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FEDERAL BUREAU OF INVESTIGATION

Precedence: ROUTINE

Date: 02/17/2011

To: San Diego

From: San Diego
Squad WC3
Contact: SA [redacted]

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Approved By: [redacted]

Drafted By: [redacted] ss *ss*

Case ID #: SD 205-0 (Pending) *13*

Title: FOREIGN CORRUPT PRACTICES ACT OF 1977;
ZERO FILE

Synopsis: To document investigative activity regarding FCPA allegations against Sempra Energy (Sempra or the Company).

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Reference: SD 205-0 Serial 12

Details: On Wednesday, 02/16/2011, a meeting was held between the following participants: FBI Special Agents [redacted] and [redacted] U.S Securities and Exchange Commission (SEC) attorneys [redacted] and [redacted] Assistant United States Attorney (AUSA) [redacted] Department of Justice (DOJ) Deputy Chief (Fraud Section) [redacted] Attorneys [redacted] and [redacted] of Jones Day law firm representing Sempra, and [redacted] Controller for Sempra Liquefied Natural Gas (LNG) in Mexico. The meeting took place as a result of Sempra's response to information requested by the DOJ and SEC regarding allegations of Sempra's misconduct discussed in a telephone call on Thursday, 02/10/2011, as documented in referenced serial. [redacted] and [redacted] provided a portfolio of documents to support Sempra's responses. References to these documents will be made throughout. All documents provided by Sempra will be maintained in the 1A section of the zero file.

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The first matter presented addressed the allegation that Sempra offered cash to members of the Navajo Nation (NN) Council to vote in favor of a resolution granting Sempra exclusive rights to a wind project on a Navajo reservation in Arizona. [redacted] stated that the Foreign Corrupt Practices Act of

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1977 (FCPA) would have no jurisdiction in this matter for these three reasons: 1.) the FCPA applies to foreign sovereignties, and although Native American reservations are dependent political communities, they are ultimately under the sovereignty of the U.S.; 2.) in legislative history, the FCPA was established to address concerns with business conducted with foreign countries; and 3.) a separate statute within Title 18, United States Code (USC) 666 covers bribes with Native American tribes.

From 2008 to 2010, Sempra partnered with International Piping Products, Inc. (IPP) to negotiate a lease agreement for a Navajo Wind project on Gray Mountain with the NN [redacted] (Arizona Chapter) Council. On 06/03/2010, [redacted]

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[redacted] addressed a letter to [redacted] of the NN, expressing Sempra's decision to discontinue efforts to negotiate the wind project proposal due to "lack of satisfactory progress" (Tab A-1). In August of 2010, the NN Council informed Sempra and IPP that circumstances surrounding the wind project had changed and encouraged both parties to attend a NN Resources Committee meeting on 09/23/2010. IPP Agent [redacted] who lived on the Navajo Nation reservation, accepted the invitation; however, no Sempra employees attended. During this meeting, Resolution No. CO-42-10 reestablished negotiations for the wind project between Sempra, IPP and the NN. On 10/21/2010, the Navajo Tribal Council met to vote on the above resolution. NN Council Delegate [redacted] announced that he would not vote on the resolution because he had been offered campaign funds at the 09/23/2010 meeting to "vote green." Attending NN members admonished [redacted] not to make this allegation simply because he was on the losing end of a favorable vote. The resolution subsequently passed.

On 11/08/2010, as a result of [redacted] bribery allegation and other concerns, [redacted] addressed a memorandum to [redacted] [redacted] stating that he vetoed the Council's decision to negotiate a lease with Sempra and IPP (Tab A-2). [redacted] followed with a letter to [redacted] on 11/12/2010, which expressed that Sempra stood firm on their decision to cease negotiations on the wind project, that Sempra took the bribery accusation seriously, and that consequently, Sempra initiated an independent review of the allegation (Tab A-3).

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The NN [redacted] and Rules Office (Nnero) interviewed [redacted] on 11/16/2010 regarding his allegation. On 11/18/2010, NN Council Delegate [redacted] provided a memorandum to [redacted]

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asking that the NN Council override [redacted] veto of Resolution No. CO-42-10. [redacted] claimed that neither Sempra nor IPP solicited any vote from any council delegate and that the council demanded [redacted] provide proof of his accusation at the recorded 11/10/2010 meeting (Tab A-4). [redacted] was unable to provide any proof. The NNERO notified [redacted] in a memorandum dated 11/20/2010, that they would not initiate an investigation of the allegation because [redacted] could not provide substantive information relative to the person's name and whether the person was a NN elected official or employee (Tab A-5). On 11/22/2010, the NNERO also notified [redacted] in a memorandum that they would not investigate his allegation without both the subject and personal matter jurisdiction (Tab A-6).

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In a faxed letter dated 12/17/2010, [redacted] consultant and former [redacted] advised [redacted] that he had spoken to several members of the NN government and some council delegates to learn that no one took [redacted] seriously when he made the public bribery allegation. [redacted] also informed that during [redacted] NNERO interview, [redacted] claimed he was approached by a man he had never seen before and could not identify by name when offered a campaign donation to vote green. [redacted] stated that the NN was not planning to file any charges against Sempra (Tab A-7).

On 12/18/2010, [redacted] provided a signed declaration (Tab A-8, document retained by [redacted]). On 12/22/2010, the NNERO formally notified Sempra by way of a letter addressed to [redacted] that they had interviewed [redacted] and without further information, would not be able to investigate the bribery allegation (Tab A-9). In conclusion, [redacted] sent a letter to [redacted] dated 12/30/2010, stating that Sempra was surprised to learn of [redacted] allegation, asked why [redacted] did not report the alleged bribe when it supposedly occurred in September, and requested that [redacted] send details of the allegation to Sempra in writing. [redacted] had not yet responded to this request as of 02/17/2011.

[redacted] advised that Sempra hired [redacted] of [redacted] and [redacted] in Arizona to conduct an independent review of the allegation which was still ongoing. The DOJ requested that [redacted] inquire with [redacted] as to why the investigation had not been closed based upon the outcome of the NNERO probe.

The second matter presented addressed concerns surrounding transactions associated with a fire station given by Sempra as a charitable donation to the City of Tijuana.

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In 2007, a subsidiary of Sempra Pipelines and Storage (P&S) responsible for laying pipeline, TGN, began construction of pipelines crossing through populated areas of Tijuana. As an act of goodwill to build community support, [redacted]

[redacted] suggested Sempra construct a new fire station in Tijuana. On 02/12/2007, a Sempra Funding Request Form was drafted and approved by [redacted]

[redacted] (Tab B-1). The estimated amount of the project was US\$452,675. A subsequent donation agreement between TGN and Tijuana was drafted and signed (Tab B-2). On 08/20/2007, a contract was executed between TGN and [redacted] (the contractor) for construction of the fire station (Tab B-3). All funds for construction went to the contractor. Section 36.1 of the contract (unofficially translated in Tab B-4) addressed FCPA rules stating that the contractor agreed to comply with and enforce the law against corrupt practices committed abroad. Construction of the fire station was completed and the City of Tijuana issued a receipt of donation to TGN in the amount of MX\$5,784,143.06 on 11/30/2007 (Tab B-5) issued for tax purposes. [redacted] presented photographs of the fully constructed fire station and ribbon cutting ceremony.

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For further clarification, DOJ Deputy Chief [redacted] requested that Sempra undertake the following actions as they relate to the fire station donation:

1. Locate relevant permits on file for the P&S Community Relations Department.
2. Provide the approval process for this type of donation.
3. Determine use of consultants/agents in building of the fire station.

The third matter presented addressed charitable donations and political contributions over \$25,000 paid in Mexico between 2007 and present. [redacted] provided an Excel spreadsheet of all charitable donations within the parameters above as well as Sempra's Corporate Giving Policy revised on 10/01/2010. No political contributions have been paid since it is illegal for foreign companies to make contributions to Mexican officials per Article 77 of the Mexican Federal Electoral Code.

Charitable donations by Sempra are made in one of three ways: either 1.) directly to a charitable organization; 2.) to

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the International Community Foundation Grant, an organization similar to United Way, which distributes funds to other charities; or 3.) to the Ensenada Trust created by Sempra to support long term needs and priorities of the community of Ensenada.

Between 2004 and present, Sempra donated over \$7 million to the Ensenada Trust. Currently \$1.8 million has been designated or spent and \$5.2 million remains in the trust. The trust is overseen by two boards, one of which includes two Sempra employees and local citizens. [redacted] provided color images of a wooden basketball court with the Sempra logo, which Sempra donated to the Boys and Girls Club of Mexico as well as a classroom of computers.

Due to the nature of the trust and its potential for being a "slush fund," [redacted] requested that Sempra address the following concerns:

1. Are there independent auditors of the trust fund?
2. Was the \$1.8 million spent audited?
3. How often is the trust audited?
4. Is there due diligence on direct donations?
5. Provide the names of all board members since the trust's inception and whether they are public officials.
6. Are board members compensated?

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The fourth matter presented addressed consultants and agents used by Sempra over the past four years. [redacted] Sempra LNG Controller since April 2010, was present to discuss his knowledge of the vendor approval and audit process. Between the three subsidiaries, LNG, Generation and P&S, there are approximately 2,800 vendors, to include consultants and agents. Of that total, 50 vendors alone provide services and supplies to the Ensenada LNG (Energia Costa Azul or ECA) plant. All vendors have a tax identification number, which Sempra uses when it reports to the government payments made to that vendor.

The 2005 procurement process involved a written contract which included an engagement letter. The consultant and

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counter party would sign the contract. If the vendor was a sole source, a form was signed by a supervisor one level above. There was no follow-up to inspect the books and records of vendors Sempra used. Once a vendor was approved, a purchase request for that vendor was signed by a supervisor and procurement representative. Any request over \$50,000 required legal review. Before payment was made to the vendor for products or services received, a certification by the receiver was needed. There have been no red flags found in the procurement process, but any vendor concerns would come to the attention of the Controller. To [redacted] knowledge, Sempra does not maintain "due diligence" files on its vendors in Mexico.

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[redacted] briefly discussed his knowledge of [redacted] [redacted] knew [redacted] for seven (7) years. They traveled together and attended the annual FCPA training for Controllers. [redacted] never voiced any FCPA concerns to [redacted]. During balance sheet reviews, the bond paid to the Ensenada Attorney General's (AG) Office for the eviction of [redacted] never came up. [redacted] became aware of the bond in the first quarter of 2010 when the controller of Mexico informed [redacted] that [redacted] asked that the bond documents be sent to his personal email account. [redacted] confronted [redacted] in [redacted] San Diego office about the request. [redacted] responded that he wanted to cover himself and have the documents for his records. [redacted] asked if something was wrong with the transaction, but received no direct response from [redacted]. As a result of this request, [redacted] was not surprised when [redacted] filed a lawsuit. [redacted] review of the bond transaction revealed that it had been properly accounted for, all documentation was available, and the money could be traced back to the bank. [redacted] stated that [redacted]. When [redacted] first became Controller of LNG, he scrubbed the accounting records to find and fix errors.

The fifth matter presented addressed the question of whether the MX\$100,000 bond paid to the Ensenada AG's Office in 2006 was still pending. [redacted] provided a copy of a certified document issued by the AG's office dated 02/10/2011 advising that the MX\$100,000 was being reimbursed and was on its way back to Sempra. [redacted] asked to know the status of the DOJ and SEC's investigation of the bond allegation. He expressed that the negative media attention being generated from [redacted] and [redacted] accusations were embarrassing to Sempra and needed to be put to bed. [redacted] advised that there did not seem to be any need to further investigate the matter and that [redacted].

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would determine the appropriate means by which to formally decline the investigation only as it related to the bond allegation.

In conclusion, [redacted] stated that the FBI should investigate two individuals he believed were involved in the [redacted] situation. The first individual, [redacted] is a [redacted] [redacted] to the property near Ensenada and would get 55% of monies paid by Sempra. The six hour confrontation at the LNG plant by the local Ensenada police force on 02/11/2011 was created, paid for, and arranged by [redacted]. [redacted] stated that the license plates on [redacted] vehicles do not match the vehicle's registrations and his [redacted] with Mexico license plates is equipped to [redacted]. [redacted] uses his wife's social security account number and his Mexico passport is missing digits. He has a pattern of creating and suspending entities. [redacted] has a relationship and travels with the Mayor of Ensenada. Immigration, Customs and Enforcement (ICE) were investigating [redacted] but the investigation is currently on hold.

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The second individual is [redacted] and claims to be [redacted] business, [redacted] has a [redacted] address. [redacted] advised that [redacted] was sending phony press releases to stock analysts to manipulate stock trading; however, there is no evidence that [redacted] takes a position on Sempra stock. [redacted]

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