMENT, UNITED STATES  
 DEPARTMENT OF THE INTERIOR, FISH AND  
 23 WILDLIFE SERVICE,

24 Defendants.

CASE NO. 2:10-CV-00394-FCD-KJN

**STIPULATION ALLOWING  
 DEFENDANT-INTERVENOR SAN  
 DIEGO GAS & ELECTRIC  
 COMPANY PERMISSIVE  
 INTERVENTION ON MERITS AND  
 INTERVENTION AS OF RIGHT ON  
 REMEDIES**

**AND**

**ORDER THEREON**

26 Pursuant to Local Rule 143 and Federal Rule of Civil Procedure 24, the Plaintiffs, the  
 27 Federal Defendants and Proposed Defendant-Intervenor San Diego Gas & Electric Company  
 28 (“SDG&E”) hereby stipulate to the following and based thereon, respectfully request this Court’s

1 order approving this stipulation:

2 WHEREAS, SDG&E is the proponent of the Sunrise Powerlink Electrical Transmission  
3 Line Project (“Sunrise Project”), an approximately 118-mile transmission line running from the  
4 Imperial Valley, California to the San Diego, California region approved by the California Public  
5 Utilities Commission in December 2008<sup>1</sup> that would cross a mix of federal, state, and local land,  
6 including approximately 50 miles of land administered by the Bureau of Land Management  
7 (“BLM”), whose approvals by the Federal Defendants are challenged in this action;

8 WHEREAS, the BLM approved the Sunrise Project on January 20, 2009 through a  
9 Record of Decision, an amendment to the Eastern San Diego County Planning Area Resource  
10 Management Plan and issuance of two rights-of-way to SDG&E to construct, maintain, and  
11 operate the Sunrise Project on BLM-administered lands;

12 WHEREAS, the U.S. Fish and Wildlife Service (“FWS”) issued a biological opinion for  
13 the Sunrise Project in January 2009 as to which SDG&E, as the Applicant, claims a beneficial  
14 interest in the biological opinion’s incidental take statement;

15 WHEREAS, Plaintiffs filed a complaint on February 16, 2010 commencing this action  
16 challenging these BLM and FWS approvals for the Sunrise Project;

17 WHEREAS, SDG&E represents that it has spent hundreds of millions of dollars securing  
18 these challenged approvals by the Federal Defendants and taking actions in reliance upon these  
19 approvals, which expenditures it plans, as a public utility, to apply to recoup in rates, including a  
20 return on its investment;

21 WHEREAS, SDG&E represents that it has claims and defenses directly relating to the  
22 merits of this action that share with the main action common questions of law and fact, and  
23 therefore the parties agree that SDG&E may intervene permissively, under Rule 24(b), in the  
24 merits of this action;

25 WHEREAS, SDG&E represents that (1) it has an interest relating to the properties and  
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27 <sup>1</sup> The CPUC approval has been challenged in proceedings currently pending in both the  
28 California Supreme Court and the California Court of Appeal.

1 transactions that are the subject of this action, (2) it is so situated that disposing of the action may  
2 as a practical matter impair or impede its ability to protect its interest, and (3) no existing party  
3 adequately represents its interest; and therefore the parties agree that SDG&E may intervene as a  
4 matter of right under Rule 24(a), in any and all remedial proceedings in this action;

5 WHEREAS, SDG&E represents that its intervention is timely as no further proceedings  
6 have yet occurred in this action and will not unduly delay or prejudice the original parties' rights;  
7 and

8 WHEREAS, based on these representations, the Plaintiffs and Federal Defendants do not  
9 oppose the stipulated intervention;

10 THEREFORE, the parties stipulate that SDG&E is granted permissive intervention for all  
11 claims on the merits and intervention as of right for all claims in any remedial proceedings in this  
12 action.<sup>2</sup>

13 **IT IS SO AGREED AND STIPULATED.**

14 Respectfully submitted this 8th day of April, 2010

15 **For Plaintiffs:**

16 /s/ Stephan C. Volker  
17 STEPHAN C. VOLKER  
18 Law Offices of Stephan C. Volker

**For Defendant-Intervenor:**

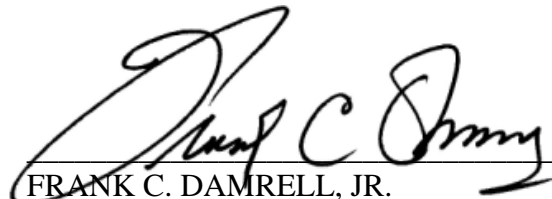
/s/ Damon Mamalakis  
DAMON MAMALAKIS  
Latham & Watkins LLP

19 **For Federal Defendants:**

20 /s/ Charles R. Shockey  
21 CHARLES R. SHOCKEY  
22 United States Department of Justice

23 **IT IS SO ORDERED.**

24 Dated: April 8, 2010

25   
FRANK C. DAMRELL, JR.  
26 UNITED STATES DISTRICT JUDGE

27 <sup>2</sup> SDG&E will promptly file its Answer with the Court upon approval of this stipulation.  
28 Pursuant to Fed. R. Civ. P. 7.1, SDG&E's corporate disclosure statement is attached.