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Latham & Watkins LLP, for Pacific Gas and Electric Company

LAND USE, RECREATION AND AGRICULTURE

I. General Comments

1. Section D.8.2, Page D.8-18, Second Paragraph, and Page D.8-19, First paragraph

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These paragraphs may be misconstrued to incorrectly describe the legal relationship between the CPUC and the County under CEQA. The County’s application review and approval process is not “wholly independent” of the CEQA process. Rather, this Section should make clear that the County is a Responsible Agency pursuant to CEQA Guideline Section 15096. As a Responsible Agency, the County’s approval process will be based upon the findings in the EIR, which it must presume complies with CEQA except in limited circumstances. See CEQA Guidelines Section 15231. Under Section 15096(f) and (g), the County must consider the environmental effects of the project as shown in the EIR and adopt any necessary mitigation measures with respect to only those parts of the project subject to its approval. These parts include only the Coastal Development Permit Application for the Containment Access Facility and Temporary Staging Area, and the Condition Use Permit Application for the Original Steam Generator Storage Facility.

Accordingly, it is incorrect to state that the County “could utilize the information from the EIR” in its approval process “if it deems the information applicable.” This paragraph should make clear that the EIR is a collaborative document produced in consultation with the County and that the County is obligated under CEQA to consider the findings of the EIR in its approval process. It would violate the structure and intent of CEQA for the County to use a “wholly independent” process and reach inconsistent conclusions with regard to impacts analyzed in the EIR after appropriate consultation.

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The document leaves “detailed review” of the project’s consistency with the County’s LCP to the County as part of the County’s review of the CDP and CUP applications. First, this statement is technically incorrect because the CUP application will be governed by the inland land use standards and requirements rather than the LCP, which governs the CDP application. Second, while it would be correct to state that the County, as a responsible agency with subsequent permitting authority under CEQA, has an independent obligation to review the EIR and to adopt any proposed mitigation measures or alternatives relevant to its own approval process, the DEIR land use analysis would be strengthened if it were supplemented to include this “detailed review” rather than leaving it to be completed later. Even though the DEIR already includes a discussion of the project’s consistency with the County’s Local Coastal Plan and reaches the correct conclusion that the Proposed Project does not create any significant land use impacts because the Proposed Project is consistent with the applicable County and Harbor District land use policies, the existing discussion should be augmented with the following analysis concerning additional LCP issues and consistency with the inland land use requirements. The FEIR should note, however, that this

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additional analysis is completely consistent with the DEIR's conclusions of no significant land use impacts, and that none of these additional issues or considerations raise new significant land use impacts.

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2. Section D.8.2, Pages D.8-18 through D.8-24, Generally.

The discussion of the requirements for a Coastal Development Permit (CDP) under the County's Local Coastal Program (LCP) should be prefaced by noting that PG&E could be forced to undertake the Proposed Project using only existing facilities if it does not receive a CDP within the timelines required for the Project. Although this approach will make the Project more difficult to accomplish and more costly, it would eliminate the need for a CDP.

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The most feasible approach for implementing the SGRP is to use the temporary facilities for staging and project preparation activities. The proposed temporary facilities for the SGRP would be located in a developed portion of the DCP site, would have no impacts on coastal resources, and represent the least cost approach to installing the RSGs with the least disruption to normal plant operations. Moreover, the reorganization of existing facilities at DCP to eliminate the need for the development of new temporary SGRP facilities within the Coastal Zone would be very difficult and it is unclear at this time whether it would be feasible. Because it may not be possible to completely eliminate the need for new construction in the Coastal Zone and because construction of the proposed temporary facilities would create no impacts to coastal resources, the best approach to implementing the SGRP is to use the proposed new temporary facilities.

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Nonetheless, from the beginning PG&E has stated that it would attempt to use existing facilities whenever possible to minimize any construction activities. The use of existing DCP facilities in lieu of new construction in the Coastal Zone is consistent with Section B.3.2 of the Project Description and PG&E's SGRP Application with the CPUC. *See* SGRP Environmental Assessment at 3-16, Attachment 1, Chapter 8, PG&E's SGRP Application. In the event that PG&E is forced to use only existing facilities and chooses not to construct the temporary facilities, no CDP would be necessary. The following sentence should be added after the first paragraph on Page D.8-18:

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In the event that PG&E is unable to obtain the required CDP within the timeframes necessary to implement the project, PG&E may be forced to undertake the Proposed Project using only existing facilities. This action would be consistent with the Project Description at B.24, in which PG&E has committed to using existing facilities to the extent possible. If PG&E is able to design the Proposed Project to remove the need for the additional temporary facilities, no CDP would be necessary.

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3. Section D.8.2, Pages D.8-18 through D.8-24, Generally.

The section discussing the County's LCP requirements should relate these requirements more systematically to the issuance of a coastal development permit (CDP) for the Proposed Project. The EIR should be supplemented to include an evaluation of the consistency between these criteria and the Proposed Project to determine whether the project's impact on land use may be significant. The County Land Use Ordinance (Title 23) provides the standards that must be met in order for the Proposed Project to receive a CDP:

The Planning Commission may not approve or conditionally approve the CDP unless it makes the following findings:

- (i) The proposed project or use is consistent with the local coastal program (LCP) and the land use element of the general plan;
- (ii) The proposed project or use satisfies all applicable provisions of [Title 23, the Coastal Zone Land Use Ordinance];
- (iii) The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use;
- (iv) The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development;
- (v) The proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project;
- (vi) The proposed use or land division (if located between the first public road and the sea or the shoreline of any body of water), is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act;
- (vii) Any additional findings required by planning area standards (Part II of the land use element), combining designation (Chapter 23.07), or special use (Chapter 23.08).

23.02.034(3)(D).

The DEIR's discussion of the LCP standards, policies, and requirements, if amended as recommended below, would fulfill the findings under (i), (ii), and (vii), all of which refer to the LCP. However, the FEIR should incorporate this entire provision and should make

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conclusions concerning the consistency of the Proposed Project with each category and with the provision as a whole. Please refer to the discussion of the analogous provisions to subsections (iii)-(v) in the proposed language regarding Title 22, in Comment 7 below.

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Additionally, the FEIR should refer to the DEIR's discussion of coastal access policies and requirements, as amended by Comment 4 below, in answering subsection (vi). That discussion should include the following language:

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The Coastal Act's public access policies are codified in the Public Resources Code at §§ 30210-30214. Maximum public access is to be provided, consistent with public safety, protection of public rights, protection of private property rights, and protection of natural resource areas from overuse. Pub. Res. Code § 30210. Section 30212 states that public access from the nearest public roadway to the shoreline and along the coast shall be provided for all new developments "except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby" As the EIR concludes with regard to the LCP's coastal access provisions, coastal access need not be provided in the Proposed Project because it falls within one or more of these exceptions.

The Coastal Act's recreation policies are codified at PRC Sections 30220-30224. Coastal areas suited for water-oriented recreational activities are protected, as is oceanfront land suitable for recreational or visitor-serving commercial use. PRC §§ 30220-30222. The developments that will occur at the Diablo Canyon Power Plant are not in sites that are suitable for recreational or visitor-serving commercial use, due to the high security zone surrounding the plant, and these policies are therefore inapplicable.

4. Section D.8.2, Page D.8-19, Last Bullet Point Paragraph

Although this paragraph notes the exceptions to Coastal Access Policy 2 for public safety, military security needs, the protection of fragile coastal resources, existing nearby access, or impacts to agricultural resources, the document only implies on page D.8-20 that providing coastal access would fall within these exceptions because of "safety concerns." The Proposed Project is a maintenance activity for a nuclear power generation facility warranting very restrictive security measures. In addition, as other portions of the document note, the Proposed Project is within an area characterized by fragile coastal resources, and existing

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coastal agriculture. This section should state unambiguously that the Proposed Project falls within the exceptions for safety, security and the protection of agricultural and fragile resources, and the DEIR should provide the requisite additional analysis to support these conclusions.

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The first paragraph on page 8-20 notes that the Coastal Policies state that “lateral access on the property should be secured for the area extending from mean high tide to the bluff.” The document then finds that limited lateral access already exists as part of the Pecho Coast Trail, and that any impacts to that access would be insignificant after mitigation. The document should state clearly that further lateral access, including lateral access to other portions of the project area, would be inconsistent with safety, security and the protection of agricultural and fragile resources. This comment applies to the first paragraph on Page D.8-23 as well.

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Finally, this section of the DEIR should reference Chapter 2, Shoreline Access, Policy 4: Provision of Support Facilities and Improvements. The DEIR should explicitly find that such improvements to coastal access facilities are not necessary because the document concludes that no new coastal access need be provided.

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5. Section D.8.2, Pages D.8-19 through 8-21 (Coastal Plan Policies)

In addition to the more specific comments made above, the following potentially applicable coastal policies should be addressed in the Coastal Plan Policies section of the FEIR:

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- **Chapter 4, Energy and Industrial Development, Policy 1: New Facilities and Expansion of Existing Sites.** When new sites are needed for industrial or energy-related development, expansion of facilities on existing sites or on land adjacent to existing sites shall take priority over opening up additional areas or the construction of new facilities.

Consistency. All development will take place on existing, already disturbed locations within the high security zone of DCPP. Accordingly, the Proposed Project is consistent with this Policy.

- **Chapter 6, Environmentally Sensitive Habitats, Policy 2: Permit Requirement.** As a condition of permit approval, the applicant is required to demonstrate that there will be no significant impact on sensitive habitats and that proposed development or

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activities will be consistent with the biological continuance of the habitat. This shall include an evaluation of the site prepared by a qualified professional which provides: a) the maximum feasible mitigation measures (where appropriate), and b) a program for monitoring and evaluating the effectiveness of mitigation measures where appropriate.

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Consistency. The discussion of biological impacts in EIR Section D.3, as amended by the comments suggested above, satisfies this requirement. The evaluation of the Project was undertaken by a qualified professional, and all significant impacts have been mitigated. The mitigation monitoring measures discussed in Section H of the EIR fulfill subpart (b) of this Policy.

- Chapter 9, Watershed Protection, Policy 2: Water Extractions. Extractions, impoundments and other water resource developments shall obtain all necessary county and/or state permits. All pertinent information on these uses (including water conservation opportunities and impacts on in-stream beneficial uses) will be incorporated into the data base for the Resource Management System and shall be supplemented by all available private and public water resources studies available. Groundwater levels and surface flows shall be maintained to ensure that the quality of coastal waters, wetlands and streams is sufficient to provide for optimum populations of marine organisms, and for the protection of human health.

Consistency. As further described in Section D.7 of the EIR, the Proposed Project will meet all requirements for the use of any water resources. Sections D.7 and D.3 describe the measures taken to ensure that the Proposed Project does not result in a significant impact to the environment and health through changes in water levels or flows. Based upon the analysis in those section and the mitigation measures recommended there, the Proposed Project is consistent with this Policy.

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- **Chapter 9, Watershed Protection, Policy 7: Siting of New Development.** In all cases, siting of development and grading shall not occur within 100 feet of any environmentally sensitive habitat. . . .

Consistency. Neither the CAF nor the TSA will be within 100 feet of an Environmentally Sensitive Habitat Area. These areas have already been disturbed and are unsuitable as habitat for any sensitive species.

- **Chapter 9, Watershed Protection, Policy 9: Techniques for Minimizing Sedimentation.** Appropriate control measures (such as sediment basins, terracing, hydro-mulching, etc.) shall be used to minimize erosion and sedimentation. Measures should be utilized from the start of site preparation. Selection of appropriate control measures shall be based on evaluation of the development's design, site conditions, predevelopment erosion rates, environmental sensitivity of the adjacent areas and also consider costs of on-going maintenance. A site specific erosion control plan shall be prepared by a qualified soil scientist or other qualified professional. To the extent feasible, non-structural erosion techniques, including the use of native species of plants, shall be preferred to control run-off and reduce increased sedimentation.

Consistency. The Proposed Project is consistent with this policy because it will use the existing stormwater control system at DCPP. See Section D.7

- **Chapter 9, Watershed Protection, Policy 10: Drainage Provisions.** Site design shall ensure that drainage does not increase erosion. This may be achieved either through on-site drainage retention, or conveyance to storm drains or suitable watercourses.

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Consistency. The Proposed Project is consistent with this policy because it will use the existing stormwater control system at DCPP. See Section D.7.

- **Chapter 9, Watershed Protection, Policy 11: Preserving Groundwater Recharge.** In suitable recharge areas, site design and layout shall retain runoff on-site to the extent feasible to maximize groundwater recharge and to maintain in-stream flows and riparian habitats.

Consistency. The Proposed Project will draw any additional necessary water from the existing reverse osmosis system and creek water. The alternative supply from the reverse osmosis system will allow the Project to protect in-stream flows, consistent with this Policy.

- **Chapter 10, Visual and Scenic Resources, Policy 1: Protection of Visual and Scenic Resources.** Unique and attractive features of the landscape, including but not limited to unusual landforms, scenic vistas and sensitive habitats are to be preserved protected, and in visually degraded areas restored where feasible.

Consistency. Because the developments in the Proposed Project will be sited entirely on previously disturbed areas, they will not threaten unique and attractive features of the landscape. Section D.14 of the EIR provides additional information concerning the insignificance of the Proposed Project on visual resources. Accordingly, the Project is consistent with this Policy.

- **Chapter 10, Visual and Scenic Resources, Policy 2: Site Selection for New Development.** Permitted development shall be sited so as to protect views to and along the ocean and scenic coastal areas. Wherever possible, site selection for new development is to

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emphasize locations not visible from major public view corridors. In particular, new development should utilize slope created "pockets" to shield development and minimize visual intrusion.

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Consistency. As discussed in more detail in Section D.14 of the EIR, as amended by the comments provided below, the Proposed Project is sited within a location not visible from major public view corridors. The Project is therefore consistent with this Policy.

6. Section D.8.2, Pages 8-22 to 8-23, generally (Coastal Zone Land Use Ordinance).

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Although its conclusions are correct, the DEIR's discussion of the County's Title 23 should be supplemented to specifically address several applicable requirements. As discussed above, the EIR should provide a detailed discussion of the land use consistency to provide a framework within which the County, as a responsible agency, can make its subsequent permitting decisions. The Proposed Project's consistency with the following potentially relevant Title 23 provisions should be analyzed:

- The DEIR mentions only the special use of "Temporary Dwellings or Offices." While this use is applicable to part of the CAF and TSA facilities, other parts of those developments more likely fall within the category of either Temporary Offsite Construction Yard (23.08.244) or Accessory Storage (23.08.24), depending on whether the developments are considered to be located "adjacent" to the repair project.

Consistency. The applicable portion of Ordinance 23.08.24 provides as follows:

Where the principal building or use on a site is some use other than storage, and storage accessory to that use is also located on the site, the accessory storage is subject to the following standards (see also Section 23.08.146, storage yards). A land use permit is not required to establish accessory storage except when subsections (a) through (f) of this section require a permit for a specific type of storage, or the storage involves construction of a new structure or alteration of an existing structure.

(a) Building Materials and Equipment. Building materials and equipment being used in a construction project on the same or adjacent site may be stored on or adjacent to the construction

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site as long as a valid building permit is in effect for construction on the premises. Building materials and equipment include stockpiles of construction materials, tools, equipment, and building component assembly operations. When storage is proposed on a lot adjacent to the construction site, the land use permit application for the project is to also describe the storage site. Temporary storage of construction materials on a site not adjacent to the construction is subject to Section 23.08.244.

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This Proposed Project is consistent with the Ordinance because the CDP application submitted to the County describes the adjacent storage sites (the TSA and the CAF). If the County determines the TSA and CAF or not "adjacent" to the reactors, 23.08.244 provides the following applicable standards:

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A storage yard for construction supplies, materials or equipment for temporary use during a construction project (which may include a temporary office pursuant to Section 23.08.246(d)) is allowable on a site not adjacent to the construction site subject to the provisions of this section. The temporary storage of construction materials on or adjacent to a construction site is subject to Section 23.08.024(a) (accessory storage -- building materials and equipment).

(a) Permit Requirement. A temporary construction yard may be authorized by the same development plan approval which allows the project being served by the construction yard; or through minor use permit approval in all other cases.

(b) Site Design Standards. To be determined through the review and approval process for either the project development plan proposals, or through the minor use permit approval, in addition to the site design standards as set forth in Section 23.08.146(c) (storage yards -- site design standards).

(c) Site Restoration Required. The site of a temporary construction yard shall be restored to its original vegetative and topographic state within thirty days after completion of construction. Proper site restoration within another period of time shall be approved by the planning director. Prior to establishment of the use, all site restoration shall be guaranteed as set forth in Section 23.02.060 (guarantees of performance).

The CAF and TSA facilities will be sited entirely within previously disturbed areas, and therefore no vegetation will be removed to build them. Accordingly, the site restoration

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requirement of subpart (c) is inapplicable. The site design standards at 23.08.146(c), referenced in subpart (b) above, provide as follows:

- (c) Operation. Materials within a storage yard shall not be stacked or stored higher than six feet, except where:
- (1) Materials stored are vehicles, freestanding equipment, or materials that are of a single piece that is higher than six feet; or
 - (2) The storage yard site is an interior lot within an industrial land use category that is not visible from a collector or arterial or from outside the industrial category; or
 - (3) Screening requirements have been waived or modified pursuant to subsection (b)(2)(A) of this section; or
 - (4) A higher wall or fence is constructed at the required setback line under an approved building permit and materials stored are not higher than the fence.

The RSGs stored at the TSA will be “single pieces” that exceed six feet high, and are therefore consistent with this standard. Additionally, all materials stored at the CAF and TSA will be consistent with the requirements of subsection (2), above.

- The Title 23 discussion does not discuss specific requirements related to the apparent designation of the project site as a “Sensitive Resource Area” on the County maps. Ordinances 23.07.164-176 provide the requirements for issuing permits in an SRA-designated area. Among the most applicable of these requirements:
 - (1) The permit must include a description of measures proposed to protect the resource for which the area has been designated SRA.

Consistency. The permit should incorporate the mitigation measures identified in the Biological Resources Section of the EIR, as modified by the comments provided above.

- (2) Natural features and topography must have been considered in the design and siting of the improvements.

Consistency. Natural features and topography have been considered as part of the EIR process. See Section D.3 and the comments on that Section, above.

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(3) Any clearing or grading is the minimum necessary and will not create significant adverse effects on the identified sensitive resource.

Consistency. No significant clearing or grading will take place as part of the coastal developments in the Proposed Project.

(4) Soil and subsoil conditions must be suitable for any excavation.

Consistency. No excavation will take place as part of the coastal zone developments in the Proposed Project.

(5) The permit process must include a CEQA evaluation for the potential effect of the project on the sensitive resources.

Consistency. This EIR constitutes a CEQA evaluation, and Section D.3 discusses the potential impacts on sensitive resources.

(6) When the SRA designation is assigned to protect specific features, these features must remain undisturbed.

Consistency. Because the CAF and TSA developments will not have any significant impacts on any sensitive resources and will be built entirely within previously disturbed areas, the Project is consistent with this requirement.

- Sedimentation and erosion issues fall within section 23.05.036 of the County ordinance. That section states that a sedimentation and erosion control plan must be pre-approved by the County Engineer when one of three conditions are met. These conditions are as follows:

(1) Grading requiring a permit is proposed to be conducted or left in an unfinished state during the period from October 15th through April 15th;

(2) Land disturbance activities, including the removal of more than one-half acre of native vegetation are conducted in geologically unstable areas, on slopes in excess of thirty percent on soils rated as having severe erosion hazard, or

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within one hundred feet of any watercourse shown on the most current seven and a half minute USGS quadrangle map;

(3) The placing or disposal of soil, silt, bark, slash, sawdust or other organic or earthen materials from logging, construction and other soil disturbance activities above or below the anticipated high water line of a watercourse where they may be carried into such waters by rainfall or runoff in quantities deleterious to fish, wildlife or other beneficial uses.

Consistency. The CAF and TSA facilities will not require any significant grading or land disturbance activities because these areas are already graded and disturbed. Accordingly, conditions (1) and (2) do not apply. Additionally, the construction of these facilities will not require placing any materials in areas where they may be carried into a watercourse. The Proposed Project is therefore consistent with this requirement and does not require a sedimentation and erosion control plan to supplement the existing DCPD SWPP. See Hydrology Section Comments 1-2.

- Section 23.04.118 relates to the potential for bluff erosion. The section requires any development on a bluff to withstand 75 years of erosion.

Consistency. Mitigation Measure G-3a requires that a slope stability analysis be performed on the slopes in the area of the proposed OSG Storage Facility, which will not be subject to this standard, but rather to the inland standards discussed below. The CAF and TSA are the only developments in the coastal zone, and both of these facilities will be completely removed after the repair project and far before 75 years. Accordingly, the Proposed Project is consistent with this Ordinance.

- A drainage plan may be required under 23.05.042 if the coastal aspects of the Proposed Project will either: 1) result in impervious surfaces of more than 20,000 square feet; 2) be on a hillside slope of greater than 10%; 3) change the velocity or volume of off-site drainage; or 4) involve development "adjacent" to a coastal bluff.

Consistency. The TSA and CAF will result in no new impervious surfaces, will not be constructed on slopes, and are not located adjacent to a coastal bluff. Additionally, because the TSA and CAF do not result in additional impervious land area, they will not increase volume/velocity of drainage. All development will use existing drainage systems so that off-site drainage will not be affected.

- The "EX" designation (Energy and Extractive Use) is a protective land use designation meant to ensure that non-compatible uses are not sited next to generation facilities. See 23.07.042. However, the ordinance appears on its face

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to require a "mineral resources report" for any use in an EX-designated area other than resource extraction or electricity generation.

Consistency. Although the CAF and the TSA are not, themselves, energy generation projects, the requirement of a mineral resources report does not seem applicable to these developments. In an abundance of caution, the FEIR should make the finding specified at 23.07.042(3) that the SGR project coastal developments "will not adversely affect the continuing operation or expansion of the energy or extraction use" at the plant.

- Several ordinance provisions, at 23.04.162 et seq., address parking issues arising from new development.

Consistency. The FEIR should cite to these provisions and conclude that they do not apply because displaced parking would be provided elsewhere onsite in excess capacity lots. See 23.04.166(6) (no additional parking required if all additional employee and visitor parking can be accommodated on-site).

- Under ordinance 23.04.430, "[a] land use permit for new development that requires water or disposal of sewage shall not be approved unless the applicable approval body determines that there is adequate water and sewage disposal capacity available to serve the proposed development"

Consistency. The water and sewage needs of the TSA and CAF will be served entirely with the existing water system and portable sanitation services. The existing water system has sufficient excess capacity to serve the small additional needs of these facilities. See Section D.10. Accordingly, the developments are consistent with this Ordinance.

- Ordinance 23.07.104 provides that if the parcel is listed by the California Archeological Site Survey Office (on file with the County Planning Department), a preliminary site survey and possibly a mitigation plan would be necessary. Additionally, 23.07.104 requires a finding for developments in an archeologically sensitive area that "the project design and development incorporates adequate measures to ensure protection of significant archeological resources."

Consistency. Because no known historical or archeological resources are known to exist at the CAF and TSA sites, these Ordinances are inapplicable. See Section D.4. Moreover, the EIR includes sufficient mitigation measures to ensure the protection of any such resources that are newly discovered in the course of the Proposed Project. See Mitigation Measures C-1a, C-1b. Accordingly, the developments are consistent with this Ordinance.

- Ordinance 23.07.086(2) provides that no structure for human occupancy may be built over an active fault area.

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Consistency. Because no known active faults immediately underlie the areas of Proposed Project activities, the developments are consistent with this requirement. See Section D.5.

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7. Section D.8.2, Pages D.8-17 through 8-24

Although the document makes clear on Page D.8-18 that the OSG storage facility (OSGSF) is outside of the Coastal Zone and correctly concludes that the Proposed Project will not create any significant impacts on local land use policies, the DEIR lacks a discussion regarding the land use policies and regulations specifically applicable to the OSGSF.

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Given the EIR's conclusion that the Proposed Project will not result in any significant direct or cumulative impacts after proposed mitigation, the document should specifically note that any "spillover" impacts created by the OSGSF inside the coastal zone are insignificant after mitigation. Such spillover impacts (those impacts occurring within the coastal zone due to development outside the coastal zone) might include: (1) impacts from trucks using the existing DCPP roads within the coastal zone to transport materials to the OSGSF site; (2) construction impacts, including the potential for run-off, sedimentation, or erosion in the coastal zone; and (3) impacts on sensitive resource areas within the coastal zone. The FEIR should refer to the conclusions already reached in the DEIR that the use of trucks on existing roads will not lead to significant impacts, that the application of existing erosion, drainage, and stormwater plans at DCPP will mitigate any construction impacts, and that the siting of all development on previously disturbed areas of the plant will ensure that no impacts occur to sensitive resource areas.

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In addition to this discussion of "spillover effects," the FEIR include the following discussion of the applicable inland (outside the coastal zone) policies for the OSGSF:

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OSG Storage Facility Applicable Land Use Policies and Regulations

The OSGSF will be consistent with the County's land use policies, standards, programs, and ordinances if the Proposed Project is consistent with the following findings:

- a. The proposed project or use is consistent with the Land Use Element of the County's General Plan; and

- b. The proposed project or use satisfies all applicable provisions of [County Ordinance Title 22]; and

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c. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use; and

d. That the proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development; and

e. That the proposed use or project will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project.

f. Any additional findings required by planning area standards in [Title 22's] Article 9 (Community Planning Standards), combining designation (Chapter 22.14), or special use (Article 4).

County Land Use Ordinance (LUO) § 22.62.060.

I. Consistency with the Land Use Element of the General Plan

The Land Use Element of the General Plan consists of the San Luis Bay Area Plan – Inland (“Inland Area Plan”), the San Luis Bay (Inland) Framework for Planning (“Inland Framework”), and the official maps for the inland San Luis Bay Planning Area.

• **Public Facilities Designation.** The OSGSF is located within the Public Facilities designation. Page 6-3 of the Inland Area Plan states:

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The only area designated Public Facilities is Diablo Canyon, the site of the Diablo Canyon Nuclear Power Plant. The designation includes the plant site property and the leasehold area controlled by the Pacific Gas and Electric Company. Roughly one-half of the designated Public Facilities, including the plant site, are within the coastal zone. This land use category should not be expanded beyond its present property.

OSGSF's Consistency with the Public Facilities

Designation. The OSGSF is part of a repair and maintenance project. Specifically, it is a storage building for the old steam generators. Its limited size (approximately 18,000 square feet) can easily be accommodated within the existing Public Facilities boundaries, not requiring any consideration for the potential expansion of the land use category's boundary.

- **Energy or Extractive Area Policies.** Page 7-2 of the Inland Area Plan states that:

[the Energy or Extractive Area] designation includes the location of the power plant and the surrounding buffer area of the Pacific Gas and Electric Company lease site. The operations should not be expanded beyond the present property nor should future development of adjacent lands encroach into this area so as to hinder the operating capabilities of the plant.

OSGSF's Consistency with the EX Combining Designation

Objective. Existing security measures and the continuing prohibition of unmanaged access will serve to protect the public health, safety, and welfare. This SGR project is completely consistent with the existing DCPD operation and does not introduce any new or incompatible uses within this combining designation. Adequate buffering and screening from potentially incompatible uses will continue with this project. No new access routes are required as a result of this repair/maintenance project and no adverse environmental

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impacts will result from the SGR project. Approval of the OSGSF is completely consistent with EX combining designation general objectives.

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- **Sensitive Resource Area (SRA) Policies.** The OSGSF appears to be located within an SRA combining designation. This designation applies to areas having high environmental quality and special ecological or educational significance. Four types of habitats fall under the SRA combining designation: wetlands, coastal streams and riparian vegetation, terrestrial habitats, and marine habitat (MH).

The purpose of the SRA combining designation is to:

- Enhance and maintain the amenities due to the preservation of the scenic and environmental quality of the County;
- Provide for the review of projects that may alter the natural landscape with special ecological or educational significance; and
- Provide guidelines for proposed projects that may occur outside of SRAs in order to preserve coastal areas.

The following are the general objectives of the SRA combining designation:

- Identify and protect sensitive habitats through development and design regulations
- Preserve scenic views
- Retain natural topography, vegetation, and scenic features
- Avoid construction conflicts with agricultural production

The Inland Area Plan discusses the stands of oak and a waterfall in Upper Diablo Canyon, and states that further

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destruction in this area must be prevented. Inland Area Plan 7-1.

In addition to the Area Plan standards, the Inland Framework document provides the following general standards for development in SRA areas:

Buildings and structures should be designed and located in harmonious relationships with surrounding development and the natural environment.

Buildings, structures and plant materials should be constructed, installed or planted to avoid unnecessary impairment of scenic views.

Potentially unsightly features should be located to be inconspicuous from streets, highways, public walkways and surrounding properties; or effectively screened from view.

Natural topography, vegetation and scenic features of the site should be retained and incorporated into proposed development.

Inland Framework at 7-7.

OSGSF's Consistency with the SRA Policies. The construction of the OSGSF will not disturb the waterfall or oak stands in upper Diablo Canyon. The OSGSF will not impair scenic views See Section D.14. Because the facility will be built on already developed lands, it will not significantly disturb the natural environment. See Section D.3.

- **Visual Impacts Policies.** The Inland Area Plan states that "[t]he county should work with property owners toward continuing preservation of natural ridgeline profiles and scenic backdrops through open space agreements, contracts, or other appropriate instruments along the Highway 101 corridor." Id. 6-14.

OSGSF's Consistency with the Visual Impacts Policies. The OSGSF will not create significant visual impacts along the Highway 101 corridor, or from other key observation points.

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See Section D.14.

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- **Geological Impacts Policies.** Proposed projects in the Geologic Study Area (GSA) are subject to site specific soil and geologic evaluations by a registered civil engineer or engineering geologist (as appropriate) as to the suitability of the site for development in accordance with the Land Use Ordinances. Inland Framework at 7-4.

OSGSF's Consistency with the Geological Impacts Policies. Mitigation Measure G-4a provides for the required geotechnical analysis of the soil stability on the slopes surrounding the OSGSF.

In conclusion, the Proposed Project, as modified and mitigated in this EIR, is consistent with the County's inland land use policies.

II. Consistency with County Ordinance Title 22

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The EIR land use section should also be supplemented to include an analysis of the Proposed Project's consistency with the County's Land Use Ordinance, Title 22. Title 22 covers many of the same areas discussed with regard to the County land use policies, above. Title 22 implements the policies contained in the Inland Area Plan and the Framework for Planning. If specific ordinances in Title 22 conflict with the policies discussed above, the policies control.

- **Sensitive Resource Area (SRA) Impacts.** A CUP may only be approved in an SRA designation where the County makes the following required findings:

The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the SRA designation, and will preserve and protect such features through the site

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design.

Natural features and topography have been considered in the design and siting of all proposed physical improvements.

Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.

The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff.

22.14.100.

Additionally, where the SRA designation relates to certain species “such species are not to be disturbed by construction activities or subsequent operation of the use, except where authorized by use permit approval.” *Id.* In the San Luis Bay planning area, all CUP approvals in the SRA designation must concentrate proposed uses in the least sensitive portions of the property. 22.106.020. Native vegetation must be retained as much as possible. *Id.* More specifically, Title 22 prohibits the construction of access roads through upper Diablo Canyon. 22.106.020. Additionally, any transmission lines constructed to serve the OSGSF must be confined to the existing corridor in upper Diablo Canyon. *Id.* All exposed grading cuts (except for actual roadways and structure sites) and areas of vegetation removal must be graded and replanted to blend with existing terrain. *Id.*

OSGSF’s Consistency with the SRA Ordinances. The OSGSF will be located within a developed, previously disturbed area of the DCPP facility. Further, it will be located within and among existing structures and on impermeable surfaces. It is separated from the top of the slope by other structures, a service road, and other previously disturbed areas. No new drainage or sediment control systems are warranted, outside of those identified in the Stormwater Pollution Prevention Plan, as the existing drainage control system will be

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employed. See D.7. Therefore, the existing scenic and environmental quality of the area will be maintained and not adversely affected. By locating the OSGSF within the developed area of the DCPP, this portion of the SGR project will avoid any sensitive habitats; preserve scenic views; maintain the existing topography, vegetation, and scenic features; and avoid any conflicts with agricultural production. Therefore, the OSGSF portion of this repair and maintenance project will be consistent with the SRA's objectives. See Section D.3. No new transmission line corridors will be created, and any vegetation removed will be replanted as required.

- **Geological Impacts.** The GSA combining designation is applied to a significant portion of the study area. According to the County, GSA combining designations identify special studies zones (Alquist-Priolo) and areas outside of urban reserve lines subject to high landslide potential. Title 22 requires a Geology and Soils Report for all projects within the GSA combining designation, unless the county engineer determines that sufficient information exists because of previous geology and soil reports. 22.14.070. This report must include:

A review of the local and regional seismic and other geological conditions that may significantly affect the proposed use.

An assessment of conditions on or near the site that would contribute to the potential for the damage of a proposed use from a seismic or other geological event, or the potential for a new use to create adverse effects upon existing uses because of identified geologic hazards. The conditions assessed shall include, where applicable, rainfall, soils, slopes, water table, bedrock geology, and any other substrate conditions that may affect seismic response, landslide risk or liquefaction potential.

Conclusions and recommendations regarding the potential for, where applicable:

Surface rupture or other secondary ground effects of seismic activity at the site;

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Active landsliding or slope failure;

Adverse groundwater conditions;

Liquefaction hazards.

Recommended building techniques, site preparation measures, or setbacks necessary to reduce risks to life and property from seismic damage, landslide, groundwater and liquefaction to insignificant levels.

Id.

OSGSF's Consistency with the GSA Ordinances. The DCPP has a long history of geologic analysis and study. These analyses and studies continue as a part of the current EIR being prepared for this project under the direction of the CPUC. No structures will be constructed within any known active fault zone, and site-specific soil/geologic evaluations are being conducted as part of the CPUC EIR. Any geological requirements imposed upon the development may not regulate radiological safety aspects of the OSGSF, as these aspects of the project are regulated exclusively under federal law. The OSGSF is consistent with the GSA's objectives. See Section D.5.

- **Archeological Impacts.** Title 22 does not include any substantive archeological requirements, but it does contain standards for the procedures that must be followed in the event archeological resources are unearthed or discovered during any construction activities. 22.10.040.

OSGSF's Consistency with the Archeological Ordinance. The specific project site does not contain any known historic or cultural resources. See Section D.4. Nonetheless, Mitigation Measure C-1a ensures requires a Cultural Resources Treatment Plan (CRTP) that will provide procedures for unexpected discoveries.

- **Air Impacts.** Title 22 requires the project application be referred to the Air Pollution Control District to allow that entity to determine whether all air requirements will be met and

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whether any mitigation is required. See 22.10.030.

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OSGSF's Consistency with the Air Impacts Ordinance.
The Air Pollution Control District is a Responsible Agency in the EIR process. That agency therefore had the opportunity to review this project and to propose mitigation during consultation and in comments on this document.

- **Miscellaneous Building and Site Design Ordinances.**
Title 22 provides the following applicable requirements for site and building design. A building in the Public Facilities designation may not exceed a height of 45 feet. 22.10.090. Setbacks are generally required, and those requirements are detailed at 22.10.140. Solid waste collection and disposal requirements for the construction debris are set forth at 22.10.150. Chapter 22.52 requires a grading permit, and would appear to require a drainage plan if the building will create an impervious surface of greater than 18,000 square feet. A sedimentation and erosion control plan will also be required. 22.52.090. Finally, Title 22 requires a fire safety plan. See 22.50.030.

OSGSF's Consistency with Miscellaneous Site Design and Construction Ordinances. The OSGSF will not exceed a height of 45 feet. The building plan will include all applicable setbacks and debris collection logistics. The project will also incorporate the existing DCPD sedimentation and erosion control plan, drainage plan, and fire safety plan. PG&E will apply for a receive a grading permit prior to beginning construction. See Table A-2 and comments to Introduction Section, above.

- **Special Use Ordinances.** Table 2-2 at Ordinance 22.06.030 provides a list of the allowable uses in each land use designation. Of these potential uses, the OSGSF falls most closely within the "Accessory Storage" use. Accordingly, the following analysis focuses on the specific requirements for Accessory Storage uses within a Public Facility land use

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designation and an Energy and Extractive Resource (EX) combining designation. The applicable Ordinances set out special standards for developments in the EX combining designation. If the special use is one classified as an “electric generating facility,” PG&E would have to meet a variety of requirements that seem focused on the construction of an actual electric plant. See 22.32.020, 22.32.030. These standards are inapplicable to a single storage building like the OSGSF. Alternatively, any use other than one for power generation or resource extraction that takes place within an EX area must include a “mineral resource report.” 22.14.040. This report seems focused on development within oil or gas fields, and, again, does not seem applicable to the OSGSF proposal. Nonetheless, Title 22 requires the County to make a finding for any EX project other than generation or extraction that “the proposed use will not adversely affect the continuing operation or expansion of the energy or extraction use.” Id.

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OSGSF’s Consistency with the Special Use Ordinances. The OSGSF is consistent with the special use requirements since accessory storage is an allowable use in the Public Facilities designation. Because the OSGSF contributes to the continuing operation of the energy use at Diablo Canyon Power Plant, it is consistent with the EX designation.

III. Consistency with the Public’s Health, Safety and Welfare

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The DEIR analyzes in other Sections the potential for health, safety, or welfare impacts to the public, persons residing or working in the neighborhood, or injury to property or improvements in the vicinity of the OSGSF. See Sections D.11 and D.12. The state is preempted by federal law from considering any radiological safety aspect of the OSGSF. These other Sections establish that the OSGSF is consistent with this required finding.

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IV. Consistency with the Character of the Immediate Neighborhood

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The OSGSF will be built on previously developed land within the high security zone of the Diablo Canyon Power Plant. Its size, function, and appearance are all entirely consistent with the surrounding power plant, and it is not contrary to the orderly development of the plant.

V. Consistency with Traffic Requirements

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The OSGSF construction activities will not generate a volume of traffic beyond the safe capacity of the existing access roads to the project. See Section D.13.

VI. Consistency with Articles 4, 9, and Chapter 22.14 of Title 22

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Any additional findings required by these provisions of Title 22 have been discussed above. Based on those discussions, the OSGSF is entirely consistent with the applicable community planning standards, combining designations, and special use ordinances.

8. Section D.8.2, Page 8-24, second paragraph

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The discussion of the 2003 Port San Luis Harbor District Port Master Plan (“Master Plan”) should be expanded to discuss the consistency of the proposed off-loading activities with the Master Plan and the Harbor District Ordinances (“District Ordinances”). The paragraph should be amended to make clear that only parts of the Master Plan have been incorporated into the Local Coastal Program. Nevertheless, a full discussion of the consistency of the proposed off-loading operation at the Port with the entire Master Plan and the District Ordinances should be included in the FEIR to determine whether the Proposed Project is consistent with local land use policies. Additionally, it should be noted that the proposed project may require the subsequent approval of a District land use permit and/or a District license. See Master Plan at 4-2; District Ordinance 1.410 (“Any use of the waters, lands and facilities under ownership and jurisdiction of the Port San Luis Harbor District by any person shall require consent of the District . . .”). The FEIR should conclude that the off-loading

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operation is consistent with the requirements and standards of the Master Plan and District Ordinances.

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To accomplish these objectives, the following language should be inserted after this paragraph:

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The following section identifies the specific, relevant goals and policies of the 2003 Port San Luis Harbor District Master Plan (“Master Plan”), followed by the rationale used to determine the Proposed Project’s consistency with the given goal or policy:

- Page 3-3: The first priority of the Master Plan is to meet the needs of coastal dependent uses, including Harbor operations. The second priority is to accommodate uses that are coastal related.

Consistency. The off-loading of the barges is a coastal dependent use of the Port. Staging, if any, of the RSGs at the Port would be a coastal related use since the staging operation is dependent on off-loading, itself a coastal dependent use. Accordingly, the off-loading is consistent with the priorities of the Port.

- Page 3-3. **Road Capacity.** Reserve a portion of Avila Beach Drive road capacity to serve coastal dependent and coastal related uses at Port San Luis Harbor. Do not subject Avila Beach Drive to traffic levels exceeding the County road capacity standard for this area as established in the most current Avila Valley Circulation Study.

Consistency. Because the off-loading operations will be either coastal dependent or coastal related, the use of Avila Beach Drive road capacity is consistent with the Master Plan. Traffic impacts on Avila Beach Drive would be less than significant after mitigation. See Section D.13.

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- Page 3-3. **Parking.** Maintain adequate parking to accommodate Harbor users and visitors. Require new uses to provide additional parking consistent with the County Land Use Ordinances.

Consistency. This goal appears related to new long-term uses of the Port, including new developments that will attract visitors. Because the off-loading is a temporary event, this goal does not apply. However, even if it did apply, parking impacts are ameliorated below a level of significance through the mitigation measure providing for off-site parking and a shuttle service for project-related employees. See Section D.13.

- Page 3-4. **Shoreline Access.** Maintain public access to the beaches, oceans, and Port properties, and enhance where feasible and consistent with public safety.

Consistency. The Master Plan's Coastal Access Plan recommends with regard to this goal that the Port "[a]llow minor interruptions to the pedestrian walkway adjacent to harbor waters (such as the sport launch) where conflicts between immediate shoreline access and coastal dependent uses would be clear." See Master Plan at B-3. The off-loading provides just such a case of a minor, temporary interruption of public access to fulfill a coastal dependent use. Additionally, the impacts to recreational uses and public access will be further mitigated through the implementation of Mitigation Measure L-2, providing that the off-loading will be conducted outside of times of peak usage. See Section D.8. Accordingly, the Proposed Project, as mitigated, is consistent with this goal.

- Page 3-5. **Runoff Controls.** Require implementation of effective runoff control strategies and pollution prevention activities by incorporating the most current best management practices for all new development.

Consistency. The off-loading would be consistent with this goal through the implementation of mitigation measures H-1a

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(Spill Response Procedures), H-1b (Routine Inspection and Maintenance of Transporter), and H-2a (Handling of Maintenance Waste). Because no impervious surfaces or grading will be undertaken in connection with the off-loading, runoff control strategies are not necessary.

- Page 3-5. **Waterfront Character.** Protect scenic qualities including the time-honored character of Port San Luis and compatibility with surrounding uses and views.

Consistency. Because the off-loading would involve equipment (e.g., barges and tug boats) often operated at a Port, the use would be compatible with the surrounding character, uses, and views. Furthermore, to the extent that the use is inconsistent with the viewshed, any inconsistency would be mitigated to an insignificant level through undertaking the off-loading during non-peak times. See Mitigation Measure V-1a, Section D.14. Additionally, the use of the Port for the off-loading is consistent with the goal of allowing mooring and anchoring of industrial and commercial vessels in the Port subject to case-by-case District determination. See Master Plan at Page 3-6.

- Page 3-8. **Limitation on Use.** Allow uses and developments on Harford Landing that are supportive of coastal dependent, coastal related, or visitor uses for Harford Pier and San Luis Obispo Bay waterfront. Permitted uses on Harford Landing shall include public parking, commercial and recreational fishing support facilities, support facilities, retail and wholesale seafood sales, boat repair, fuel storage and handling, eating and drinking establishments, yachting and rowing clubs, boat rental, boat storage and launching facilities, sportfishing, sightseeing facilities, boat engine repair and sales, marine supply, aquaculture and mariculture support facilities, overlooks, paths, trails, transit station (shuttle stop), visitor center, educational and historic displays and exhibits, passive recreation, food and beverage retail sales, marine related merchandise sales, outdoor seasonal sales and retail events, Harbor Offices, public safety facilities, accessory storage, temporary events, shoreline protection, restrooms, and showers. Allow RV camping until another suitable location is

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established on Port property.

Consistency. The off-loading at Harford Landing is consistent with this goal because the uses are coastal dependent and coastal related. Additionally, the off-loading is a temporary event, and the staging of the RSGs, if necessary, would be temporary, accessory storage. These are allowable uses, subject to special requirements, in the Public Facilities area at Harford Landing. See Appendix G to the Master Plan at G-4, G-7. The special requirements for Temporary Events may be found in the County's Coastal Land Use Ordinance at 23.08.248. The off-loading is consistent with these requirements because each off-loading operation (for Unit 1 and Unit 2) will take place within 12 consecutive days. See 23.08.248(b). The possible stationing of the RSGs pending transport to DCPD are consistent with the requirements for accessory storage because the CDP application to the County of San Luis Obispo describes the entire Proposed Project (although only parts of the Project are subject to the CDP application), including the potential staging operation at the Port. See 23.08.024 (requiring description of the storage of equipment adjacent to a project site to be included in the land use permit for the project).

- Appendix J to Master Plan, Condition V-3. Lighting shall be hooded and designed to shine downward. To the extent practical, parking lot lighting shall be confined to the project site and shall be designed and oriented to ensure safety within the parking lots, access and pedestrian walks. Lighting will be installed with the minimum foot-candles necessary to ensure safety.

Consistency. This Goal appears to apply to lighting permanently put in place to serve permanent developments in the Harbor District. Nonetheless, any light used as part of the barge off-loading process in the Harbor District would be reduced below a level of significance after mitigation measures requiring off-season offloading and advance notice of the offloading activities. See Section D.14.

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- Appendix J to Master Plan, Condition N-2. All large construction equipment will be equipped with “critical” grade noise mufflers. Noise level reductions associated with the use of “critical” rather than “stock” grade mufflers can be as high as 5 dBA. Engines will also be tuned to insure lowest possible noise levels.

Consistency. Temporary increases in decibel levels from the off-loading operation at the Port will be insignificant after providing advance notice of the off-loading and providing a liaison for nuisance complaints. See Mitigation Measures N-1a and N-1b.

- **Appendix J to Master Plan, Condition N-4.** Equipment lay-down areas, staging areas or those areas that are reserved for testing and repairing of construction equipment shall be located as far away [sic] from sensitive receptors.

Consistency. To the extent that temporary storage of the RSGs constitutes lay-down or staging, this activity will occur consistent with this goal. Under one alternative, the RSGs will be moved off the barge and then stored in the parking lot area of the Harford Landing. This location will move them as far as possible from the recreational visitors who walk along the shoreline and the other potentially sensitive receptors at the Port. Additionally, the temporary storage of the RSGs is not expected to produce any significant noise during the time in which the RSGs are stored. Accordingly, the off-loading is consistent with this goal.

The following section identifies the specific, relevant goals and policies of the Port San Luis Harbor District Ordinances (“District Ordinances”), followed by the rationale used to determine the Proposed Project’s consistency with the given goal or policy:

- **District Ordinance 4.010, et seq.** This Chapter specifies the fees, tariffs, and other charges that apply to “every person and vessel using the lands, . . . wharves or other

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facilities of the District.” However, “[t]he fees of this chapter do not apply to any person or vessel that is subject to the jurisdiction, regulations and control of the California Public Utilities Commission. . . .”

Consistency. The vessels and persons involved in the off-loading operation will work under contract with a public utility and are therefore subject to the regulations and jurisdiction of the California Public Utilities Commission. Accordingly, the fees provided for in Chapter 4 of the District Ordinances do not apply.

- **District Ordinance 8.032 – District Permits Required.** Any use of District lands may require a land use permit, an operating agreement, license, or lease, a building or other construction permit, or a mooring permit.

Consistency. It is unclear from Table 8A of the District Ordinances what type of permit would be required from the District for the off-loading and temporary storage of the RSGs. The off-loading activities do not exactly fit any of the categories provided. In such a case, the Harbor Manager must interpret the intent and meaning of the uses listed. See District Ordinance 8.120. In any case, the DEIR assumes that a license may be required for temporary use of the District’s facilities, and the Harbor District has accordingly been made a Responsible Agency under CEQA. See Table A-2.

- **District Ordinance 16.010 – Scope, applicability and administration.** The mooring and water use regulations “govern every person and vessel . . . which utilizes a wharf, state tidelands or other marine facilities within the jurisdiction of the Port San Luis Harbor District.” However, the regulations “do not apply to or govern any person or vessel activities of which [sic] are subject to the jurisdiction, regulation and control of the Public Utilities Commission of the State of California”

Comment Set PG, cont.
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Consistency. The vessels and persons involved in the off-loading operation will work under contract with a public utility and are therefore subject to the regulations and jurisdiction of the California Public Utilities Commission. Accordingly, the District's mooring and water use regulations do not apply.

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II. Specific Comments

9. Section D.8.1, Page D.8-1, Third full paragraph; Figure D.8-2

The land use section employs the concept of a "Study Area." A "Study Area" is not referred to or cited in any other portion of the document. There is no apparent physiographic or environmental basis for determining the study area boundaries, nor is its relevance or purpose explained. The "Study Area" is defined as "lands encompassing the DCPD facility, the RSG transport route, and Port San Luis," although the geographic area described includes land far removed from these sites. Unless the DEIR is amended to include a rationalization, consistent with the CEQA, for the size and boundaries described, the "Study Area" should be eliminated, and the DEIR should limit its analysis to the potential impacts of the proposed project on the relevant land use, recreational and agricultural resources.

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10. Section D.8.1, Page D.8-2, First paragraph, last sentence

This sentence refers to the Nipomo Dunes. If the document continues to use the "Study Area," it should clarify why special mention is made of the Nipomo Dunes.

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11. Section D.8.1, Page D.8-11, 2nd, 3rd, and 4th bullet points and Table D.8-1.

It is unclear how recreational resources in the Montana de Oro State Park, the Avila Beach Community Park, or the Bob Jones Bike Trail are related to the Proposed Project. Even if the Study Area is ultimately adopted, these resources are outside of that Area and are therefore outside the scope of the EIR.

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12. Section D.8.1, Page D.8-13 (Figure D.8-5)

Greater color contrast should be used, or a different means should be used to distinguish the soil types. It is difficult to distinguish between the "Other Land" and "Farmland of Local Potential" categories.

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13. Section D.8.1, Page D.8-17, Last Paragraph of Section

The sentence ending Section D.8.1 states that much of PG&E's lands are designated Agriculture and most of this is in active production. The FEIR should conclude this section

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by referencing the agricultural lands analysis in the document and stating expressly that the Proposed Project does not affect these lands.

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14. Section D.8.2, Page D.8-17, Second Paragraph from bottom of page

This paragraph states that no applicable federal regulations other than the CZMA have been identified. The paragraph should note that the Nuclear Regulatory Commission has issued regulations regarding site design and construction standards at nuclear power plants, and that these regulations preempt any state or local laws or regulations that impermissibly attempt to regulate radiological safety or hazards in connection with the Proposed Project.

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15. Section D.8.2, Page D.8-17, First Paragraph

The first sentence of this paragraph is incorrect. It should state:

“Portions of the Proposed Project would be located on and traverse California Coastal Zone lands.”

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16. Section D.8.2, Page D.8-18, Fourth paragraph

There is no closed parenthesis on CAF.

PG&E submitted the Coastal Development Permit (CDP) and Conditional Use Permit (CUP) applications on February 4, 2005, and the County accepted them as complete on March 18, 2005.

17. Section D.8.2, Page D.8-18, Third Paragraph from the Bottom of the Page

This paragraph should make reference to Public Resources Code Section 30610(d) in addition to the County’s Title 23.

18. Section D.8-2, Page D.8-19, Fourth paragraph from bottom

This paragraph should be amended to read:

“The following discussion identifies specific, applicable policies from the Coastal Plan Policies of the County of San Luis Obispo, followed by the rationale used to determine the Proposed Project’s consistency with the given policy.”

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19. Section D.8-2, Page 8-19, Second paragraph from bottom (Consistency)

The EIR may be incorrect when it concludes that Port San Luis is not a public point of access acquired through legislative action. The state legislature granted the state-owned tidelands and submerged lands (public trust lands) with the Port San Luis Harbor District to the District in Chapter 647 of Statutes of 1955, as amended by Chapter 302 of Statutes of 1957. See Attachment 6. The off-loading of freight is a maritime use of the port consistent with the public trust and is consistent with the terms of this legislative grant. The FEIR should recognize that the County's Shoreline Access Policy 1 applies to the Port off-loading, but should conclude that the Proposed Project does not interfere with such access given its temporary nature and the mitigation measures already proposed. Additionally, access is inconsistent with public safety given the need to ensure the security and integrity of the nuclear power plant components as they are transported from the Port to DCP.

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20. Section D.8-2, Page D.8-20, Third paragraph (Consistency)

The document states that the Proposed Project would not "preclude access along the proposed route." While this is a correct statement, the document should clarify that no access would be precluded because no public access exists along the route.

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21. Section D.8-2, Page D.8-20, Fourth and fifth paragraphs

The first full sentence of the fourth paragraph appears to misstate the cited policy. It should be changed to read:

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"In its request for biennial review of areas to be designated inappropriate for power plant siting, the County should request that the California Coastal Commission designate the two-mile stretch of coastal terrace between the southern border of the Diablo Canyon Power Plant site and Point San Luis as inappropriate for siting power plants."

To maintain consistency with this change, the last sentence on page D.8-20 should be changed to read:

"Thus, the Proposed Project would be consistent with the County's desired designation of the coastal area."

22. Section D.8.2, Page D.8-21, Second and fourth paragraphs (Consistency)

The document should explicitly state that the existing roadways will not be physically expanded in terms of width and length as result of the Proposed Project. Accordingly, the

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FEIR should state expressly that the Proposed Project will not adversely impact adjacent agricultural lands.

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23. Section D.8.2, Page 8-22, last bullet paragraph

The discussion of Section 23.04.420 does not include the exceptions to the coastal access requirements provided for in that Section. The paragraph should be amended to state explicitly that 23.04.420 does not require access where (A) such access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; (B) the site already provides adequate public access; or (C) agriculture would be adversely affected. 23.04.420 (3) (A)-(C).

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24. Section D.8.2, Page 8-23 to 8-24 (San Luis Bay Coastal Area Plan)

This section does not discuss the Sensitive Resource Area policies provided in the Coastal Area Plan. The County notes that the upper part of Diablo Canyon has "particularly fine stands of oak" and a waterfall of "significant scenic value." Coastal Area Plan at 7-1. Accordingly, no additional construction of access roads or new transmission line corridors through upper Diablo Canyon may be undertaken. *Id.* at 8-5, 8-6. These issues should be cited in the FEIR, and the Proposed Project should be found consistent with these policies since neither the CAF nor the TSA will affect the oak or waterfall in upper Diablo Canyon or require the construction of new roads or transmission line corridors.

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25. Section D.8.3, Page 8-24, Last Bullet Item (Agricultural Resource Impacts)

This section is an incomplete representation of the CEQA thresholds. Appendix G of the CEQA guidelines has the following threshold that should be included as a third bullet under the Agricultural Resource Impacts heading:

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“Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?”

This threshold is relevant to the aforementioned public access exception analysis.

26. Section D.8.3, Page 8-26, Mitigation Measure L-2a

This mitigation measure requires that the RSG offloading at the Port should occur outside of times of “peak recreational usage” of the Port, as defined by the Port. These times of peak usage should be defined specifically in the FEIR after consideration of the Port’s comments to avoid ambiguity.

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