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BOARD OF SUPERVISORS COUNTY OF MONO

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Shannon Kendall, Clerk of the Board

June 9, 2020

VIA U.S. MAIL AND EMAIL

Kevin M. Payne, President and Chief Executive Officer
Southern California Edison
2244 Walnut Grove Avenue
Rosemead, CA 91770
kevin.payne@sce.com

Re: Request to Immediately Halt Tree Maintenance Activities on Private Lands in the June Lake Area Pending a Community Meeting and Review of Current Activities

Dear Mr. Payne:

Today, at its June 9, 2020 meeting, the Mono County Board of Supervisors (Board) received several comments from residents of the June Lake community in Mono County expressing concern that current tree maintenance and removal operations by Southern California Edison (SCE) in June Lake appear to be exceeding the scope of maintenance and removal operations authorized by California law. In response to these comments, the Board added this matter to its meeting agenda today as an urgency item. In light of the discussion below, the Board requests that SCE cease immediately all tree maintenance and removal operations on private lands in the June Lake area until a community meeting is held so that SCE can explain the scope of its current operations and activities, its understanding of state law authorizing these operations and activities, and can receive comments and address the concerns raised by the County and its June Lake residents.

The California statutes requiring electrical utility owners/operators to maintain and remove trees and other vegetation, as well as the authority to enter private property to do so, is found in Chapter 3 of Part 2 of Division 4 (commencing with section 4291) of the Public Resources Code.¹ Section 4292 requires electric utility owners/operators to maintain specified minimum clearances from utility poles and towers, and Section 4293 requires electrical utility owners/operators to maintain specified minimum clearances from lines and other conductors. However, Sections 4292 and 4293 provide electric utility owners/operators authority to conduct such maintenance and removal operations only “during such times and in such areas as are determined to be necessary by the director or the agency which has primary responsibility for the fire protection of such areas.”

¹ Hereinafter, all section references are to the Public Resources Code unless otherwise specified.

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And such operations and activities require approval by the private property owner if SCE lacks legal authority over the land or the right to enter (i.e., an easement). The agency that has primary responsibility for the fire protection of the private lands in June Lake area is the California Department of Forestry and Fire Protection (CalFire). At this time, the County is not aware of any CalFire determination that maintenance and removal of trees and other vegetation is necessary at this time in these areas of June Lake. If SCE is aware of such a determination, the County would appreciate a copy of such determination. Instead, it appears that SCE is currently conducting its maintenance and removal operations pursuant to Section 4295.5, which was enacted by Assembly Bill 2911 in 2018. In pertinent part, Section 4295.5 provides:

Notwithstanding any other law..., any person who owns, controls, operates, or maintains any electrical transmission or distribution line may traverse land as necessary, regardless of land ownership or express permission to traverse land from the landowner, after providing notice and an opportunity to be heard to the landowner, to prune trees to maintain clearances pursuant to Section 4293, and to abate, by pruning or removal, any hazardous, dead, rotten, diseased, or structurally defective live trees. The clearances obtained when the pruning is performed shall be at the full discretion of the person that owns, controls, operates, or maintains any electrical transmission or distribution line, but shall be no less than what is required in Section 4293. (Pub. Res. Code, § 4295.5(a).)

The above language of Section 4295.5 does not authorize electrical utility owners/operators to enter upon private property for all maintenance and removal activities, but instead provides limited authority to do so either when pruning is necessary as determined by the director or agency with primary fire protection in the area pursuant to Section 4293 or when abatement of hazardous, dead, rotten, diseased, or structurally defective live trees is necessary. Moreover, in either instance, entry by electric utility owners/operators is only allowed after “notice and an opportunity to be heard [is provided] to the landowner[.]” (Pub. Res. Code, § 4295.5(a).)

Based on the comments received at today’s meeting, the Board is concerned that SCE’s current tree and vegetation maintenance and removal operations in the June Lake area are outside the authorities provided to electric utility owners/operators and do not comply with the requirements of Sections 4292 through 4295.5. First, it is the County’s understanding that the “notice” that SCE provided to June Lake residents was merely a flyer posted to area residences. In the June Lake area, it is unclear when those “notices” were posted and thus whether they gave residences an adequate amount of time to voice their concerns. Moreover, as SCE is aware, the June Lake community includes many residences that are second homes of owners that do not live in the immediate community year round and thus it is doubtful that all owners ever received notice. Second, as explained above, the County is not aware of any determination made by CalFire that maintenance and removal of trees and other vegetation is necessary at this time in the June Lake area, and therefore, pruning under the authority of Section 4295.5 is not authorized. The comments received by the Board suggest that SCE is currently removing many more trees and much more growth than is necessary to ensure the safety of transmission and distribution lines, including trees and vegetation outside of its utility easements. The Board has received reports from residents that maintenance and removal activities could result in significant removal of live trees within the

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entirety of SCE's utility easements – regardless of whether those trees pose a threat to any of SCE's lines and other assets. Section 4295.5's use of the word "abate" suggests that removal must be necessary in relation to some threat of harm to an electrical utility owner's/operator's lines or assets. Here, however, it appears that SCE is relying on the language in Section 4295.5 to remove trees and vegetation carte blanche. This approach appears to contradict the limited authority given to utility owners/operators under Section 4295.5.

Finally, in terms of quality control, the County is concerned that the work being carried out has not been reviewed and/or approved by a professional arborist or licensed forester or, if it has, that it is not being carried out in accordance with those approved plans and direction. The Board has received photos indicating that portions of trees have been left where they might better have been removed entirely, or that trees are marked for removal where they could merely be pruned to address any hazardous condition. June Lake (and much of Mono County) is a recreational resort area known for its stunning scenic vistas and environmental values and it is imperative that fire protection activities, including SCE's tree and vegetation maintenance and removal operations, are carried out in a manner that takes these values into account.

In light of the foregoing, the County respectfully requests that SCE cease immediately its current tree and vegetation maintenance and removal activities in the June Lake community until a community meeting is held so that SCE may clarify the scope of its operations for private property owners and residents. The Board appreciates SCE's need to protect its infrastructure – and the community – from threats of fire and wildlife. However, the Board does not believe that Section 4295.5, which only became effective on January 1, 2019, authorizes SCE to remove whatever tree or vegetation it likes. Accordingly, the Board strongly urges SCE to cease immediately its maintenance and removal operations on private property in the June Lake area and notice a community meeting where better explanation of the scope of current maintenance and removal activities, and its underlying statutory authority, can be provided to residents and stakeholders

I appreciate your time and attention to this important community issue, and I look forward to speaking with you further about holding a meeting. This issue is not unique to June Lake, and solutions that are reached here will be relevant to SCE's operations and activities in other Mono County communities. If you have any questions regarding the Board's request or anything contained herein, please do not hesitate to contact me at (760) 924-1691 or scorless@mono.ca.gov.

Sincerely,



Stacy Corless, Chair
Mono County Board of Supervisors

cc: Cal Rossi, Government Relations Manager (email only)