

correction to the Project Description at Specific Comment 8, above, the proposed procedure entails pinning the nose of the barge to the harbor bottom in depths of five feet or more and using a barge ramp, estimated to be 60 to 75 feet in length, to span the distance to the shore for completion of the RSG offloading. This off-loading method creates no impacts to intertidal habitat. To avoid confusion, all references to pinning the nose of the barge to the riprap at the edge of the shore or pulling the barge tight against the shore should be deleted from the DEIR.

6. Marine Mammal Impacts, Section D.3.3.1, page D.3-29

Discussion of Potential Impacts to Marine Mammals- The primary marine biological impact addressed in the DEIR is associated with disturbances to marine mammals from increased vessel traffic and barge maneuvering during RSG offloading. These impacts would be temporary and are not expected to result in the “take” of any marine mammals or significant impedance of normal activities.

Marine mammals at both PSL and Intake Cove are habituated to vessels traffic and human activity. The area surrounding the mobile crane and Port Side Marine recreational boat launch is a hub of boating activity in Port San Luis and results in a considerable volume of vessel traffic in the immediate vicinity of the RSG landing site. Vessel traffic is also common in the Intake Cove as a result of the operation of the DCPD dive boats and kelp harvester. Therefore, introducing a barge and tug boat into either area would not constitute a new impact to marine mammals.

There is a greater potential to encounter and disturb marine mammals at the Intake Cove landing site because of the usage of areas within the Cove as a year-round harbor seal haul out site and the persistent presence of sea otters rafting in the kelp beds inside of the breakwater. The presence of a barge and maneuvering vessels in the Intake Cove has the potential to result in a temporary displacement of otters from the Cove, however the displaced animals would more than likely move only a short distance to bull kelp located along the breakwater at the entrance of the Cove. The proposed marine mammal training and use of marine mammal observers represent adequate measures to reduce the potential for impacts to marine mammals to less than significant levels.

7. Section D.3.3.2, First full paragraph, page D.3-32

Both the Executive Summary at ES-26 and the Biological Resources chapter at D.3-32, state that RSG offloading activities would temporarily impact intertidal habitat at Port San Luis. Based on the landing scenario in which the barge is grounded some distance away from the riprap along the shore, no impacts to intertidal habitat are anticipated. The term “intertidal”

should be changed to “subtidal” to better reflect the community in which the anticipated temporary impacts will occur.

The seafloor in the vicinity of the proposed RSG offloading site at Port San Luis is composed primarily of relatively stable sandy substrate that would be expected to support a variety of invertebrate species including various clams, worms, crabs, sea stars, and sand dollars. Grounding the barge in this area would result in Class III adverse impacts to organisms inhabiting the soft bottom. These impacts are not likely to surpass the CEQA significance criteria for marine biological resources described on page D.3-28 of the DEIR.

Although these invertebrate species are not protected under federal or state law, an effort should be made to avoid positioning the barge over dense sand dollar beds, which could be present in the area, since grounding the barge on a sand dollar bed may result in a longer-term (more than one year) adverse impact to the community. Seagrass beds, which may be present in the area, should also be avoided since they provide important nursery habitat for fishes and crustaceans and may be slow to recover. As noted in the DEIR at p. B-39, PG&E will conduct an underwater survey prior to arrival of the barge to assess what marine biological resources are present in the area that will be impacted and avoid sand dollar or seagrass beds if possible.

The live offload procedure is proposed for RSG landing if implemented in Intake Cove. No impacts to intertidal or subtidal habitat are expected because the barge will not contact either the seafloor or the revetment along the shore of the Cove.

8. Section D.3.3.2, Page D.3-31, D.3-32

PG&E concurs with the DEIR’s determination that potential impact B-4, related to nearshore marine habitats, would create no more than a Class III impact. Nonetheless, as part of the underwater survey to ensure no damage to the offloading barge, see DEIR at B-39, PG&E will review of the subtidal habitat within the RSG landing area to ensure that the barge would avoid sensitive marine life. This underwater survey will be conducted sufficiently prior to the time that the barge arrives so that contingencies or alternatives can be implemented to minimize any potential impacts or project delays.

Impact B-4 refers to impacts to the “beach.” It should be noted, however, as discussed above, the offload option at Port San Luis will not require pinning the nose of the barge on the rip-rap and so will not have impacts on the “beach” per se. Moreover, as mentioned earlier, with this offload option there also will be no impacts to the “intertidal” habitat. Instead, only “subtidal” habitats will be impacted and these to the level of a Class III impact.

9. Marine Plants at Offload Options:

Discussion of Seagrasses- Seagrasses are grass-like marine plants that provide shelter for many species of juvenile fishes and invertebrates. Surfgrass (*Phyllospadix* spp.) occurs along the wave exposed outer coast, while eelgrass (*Zostera marina*) occurs in protected harbors and bays. Like giant kelp, seagrasses are not listed as endangered or threatened, but have high habitat value.

Seagrass beds may be present in the vicinity of the proposed Port San Luis landing site. The sand substrate in the Intake Cove is more stable and supports some small patches of eelgrass. However, it is not known if any seagrasses occur in areas that will be impacted by the RSG landing. The above-mentioned underwater survey will include a review for seagrass beds in order to avoid impacts to the extent practicable.

Discussion of Kelp- Giant kelp (*Macrocystis pyrifera*) is the most conspicuous species at the Port San Luis and DCPD Intake Cove sites, with its floating fronds that form dense canopies on the sea surface. Giant kelp provides important habitat, refuge, and food for fishes and invertebrates and can regulate understory community structure by canopy shading and dampening water currents and surge. Giant kelp is appreciably more abundant and widely distributed in the Intake Cove, compared to Port San Luis harbor. The area of the Intake Cove landing site is populated with widely scattered individual giant kelp plants. Continuous beds of giant kelp are more common fringing the Intake Cove breakwaters located away from the landing site. At Port San Luis, there is only a single small distinctive bed of giant kelp in the vicinity of the Port San Luis offloading site.

Giant kelp is among the fastest growing plant species in the world and has high recovery potential (North 1971, Kimura and Foster 1984, Foster and Schiel 1985). Damaged and undamaged kelp fronds would continue growing, and within a year new plants would quickly become established to replace lost plants. PG&E retains a Special Use Permit issued by the California Department of Fish and Game to actively remove whole plants that constantly grow and repopulate the area in front of the DCPD intake structure. PG&E also utilizes a kelp harvester and implements CDF&G harvesting rights to remove kelp surface canopies that constantly regenerate in the Intake Cove. These efforts to control kelp growth in the Intake Cove underscore the species high recovery potential in this area.

Impacts to giant kelp cannot be avoided if the Intake Cove landing site was used. Although most kelp fringes the breakwaters, scattered individual plants occur in the central portions of the Intake Cove and in the planned footprint of the docked barge. Therefore, some plants would be chopped by boat propellers and affected by the barge offloading operation. However, only a limited number of plants would be affected. Mitigation is not warranted because of the few plants that would be affected and the high potential for this species to recover.

II. Specific Comments

10. Section D.3.1.1, Page D.3-2, First paragraph below Table D.3-1

This paragraph states: "...haul route traverses a variety of native vegetation communities." There is no discussion of the botanical resources associated with the haul route.

11. Section 3.1.1, Page D.3-3, Fourth paragraph

This paragraph states: "Three small areas of hydrophytic vegetation also occur on this fill site." Hydrophytic vegetation indicates the possibility of wetlands, and although "wetlands" as defined by the U.S. Army Corps of Engineers do not occur at this site, it would have been appropriate to discuss why these hydrophytic plants are found here and why a wetlands delineation was not considered necessary. The following additional language is recommended:

This vegetation is largely associated with a 6 foot wide by 60 foot long concrete-lined drainage ditch that carries surface runoff water into the site drainage system. Over a long period of time several hydrophytic or wetland plant species have become established in this ditch. These include cattail (*Typha latifolia*), rabbit foot grass (*Polypogon monspeliensis*), and brass buttons (*Cotula coronopifolia*).

The described ditch is unlikely to qualify as either a "Wetland" or "Waters of the U.S." regulated habitat because of its small size and because the concrete lining precludes development of hydric soils.

12. Section D.3.1.4, Page D.3-6, Fifth paragraph

This paragraph states: "An inventory of sensitive resources can be found in..." The reference cited does not include marine resources and therefore should not be identified as if it represents the entire SGR project. A better reference would have been the Ecology Section of the ISFSI Environmental report, as it comprehensively addresses all biological resources in the vicinity of the project.

13. Section D.3.1.4.2, Page D.3-15, Peregrine Falcon

The discussion of peregrine falcons fails to mention that this species breeds at two locations within the project vicinity, at Diablo Rock and on the North Property coastal bluffs. See additional text provided above.

14. Section D.3.1.4.3, Pages D.3-15 and D.3-16, Omission of endangered, threatened fish

This section should include reference to the tidewater goby. There is, however, no known occurrence of or suitable habitat for Tidewater Goby in the Project Area.

15. Section D.3.1.5.1, Page D.3-17, First Paragraph, Third/Fourth Sentences

The Ecological Monitoring Program (EMP) should be referred to as the *Receiving Water Monitoring Program (RWMP)*.

16. Section D.3.1.5.1, Page D.3-17, Second Paragraph from bottom of page (Number 1)

It appears that the stated coastline distances are incorrect.

Numerical errors: change '1.1 miles' to '1.4 miles'; change '0.7 miles' to '0.9' miles; change '1.8 miles' to '2.3 miles'. Add citation at end:

Tenera Inc. 1997. Chapter 1 – Changes in the marine environment resulting from the Diablo Canyon Power Plant Discharge. Thermal Effects Monitoring Program Analysis Report. Submitted to Pacific Gas and Electric Company. December 1997. Note: This document is the source document for all Regional Board staff reports concerning thermal discharge effects.

17. Section D.3.1.5.1, Page D.3-17, Second Paragraph from bottom of page (Number 1)

Please amend to read as follows:

“Field’s Cove and northward was intended as a control area...”

18. Section D.3.1.5.1, Page D.3-17, Second Paragraph from bottom of page (Number 2)

Please make the following changes. Replace “of the subtidal zone” with “subtidal habitat.” Add: “of Diablo Cove at the surface” after “40 acres.” Replace “subtidal kelp” with “surface bull kelp.” Add: “containing surface bull kelp” after” 105 acres. Replace “major” with “the 1987”. Replace “affects” with “was found to affect” in order to make the finding past tense.

19. Section D.3.1.5.1, Page D.3-17

On page D.3-17, Paragraph 2, Number 2, the DEIR states:

“The discharge affects a greater area of the subtidal zone than predicted. The discharge was predicted to effect an area of approximately 40 acres. Yet the discharge affects approximately 56 acres of subtidal kelp on a frequent basis, and up to 105 acres during major El Niño event years.”

We feel it is more accurate to phrase the paragraph as follows:

“The discharge was found to affect a greater area of the subtidal habitat than predicted. The discharge was predicted to affect an area of approximately 40 acres of Diablo Cove at the surface. Yet the discharge affects approximately 56 acres of surface bull kelp on a frequent basis, and was found to effect up to 105 acres of surface bull kelp during a major El Niño event in 1987.”

20. Section D.3.1.5.1, Page D.3-18, Second Paragraph, Number 4, Third Sentence

Please eliminate the following: “and is indicative of a stressed biological community”.

21. Section D.3.1.5.1, Page D.3-18, Third Paragraph

Please amend the first sentence to read as follows:

Schiel et al. (2004) conducted an analysis of the Thermal Effects Monitoring Program data to evaluate the biological changes reported in Tenera (1997) relative to predicted changes based biogeographical distributions of the organisms.

22. Section D.3.1.5.1, Page D.3-18, Third Paragraph, Second and Third Sentences

Please replace these sentences with the following:

“The study used an 18-year sampling....”

23. Section D.3.1.5.2, Page D.3-18, First Paragraph, First Sentence

Please amend as follows:

“...traveling screens within the DCPD...”

24. Section D.3.1.5.2, Page D.3-18, First Paragraph, Fourth and Fifth Sentences

This water velocity at the bar racks is about 1 ft/sec. The velocity at the traveling screens located further in the plant is reported in the 1988 DCPD 316b report to be about 1.95 ft/sec.

25. Section D.3.1.5.2, Page D.3-19, First Paragraph, Seventh Sentence

There were 80 skates and rays and 323 bony fishes impinged during 1985-1986 impingement study. The 60-pound value could not be verified in the 1988 DCPD 316b study. The weight (60 pounds) has not been adjusted to total annual impingement. The 1,300 crabs were just the count of impinged Pacific rock crabs collected during the study. There were also 1,143 sharpnose crabs, 698 cryptic kelp crabs and 425 Northern kelp crabs reported to have been impinged during the 1985-1986 impingement study.

26. Section D.3.1.5.2, Page D.3-19, First Paragraph, Eighth Sentence

At this time, it is not possible to verify annual impingement at Huntington Beach and El Segundo Generating Stations and therefore, not possible to directly compare to weight presented for DCPD, as 60 pounds was only the weight of impinged fishes, skates, and rays that were found on the sampled days at DCPD and has not been adjusted to an annual total.

27. Section D.3.1.5.2, Page D.3-19, First Paragraph, Eleventh Sentence

Huntington Beach Generating Station's intakes are 1,500 feet offshore in 20 foot of water. El Segundo Generating Station's intakes are 2,100 feet offshore in 28 feet of water.

28. Section D.3.1.5.2, Page D.3-19, First Paragraph, Twelfth Sentence

It is not possible to directly compare the amount of impingement at DCPD because it is not presented as an annual total that can be compared across plants.

29. Section D.3.1.5.2, Page D.3-19, Second Paragraph, Second Sentence

Please delete the word “other”. This list should also include California halibut along with the others.

30. Section D.3.1.5.2, Page D.3-19, Third Paragraph, Last Sentence

ETM modeling values for these species ranged from 10-31%. It does not seem proper to refer to 10% as a “large” value. It is recommended that the term ‘large’ be rephrased and that the end of the sentence be amended to read as follow: “...available in the nearshore source water body.”

31. Section D.3.1.5.2, Page D.3-19, Fourth Paragraph, Last Three Sentences

Subtidal diver-swam fish observations in the vicinity of DCPD have been ongoing since 1976 therefore the population trend data should not be referred as “limited” for many of the species discussed in the recent DCPD 316b.

32. Section D.3.5.2 , Page D.3-37, First Paragraph, Second Sentence

Please amend this sentence to read as follows:

“ . . . however, it would eliminate effects of normal DCPD operations, such as from the thermal plume and from cooling water intake impingement and entrainment.”

33. Section D.3.5.2, Page D.3-37, Second Paragraph, Third and Fourth Sentences

Please make the following numerical corrections: Replace “1.1” with “1.4” and replace “0.7” with “0.9”. Add “and northward” after Fields Cove, and add “containing surface bull kelp” after 105 acres.

34. Section D.3.5.2, Page D.3-37, Second Paragraph, Seventh Sentence

Please amend this sentence to read as follows:

“withering syndrome in black abalone.”

35. Section D.3.5.2, Page D.3-37, Third Paragraph, Fourth Sentence

Please amend the following sentence as follows:

“...on the screens within the DCPD cooling...”

36. Section D.3.5.2, Page D.3-37, Third Paragraph, Fifth Sentence

Superheated is defined as “to heat (a vapor not in contact with its own liquid) so as to cause it to remain free from suspended liquid droplets or to heat (a liquid) above the boiling point without converting into vapor.” This does not happen to the seawater that passes through the DCPD cooling water system. It is recommended that ‘superheated’ be changed to ‘heated’.

37. Section D.3.5.2, Page D.3-37, Third Paragraph, Seventh Sentence

Please amend the sentence to read as follows:

“... about 400 fishes, skates, and rays.”

38. Section D.3.5.2, Page D.3-37, Third Paragraph, Eighth Sentence

Please amend the sentence to read as follows:

“...larval loss in nearshore fish taxa, which cannot be converted into equivalent adults, but still... .”

See comments above about adult equivalent loss.

III. Clerical/Typographical Comments

39. Section D.3.1, Page D.3-2, Fifth Paragraph, First Sentence

Please amend to read:

“...extending from the mean high-tide Line seaward.”

- 40. Section D.3.1.1, Page D.3-2, Table D.3-1 (Community: Closed-Cone Pine Forest, Community Characteristics)**

A period is missing.

- 41. Section D.3.1.1, Page D.3-2, Table D.3-1 (Native Terrestrial Habitat Types on the PG&E Diablo Canyon Lands Community: Freshwater Marsh, Community Characteristics Vegetation Communities and Habitats)**

A period is missing.

- 42. Section D.3.1.4, Page D.3-2 Table D.3-2, (Sensitive Terrestrial Plant Species Potentially Occurring on Diablo Canyon Lands Nuttail’s milk vetch, Description and Habitat), Last Sentence**

Please change Counties to counties.

- 43. Section D.3.1.4, Page D.3-2 Table D.3-2, (Sensitive Terrestrial Plant Species Potentially Occurring on Diablo Canyon Lands San Luis mariposa lily, Distribution in Project Area), Third Sentence**

Please change Coon creek to Coon Creek.

- 44. Section D.3.1.4.2, D.3-10, First Paragraph, Last Sentence**

A period is missing.

- 45. Section D.3.1.4.4. Page D.3-16, First Paragraph, Third Sentence**

Please amend to read:

“As described above, most of the turtle nests...”

- 46. Section D.3.1.4.4, Page D.3-16, Second Paragraph, First Sentence**

Please amend to read:

“they have occasionally been...”

CULTURAL RESOURCES

I. Specific Comments

1. Section D.4.3.3, Page D.4-10, Third paragraph, Second sentence

Section D.4.3.2 states that there are no known presence of cultural resources along the seven mile access route from Port San Luis. According to Wickstrom and Tremaine (1993),¹ 11 archaeological sites either border or are crossed by the access road. While there are known cultural resources along the haul route, due to proper resource protection protocol, the exact location of these resources are not public. However, these resources will not be adversely affected because no expansion of the footprint of the access road is proposed as part of the SGRP.

2. Section D 4.3.3, Page D.4-11, First paragraph, Last sentence

Section D.4.3.3 and D.4.4.2 emphasize the highly developed and disturbed nature of this portion of DCP. There is a highly remote and improbable chance that any cultural remains would be found due to the extensive past disturbance in this area.

3. Section 4.3.3., Page D.4-11, Paragraph, C-1a

This paragraph recommends that the CRTP be submitted to the CPUC 30 days before start of construction. Mitigation measure number C-1a states that the report should be submitted 60 days before start of construction. Due to the high unlikelihood of finding any cultural resources, the CRTP should be submitted 30 days before start of construction.

4. Section D.4.6, Page D.4-14, Table D.4-4

Mitigation measure C-1b requires a cultural monitor during ground-disturbing activities. Because of the highly disturbed nature of the Project APE, a fulltime monitor is not necessary. Periodic monitoring and necessary sensitivity and awareness training on what to do if human remains or artifacts are encountered should be adequate.

Please amend the second sentence of the Monitoring/Reporting Action to read as follows:

CPUC to coordinate with principal archaeologist to verify that
PG&E archaeologist, or his designated representative, monitors

¹ Wickstrom, Brian and K. Tremaine, 1993. A Cultural Resources Survey of Portions of Diablo Canyon Nuclear Power Plant South Property, San Luis Obispo County, California. Report prepared for Pacific Gas and Electric Company, San Francisco.

the designated locations and follows procedures outlined in CRTP in the event of unanticipated discoveries.

GEOLOGY, SOILS AND PALEONTOLOGY

I. General Comments

1. **Mitigation Measure G-3a, Revision of Long Term Seismic Plan, Is Preempted**

The DEIR makes clear at the outset that the CPUC has no jurisdiction to regulate “[s]eismic safety of DCPD in its current design and certain permanent project components (e.g., the OSG Storage Facility).” DEIR at ES-24. Nonetheless, Impact G-3 purports to assess the seismic issues associated with the construction of the OSGSF, and Mitigation Measure G-3a requires that an NRC-required seismic program be “refined to incorporate new earthquake data.” In this way, under the umbrella of a CEQA impact analysis and associated mitigation, the DEIR attempts to require PG&E to modify an NRC seismic requirement or proceed with the Project in the absence of required mitigation.

The OSGSF will be designed using the provisions of 10 C.F.R. § 50.59, including its requirement that the building meet uniform building code requirements for seismic impacts. This NRC requirement pre-empts Mitigation Measure G-3a. If not deleted or modified, this requirement would impose mitigation measures related to a matter outside of the state’s jurisdiction, namely geologic issues related to radiological health and safety. The state is clearly preempted from imposing mitigation measures in those subject areas. *See Maine Yankee*, 107 F.Supp. 2d at 55.

Mitigation Measure G-3a should be removed or the Final EIR should make clear that this measure is unenforceable and therefore legally infeasible under CEQA.

2. **Consistent With the DEIR’s Analysis of Impact S-4, Impact G-3 Should Be Classified As Class III.**

In addition to being preempted by federal law, Mitigation Measure G-3a is unnecessary because Impact G-3 is not potentially significant, thus requiring no mitigation under CEQA. Impact G-3 states that “ground shaking could compromise integrity of the OSGSF,” and concludes that the risk of compromising the integrity of the OSGSF due to a seismic event would create a potentially significant impact (Class II), resulting in the need for Mitigation Measure G-3a.

The conclusion that any compromise to the integrity of the OSGSF would result in a class II impact is inconsistent with the DEIR’s conclusion that Impact S-4, related to the integrity of the OSGSF from an aircraft accident, constitutes a Class III due to minimal radiological consequences. *See* section D.12, page D.12-24. In that analysis, the integrity of the structure is completely compromised, but yet the impact is determined to be Class III. The two impacts are not consistent.

As described in our comments on System and Transportation Safety, that section addresses areas that are entirely preempted and outside the jurisdiction of the CPUC. Nonetheless, the significance determination related to Impact S-4 is correct and the same analysis should be used in Impact G-3, eliminating the need for Mitigation Measure G-3a.

3. Mitigation Measure G-1a Unnecessarily Limits Options For Addressing Unstable Ground Along the Haul Route

The DEIR states that the transport route between the Intake Cove and the rest of the DCPD facility could cross "potentially unstable transport routes." Mitigation Measure G-1a requires a further evaluation of this road as part of the Intake Cove alternative. The Final EIR should make clear that the load path from the Intake Cove was used to transport the U-1 Main Bank transformers in 1995, each weighing approximately the same as an RSG. Medium size loads (15-25 tons) have been routinely transported along this road to the intake structure to support replacement of various plant equipment. Additionally, the installation contractor will perform a study of the entire load path prior to shipment, and any necessary reinforcement or recompaction of the road will be performed prior to movement of the RSGs.

Mitigation Measure G-1a also calls for the development of plans for necessary improvements (second bulleted item). This section states that PG&E shall develop plans for necessary road improvements, and that they shall be within the "footprint of the proposed route." As currently written, this mitigation measure *requires* that improvements be made at areas identified by the report. This is unnecessary. There are possible locations (the Patton cove landslide area, for example) where it would be less of an impact to simply alter the travel path to go around the unstable ground instead of improving the roadway or existing travel path. If this re-route is over previously disturbed land, this alternative would be preferred.

The second bullet of this mitigation measure should allow for PG&E to relocate the load path around an area of concern, if it is on previously disturbed ground. There may be a location where the analysis requires road improvements, however, this location may be avoided altogether by relocating the load path outside of the footprint of the proposed route. If this relocation were on previously disturbed soil, road improvements and the associated environmental impacts would be avoided.

4. Mitigation Measure G-2a Should Be Developed to Meet Cal-OSHA Standards

Mitigation Measure G-2a requires PG&E to prepare a safety plan to ensure worker safety during any possible earthquake caused ground shaking. DEIR at D.5-15. The Final EIR should make clear that the substantive standards of the safety should be governed by Cal-OSHA. PG&E will ensure compliance with existing regulations such as CAL-OSHA to ensure there would be no significant impacts requiring further mitigation.

5. PG&E Has Already Conducted The Analysis Required Under Mitigation Measure G-2b.

Mitigation Measure G-2b requires that PG&E evaluate all “rocks and boulders that are precariously situated above portions of the transport route” in order to “determine if they should be removed or stabilized prior to project commencement.” DEIR at D.5-16. Pursuant to an NRC assessment, PG&E conducted the analysis required under this mitigation measure following large storm events in 1996 and 1997. In addition, PG&E conducted an analysis of potential rock fall along a similar haul route for the ISFSI project. *See* Attachment 5.

As this analysis made clear, the potential for a rockfall hazard is very low and would occur during heavy storm events, during which transportation activities would not occur. The possibility of an earthquake during transportation activities is very remote. And even in the event of an earthquake, the transport vehicles would be strong enough to withstand damage from most potential rockslides and personnel would follow the safety procedures required under G-2a.

For these reasons, impacts from rockslides should not be considered a potentially significant impact and so mitigation measure G-2b is not required. Moreover, the analysis request has already been conducted by PG&E and further analysis is not required.

6. Mitigation Measure G-4a Should Be Revised To Reflect Appropriate Scope of the Geotechnical Evaluation and Potential Engineering Solutions

Mitigation Measure G-4a requires the preparation of a geotechnical evaluation “similar to that done for ISFSI” and sets new seismic standards that would guide the construction of the OSGSF, requiring the use of the San Simeon earthquake. *See* DEIR at D.5-17. As described above, NRC regulations reflect the necessary design standard for the OSGSF and the required seismic criteria for the facility, namely uniform building code standards. As a practical matter, the NRC requirements for minimizing radiation exposure set forth at 40 C.F.R. Part 190 and 10 C.F.R. Part 20, will result in a structure that will be a large concrete, bunker that will be capable of handling large loads, including debris flows. As a legal matter, because NRC regulations drive the design and construction of the OSGSF facility, including the necessary seismic criteria, these issues are preempted from CPUC review and mitigation. Therefore, this mitigation measure is unenforceable and legally infeasible as written.

PG&E is willing to conduct a geotechnical evaluation of the area in the vicinity of the OSGSF locations and using that evaluation as a mechanism to help select the final location of the OSGSF. We suggest making minor modifications to Mitigation Measure G-4a in order to avoid these preemption issues and create an enforceable mitigation measure. We recommend deleting the reference to ISFSI and the deletion to the “most recent seismic acceleration

values as derived since the 2003 San Simeon earthquake,” as these are areas that are preempted by federal regulations. In addition, we have added an additional option to perform an engineering analysis of the structure to withstand the landslide loads to provide additional flexibility for the project while ensuring that these issues are adequately addressed.

These revisions are as follows:

G-4a: Evaluate slope stability in the vicinity of the OSG Storage Facility site. A geotechnical evaluation ~~similar to that done for the ISFSI~~ shall be undertaken by PG&E and/or the construction contractor to assess the stability of the north-facing slopes in the area of the proposed OSG Storage Facility, both above and below the level of the current “man camp.” This report should be reviewed and approved by PG&E and the CPUC at least 60 days prior to final approval of the OSG Storage Facility design. Such an evaluation shall include exploratory borings and surface mapping of the north-facing slope. Slope stability evaluation shall include analysis of the dip of layered rock, identification of clay beds, and presence and orientation of small faults and fractures with orientations parallel or subparallel to the slope. Static and dynamic stability analysis shall be performed ~~using the most recent seismic acceleration values as derived since the 2003 San Simeon earthquake~~ in accordance with all applicable building codes.

If the report indicates either the upper or lower portion of the slope could become unstable, remedial measures (e.g., construction of engineered retaining wall; improved slope drainage; remove excess colluvium; engineering design of the structure to withstand postulated landslide loads) shall be developed or a different location (already analyzed in this EIR) for the OSG Storage Facility shall be selected.

II. Specific Comments

7. Section D.5.1.7, Page D.5-8, last paragraph

The first sentence states that fossilized remains of “terrestrial animals, especially vertebrate animals, or plants” represent potential paleontological resources. Marine animals should be added to this sentence. The second sentence states that there are no geologic formations at the site. In fact, the Monterey and Pismo Formations are known to exist through the general area.

8. Section D.5.3.2, Page D.5-15

Mitigation Measure G-1a requires that the "CPUC or its consultant shall survey the transport route after the completion of construction (prior to the start of transport activities) to ensure that completed improvements successfully stabilized appropriate portions of all roads to be used during transport." PG&E agrees that an inspection of these areas prior to the start of transport activities is appropriate, however only to verify that the proposed modifications were actually completed.

PG&E suggests the following re-wording of Measure G-1a:

"CPUC or its consultant shall survey the transport route after the completion of construction (prior to the start of transport activities) to ensure that all necessary road improvements have been implemented on all roads to be used during transport."

III. Clerical/Typographical Comments

9. Section 5.1.2, Page D.5-5 (Figure D.5-2)

"Miocene" is misspelled in several places.

HAZARDOUS MATERIALS

I. General Comments

1. **Mitigation Measure H-1b: Conduct Routine Inspections and Maintenance of Transporter**

This mitigation measure requires inspections of the transporter “during any stop of 15 minutes or longer.” DEIR at D.6-21. This aspect of the measure raises technical feasibility concerns and seems unnecessary to address the stated impact. There may be occasions, when to position equipment and personnel, it will be necessary to halt movement for more than 15 minutes at a time. To do a complete inspection under this condition, it could cause an additional 5 to 10 minute delay before continuing transport. This 5 to 10 minute delay for inspection would require continual operation of the equipment to inspect for leaks. This delay would increase the time required for the overall transport, which could potentially create impacts that otherwise could be avoided (such as traffic and circulation, safety, etc.). Moreover the additional operation of equipment would raise additional environmental impacts. This would likely produce more of an impact without a substantial benefit.

We propose an alternative condition:

“All transport vehicles shall be inspected at the beginning of each work day and at the end of each work shift. While in transport, continual visual inspections shall be conducted by the crew. If any leaks are observed during transport appropriate action will be taken to stop the leak prior to continuance of transport. Any necessary spill response shall be conducted according to Mitigation Measure H-1a.”

HYDROLOGY AND WATER QUALITY

I. Specific Comments

1. **Section D.7.2, Page D. 7-2, Second paragraph, Third sentence (including following first bullet item)**

This sentence correctly states that a Storm Water Pollution Control Plan (SWPPP) is required for construction activities that disturb more than one acre. Page 2 of the Fact Sheet for the State of California Water Quality Order 99-08-DWQ: National Pollutant Discharge Elimination System NPDES General Permit for Storm Water Discharges Associated with Construction Activities (General Permit) states the following:

Construction activity subject to this General Permit includes clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre of total land area. Construction activity that results in soil disturbance of less than one acre is subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses one or more acres of soil disturbance or if there is significant water quality impairment resulting from the activity. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.

Less than one acre of soil disturbance will occur as a result of the Proposed Project, calling into question whether a SWPPP should be required. The construction activities of the Proposed Project include locating temporary structures on an existing, impermeable parking surface (previously disturbed area) for the Temporary Staging Area, and erecting an 18,000 square foot storage building to store the old steam generators. These activities would result in less than one acre of a disturbance. The only soil disturbance associated with proposed project is the excavation required for the 18,000 square foot OSGSF. Excavation for this project will be directly within and/or around the immediately perimeter of the footprint of this building. In addition to the 18,000 sq feet of the OSGSF that will be excavated, several of the facilities in the TSA require foundations which will result in some additional area of disturbance. In total, however, this excavation would be well under the 43,560 square foot (or one acre) threshold.

While a SWPPP would not be required under the state water quality control board guidelines because less than an acre of land will be disturbed by the Project, PG&E will use its existing stormwater drainage system and best management practices to ensure that no water quality impacts occur as a result of the SGRP. PG&E has an extensive stormwater drainage system, which is maintained in updated condition, including recent improvements as part of the ISFSI project. This system will adequately address any runoff related to the project.

Despite not being required under water quality control guidelines, the County of San Luis Obispo routinely requires the submittal of a SWPPP as part of its land use permitting process. PG&E's existing drainage system and use of BMPs should adequately address these issues and will ensure there are no potentially significant impacts to water quality from the Project. Nonetheless, because a SWPPP may be required in any event, the CPUC should consider incorporating that requirement into the Final EIR.

2. Section D.7.3.3, Page D.7-7, First paragraph, Third sentence

This sentence incorrectly states that storm water emanating from the TSA area will flow into Diablo Creek. Through the use of the existing storm drain system at DCP, all storm water in this area is directed away from Diablo Creek and is placed immediately into a storm drain system that flows directly to the ocean.

3. Flood Hazards Inaccurately Described, Section D.7.3.4 and D.7.4, Pages D.7-7 through D.7-9.

The DEIR incorrectly describes the flood potential and flood control measures associated with Diablo Creek and creates misimpressions about the potential for flood impacts to the OSGSF. The Final EIR should be revised to reflect the following discussion.

Flood Events:

As a threshold matter, it is important to note that the "probable maximum flood" or PMF discussed in this chapter is a concept developed by the NRC and is completely unrelated to the SGRP and has no relevance or applicability to the OSGSF. The PMF is substantially higher than the 100-yr flood referenced in the significance criteria in section D.7.3.1. In fact, the postulated flow level for the PMF is about 7.5 times higher than the 100 year flood and 4.2 times higher than the 500 year flood.

OSGSF Location and Design:

The OSGSF will be built to state building codes that require the local ground around the facility to be sloped away from the structure to prevent localized flooding. There will be no potential, even under the hypothetical PMF, for flooding of the facility. Given this design and sloping, there will be no way for water to reach the OSGSF.

Analysis of OSGSF Alternatives:

For the Alternative A analysis on page D.7-9, the DEIR states that “the PMF would overtop the fill.” This statement is true, but could be misconstrued. While under the PMF, the assumption is made that the culvert will be blocked and the flood will overtop the fill, however, it will not reach the ground level where the OSGSF would be located. Under this scenario, the flood would be conveyed away from the facility in a channel designed for this purpose. No flooding impacts will occur under this scenario, because the water would flow through a channel specifically designed for the purpose of diverting the flood, and since the OSGSF at this location is at a higher elevation than the postulated PMF level, no flooding impacts would occur. The same argument/reasoning applies to Alternatives B, C, and D.

Analysis of Proposed OSGSF Locations:

At the top of page D.7-8 ("Flood Hazards") the Final EIR should provide the exact same argument/reasoning as that described above for the alternative locations as part of the analysis of the proposed location of the OSGSF. This same discussion applies and makes clear that there will be no flood impacts to any of the proposed locations of the OSGSF.

Along these lines, the statement at Page D.7-8 that “there may be a potential for flooding of this area from overflow of Diablo Creek, or from local drainage, flooding is likely to be shallow and infrequent” is incorrect. There would be no potential for flooding the OSGSF locations from Diablo Creek as described above. Therefore, this statement should be deleted from the Final EIR.