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Mr. Brad Wetstone
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Re: A.99-09-029 - Pacific Gas and Electric Company Northeast San Jose Transmission Reinforcement Project - Comments on the Supplemental Draft EIR

Dear Mr. Wetstone:

Pacific Gas and Electric Company ("PG&E") respectfully submits the following comments on the Supplemental Draft Environmental Impact Report ("SDEIR") for the Northeast San Jose Transmission Reinforcement Project (the "Project"). This letter has two main parts. Part One contains PG&E's substantive general comments on the SDEIR and its conclusions. Part Two contains PG&E's technical comments and proposed corrections to the SDEIR.

PART ONE: SUBSTANTIVE GENERAL COMMENTS

This letter is organized by major issue areas as follows: (I) Underground Alternatives, (II) Biological Impacts, and (III) EMF Issues. Within each of those major issue areas, the letter addresses each of the new alternatives in the SDEIR for the northern, central and southern areas of the Project route. The northern area alternatives, which generally run from Milepost 0.0 to Milepost 2.7, include the Northern Underground Alternative, the I-880-A Alternative studied in the Draft EIR, PG&E's Modified I-880-A Alternative and the I-880-A Alternative with mitigation measure V-3, also known as the "Realigned I-880-A Alternative." The central area alternatives, which generally run from Milepost 2.7 to Milepost 4.1, include the Modified I-880-B Alternative and PG&E's proposed overhead route. The southern area alternatives, which generally run from Milepost 4.1 to Milepost 7.2, include the McCarthy Boulevard Alternative Segment, Mitigation Measure B-8 consisting of undergrounding between

sf-1001763

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Two

Milepost 4.1 and 4.9, and the Southern Underground Alternative, as well as PG&E's proposed overhead route.

I. UNDERGROUND ALTERNATIVES

A. The SDEIR's conclusions regarding potential impacts associated with construction of underground transmission lines underestimates potential impacts relating to wildlife, protected species, and existing hazardous substances, as well as the fact that the Northern Underground Route may not be a feasible alternative at all.

1. The Northern Underground Alternative proposed in the SDEIR is not a feasible alternative under the California Environmental Quality Act because it would not meet the electrical capacity and reliability objectives of PG&E or the California Independent System Operator.

The proposed Project is intended to meet the capacity and reliability objectives identified by PG&E and the California Independent System Operator (the "ISO"). The Northern Underground Alternative, however, is planned for an area that is highly susceptible to significant geologic and soil impacts. This area has a high water table, corrosive soils, and the potential for surface fault rupture, liquefaction and differential settlements due to strong ground shaking. (SDEIR p. 38.) The SDEIR concludes that the potential geologic impacts on an underground line's safety and reliability in this area are significant and unavoidable, even with implementation of appropriate mitigation measures. Id. The potential for significant damage to an underground line from a seismic event cannot be underestimated. Such extensive damage could take weeks or months to repair, thereby substantially reducing the reliability improvements gained by the proposed Project. As a result, the underlying geology, and the resultant potentially significant impacts, likely make the Northern Underground Alternative infeasible, particularly as it relates to PG&E's objective of providing a transmission system with long-term reliability.

The California Environmental Quality Act ("CEQA") requires that "[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project [I]t must consider a reasonable range of potentially feasible alternatives that will foster informed decision making and public participation." 14 Cal. Code Regs. ("CEQA Guidelines") § 15126.6 (emphasis added). Similarly, CEQA Guidelines section 15126.6(c) states that "[t]he

sf-1001763

X-1

Comment Set X, page 2

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Three

range of potential alternatives to the proposed project shall include those that could feasibly accomplish most of the basic objectives of the project and could avoid or substantially lessen one or more of the significant effects.” (Emphasis added.) Finally, the section goes on to state “[a]mong factors that may be used to eliminate alternatives from detailed consideration in an EIR are (i) failure to meet most of the basic project objectives.” Accordingly, because the geologic, soils and seismic problems with the Northern Underground Alternative would render it substantially less reliable than the overhead alternatives, the Northern Underground Alternative would not meet the Project purpose of improving long-term transmission system reliability. Thus, it is not a feasible CEQA alternative, and it should be rejected on that basis.

2. The SDEIR overrates the Northern Underground Alternative by underestimating that route’s impacts to the California Tiger Salamander.

The Northern Underground Alternative would involve the excavation and construction of two underground trenches and the placement of two underground conduits each carrying six 230 kilovolt (“kV”) cables. The trenching would occur in a 50 to 60 foot right-of-way through the future Pacific Commons Preserve. Trenches would be dug at a depth of 6 to 7 feet with a minimum width of 4 feet. (Draft EIR, Appendix 4, p. 4-2, Figure 4-2.) The SDEIR states, at page 36, that construction of the Northern Underground Alternative would result in short-term construction related impacts to estivating California tiger salamanders along this portion of the route, as well as long term operational impacts to the tiger salamanders. These impacts, however, could be completely avoided by the overhead I-880-A routes.

Without support, the SDEIR nonetheless concludes that the potential impacts to the tiger salamander would be less-than-significant. In doing so, the SDEIR fails to recognize that the construction and operation of the Northern Underground Alternative would in fact significantly and adversely impact the habitat of the tiger salamander, which was recently listed as a federally endangered species in Santa Barbara County (50 CFR Part 17, Sept. 21, 2000), and is a Federal Candidate for listing and a California Special Concern Species in the Project area. (SDEIR, p. 36.) In addition, the SDEIR acknowledges but fails to adequately account for the fact that operational impacts along the Northern Underground route may result in an increase in soil temperature in the vicinity of the transmission line. “Increased ground temperatures could affect the moisture content of California tiger salamander estivation sites in spring, summer, and early fall. Accelerated underground moisture loss during the dry season could cause dehydration of salamanders in their summer retreats.” (SDEIR, pp. 36-37.) This potential impact was not quantified in the SDEIR because the significance of this impact is purportedly “difficult to determine.” (SDEIR p. 37)

sf-1001763

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X-2

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Four

The SDEIR proposes Mitigation Measure B-2b, which includes trapping, relocation and the installation of a permanent barrier along the easement, if the operational impacts are shown to be significant. (SDEIR, p. 37.) This mitigation measure, however, would also involve a permanent loss of habitat for the salamanders, thereby creating its own potentially significant impact. Additionally, this measure may not be effective, because even with mitigation, there would be potential for long term loss to the species resulting from permanent habitat change in and around the underground areas due to the heating and drying of the soil surrounding the transmission line trenches.

Thus, the Northern Underground Alternative would introduce new potentially significant impacts to a protected species that would outweigh any beneficial reduction in bird collision risk. In contrast, line marking and other techniques proposed by PG&E and discussed in the SDEIR would similarly mitigate bird strike impacts, but without the additional impacts to the California tiger salamander that would result from the Northern Underground Alternative. (Draft EIR, p. C.3-70 (concluding that any potential impacts of the overhead I-880-A routes on the salamander could be avoided entirely by minor modifications to tower locations).)

Finally, the Northern Underground Alternative would also have significant construction impacts, including noise, dust, and human and equipment impacts on the tiger salamander, and all wildlife in the Refuge, for an approximately one-year period. The overhead I-880-A routes, on the other hand, would largely avoid such construction impacts.

The conclusions of the SDEIR regarding the Northern Underground route do not sufficiently account for these new significant impacts that it would introduce. Accordingly, the SDEIR overrates the Northern Underground Alternative. The SDEIR’s conclusion that “there is not a substantial difference in impact between the I-880-A Alternative and the Northern Underground Alternative” is thus incorrect. (SDEIR p. 72.) The Northern Underground Alternative is inferior and should be rejected.

3. In the central area, environmental and biological impacts render the I-880-B alternative inferior to the Underground Through Business Park Alternative and the proposed overhead route.

The Draft EIR’s initial conclusion that the I-880-B Alternative (along with the I-880-A Alternative in the north) is environmentally superior is not supported by the evidence. The “revised” conclusion contained in the SDEIR that the Underground

sf-1001763

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Comment Set X, page 3

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Five

Through Business Park Alternative is environmentally equivalent to the Modified I-880-B alternative is equally unsupported, and casts doubt on both conclusions. The SDEIR states only that the "re-evaluation of the comparison of the three alternatives [for the central portion of the line — PG&E's previously proposed route, the Underground Through Business Park route and the Modified I-880-B route] result in there being a very similar level of overall impact between the Modified I-880-B alternative and the Underground Through Business Park Alternative." (SDEIR, pp. 73-84.) The SDEIR, however, provides no justification or evidence to substantiate this statement.

In fact, the I-880-B alternative remains the most environmentally inferior route of all the routes analyzed. That route would result in substantially greater visual and land use impacts than any of the other routes, but would not substantially reduce bird strike impacts, if at all. Under the I-880-B Alternative, the transmission line would be placed in a completely new corridor. Uncontroverted evidence in the general proceedings establishes that transmission lines that do not follow an existing corridor increase the likelihood of bird strike impacts because it is the presence of the corridor, more than the location of any particular line within it, that creates the impact. Thus, in contrast to the new corridor created by I-880-B, either the Underground through Business Park route or PG&E's preferred route — which would be combined with the Modified I-880-A route, and thereby make use of an existing transmission line corridor — would further reduce potential bird strike impacts.

Moreover, the visual impacts from the I-880-B route's new corridor would impact millions of motorists each year along a stretch of freeway that does not currently expose users to views of adjacent powerlines. Again, utilizing an existing corridor would reduce these impacts. The I-880-B alternative is also inferior from a land use perspective because it would itself create new impacts, running the line through a dense and developing commercial and industrial corridor along a major regional highway.

On the other hand, impacts created by the Underground Through Business Park Alternative would be far less severe than those created by the I-880-B Alternative. The underground route would introduce visual impacts because it would require two transition structures at each end of the line where each underground line transitions to an overhead line, or four transition structures total. These structures are larger than a typical transmission line tower and contain significantly more hardware, making them much more visually intrusive. Still, because the Underground through Business Park alternative would otherwise be underground, its overall visual impact would be far less than that associated with the I-880-B route. The Underground Through Business Park alternative would also have substantial construction impacts not associated with the proposed overhead route west of the Bayside Business Park. Underground construction would take longer, and would introduce air quality, noise and traffic/parking impacts

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Six

that the overhead would avoid. Because it is in a developed area, however, the Underground Through Business Park route would not impact the California tiger salamander. Also, because the I-880-B route traverses a heavily developed and traveled area, it too could have substantial construction impacts.

Because PG&E's Modified I-880-A/Proposed Route would avoid the I-880-B route's impacts, and would do so in a much more cost-effective manner, there is no basis in CEQA for requiring the Underground Through Business Park route as mitigation for those impacts. In short, there is no justification in CEQA for the substantial additional expense of any underground alternative, and no intervenor in the general proceeding has proven anything to the contrary. The significant impacts associated with construction of an underground transmission line, particularly in sensitive habitat areas, demonstrate that undergrounding as an alternative or mitigation measure is inferior and should be rejected.

Overall, the record shows that, while the Underground Through Business Park Alternative would introduce its own visual and construction impacts and involve its own operational challenges, it is still the next best alternative to PG&E's Modified I-880-A/Proposed Route because it would avoid the substantial visual and land use impacts of creating an entirely new transmission line corridor that would occur with the I-880-B route. Accordingly, there is no basis, either legal, factual or environmental, for selecting the I-880-B route.

4. The Southern Underground Alternative is not desirable due to the potential for encountering hazardous substances along the route and the potential impacts to transmission line reliability due to existing geologic conditions.

The SDEIR concludes at page 55, that "[o]verall, the proposed route (with the McCarthy Boulevard Alternative segment) is strongly preferred over the Southern Underground Alternative." (Emphasis added.) PG&E concurs with this conclusion for the reasons set forth in the SDEIR, and for the additional reasons set forth below.

The Southern Underground Alternative would introduce substantial new potential impacts, such that even with a potential reduction of bird strike impacts, it is, on balance, inferior to the proposed route. The Southern Underground Alternative would pass through the former Fremont Airport. The Bayside Business Park II EIR identified possible hazardous materials in that area (including the remains of the paint shop, described as a cement slab covered with old — probably lead — paint). Trenches through the area may encounter hazardous materials in both spoils and groundwater that would need to be removed and/or remediated. Also, if the trenching is through an

sf-1001763

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Comment Set X, page 4

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Seven

existing hazardous plume, disturbances could result in significant impacts to the environment, particularly due to the high groundwater levels and proximity to the Bay, and increased construction costs. The potential for environmental and financial consequences associated with such development could be significant.

The Southern Underground Alternative is also planned for an area so highly susceptible to significant geologic impacts that it fails basic standards of safety and reliability. The potential for liquefaction, lateral spreading and potential differential settlements due to strong ground shaking is extreme — earth movements as great as eight feet along Coyote Creek were reported from the 1906 earthquake, which occurred on the San Andreas fault well to the west of the Project area. J. Egan, R. Youngs, M. Power, "Assessment of Non-Liquefaction Along Coyote Creek During the 1989 Loma Prieta Earthquake, San Jose, California, Final Technical Report" (GeoMatrix Consultants, May, 1992). Also, there is a high water table and corrosive soils, which could significantly reduce the line's reliability over time. Indeed, the SDEIR concludes that the geologic impacts of the Southern Underground Alternative would be significant and unavoidable, even with implementation of appropriate mitigation measures. (SDEIR pp. 50-51.) The SDEIR states, "[t]he location of this alternative significantly increases the risk of damage to the conduit by lateral spreading because the conduit would be buried not far outside the levees bounding Coyote Creek Mitigation Measures G-1, G-2 and G-3 would apply to the Southern Underground [A]lternative, but the potential for serious damage to the transmission cables would remain a significant and unavoidable (Class I) impact." (SDEIR, p. 51.) Also, any transition structures required to convert the underground line to an overhead line in this area would be susceptible to the same risks. These impacts render the Southern Underground Alternative infeasible. Therefore, it is an invalid alternative under CEQA, as it would fail to achieve the Project purpose of providing a long term, reliable transmission system. See 14 Cal. Code Regs. § 15126.6.

Moreover, the SDEIR underestimates the additional visual impacts caused by the transition structures that would be required at three locations for the Southern Underground Alternative (which is itself intended to reduce visual impacts). Therefore its conclusions regarding the potential benefits of the alternative are contrary to the evidence. The SDEIR claims that the visual impacts of the Southern Underground Alternative would be adverse but not significant because the existing riparian vegetation would screen the structures from viewers on the nearly recreational trail. This analysis fails to realistically consider the size and mass of the proposed transition structures. As shown in Exhibit A, a transition structure would be extremely difficult to screen with riparian plantings. Exhibit A contains pictures of existing 115 kV transition structures in the PG&E system. A 230 kV structure would be similar. The structure has a large solid base approximately 12 feet in height, with a tower on top of the base to the same

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Eight

height as a regular transmission tower. Riparian vegetation rarely grows to the height of even the base of a transition structure. Thus, it is simply not possible that such vegetation would screen these large structures in any meaningful way. Accordingly, these structures would remain highly visible, and undergrounding would result in a reduction in visual impacts, if any, that would be far less than the increased impacts and expense that it would introduce. Thus, contrary to its very purpose, visual impacts actually comprise yet another reason the Southern Underground Alternative should be rejected.

Even without considering these additional negative aspects of the Southern Underground Alternative, however, the SDEIR concluded that "the proposed route segment (with the McCarthy Boulevard Alternative segment) is strongly preferred over the Southern Underground Alternative." (SDEIR, p. 55 (emphasis added).) As demonstrated in Section II.A.3, *infra*, the McCarthy Boulevard Alternative is plainly inferior and should be rejected, but PG&E otherwise concurs with the SDEIR's overall conclusion regarding the Southern Underground Alternative.

II. BIOLOGICAL IMPACTS

- A. **The conclusion that bird strikes could be a significant and unavoidable impact overstates the impacts associated with certain alternatives and does not adequately consider available, feasible and effective mitigation, or the impacts that would be introduced in attempting to avoid bird strikes.**

Throughout the alternatives discussion, the bird strike analysis is based on an unreasonable threshold of significance for bird strike impacts. The SDEIR classifies bird collision potential as significant, stating that the "[l]oss of special status bird species and other birds protected by the Migratory Bird Treaty Act, even if reduced between 57 and 89 percent [by the application of the mitigation measures proposed by PG&E], would be considered a significant and unavoidable impact." This conclusion essentially assumes that even one bird hitting the transmission line, regardless of species, would be a significant impact. There is no evidence or legal authority supporting the application of such an extreme threshold, or the conclusions drawn therefrom. A more appropriate criteria of significance is the standard developed by the Avian Power Line Interaction Committee ("APLIC"), which has defined the biological significance of bird collision mortality as "the effect of collisions upon a bird population's ability to sustain or increase its numbers locally and throughout the range of the species." (APLIC 1994, p. II/8). That threshold assumes a much more realistic and scientifically supported basis for what constitutes a significant impact. Under that threshold, the implementation of the mitigation measures proposed by PG&E would

sf-1001763

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Comment Set X, page 5

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Nine

reduce bird strike impacts to a less than significant level for all proposed overhead routes, including all three overhead I-880-A routes.

In any case, of the endangered or threatened birds that have the potential for being present along the transmission route due to suitable habitat, only two were identified during reconnaissance visits: the clapper rail and the snowy plover. Those species, however, are not likely to hit power lines because they are rare in the area, because clapper rails rarely fly at all, and because snowy plovers fly in loose flocks while "the birds that fly in large tight flocks are more likely to hit the wires [because] they can't see them." (CPUC Testimony 403-04 (PG&E Witness Dr. Sheila Byrne).) Thus, given the limited number of endangered or threatened birds that were identified along the transmission route as having any likelihood of hitting the lines, and PG&E's proposed mitigation, it is clear that a small number of bird strikes (or a single strike) would not rise to the level of significance described by the APLIC, i.e., they would not affect a bird population's ability to sustain or increase its numbers locally and throughout the range of the species.

Even if the potential bird strike impacts were significant and CEQA therefore required mitigation, impacts due to birds hitting power lines are generally mitigated by installing bird diverters on the overhead lines to enable the birds to better see and avoid the lines. PG&E is not aware of any case where ratepayers have been subjected to the substantial additional expense of undergrounding transmission lines only to mitigate potential bird strike impacts. Thus, not only is such a measure not justified here due to the lack of a demonstrated potentially significant impact, but it would be unprecedented as well. Moreover, placing the line underground would introduce many secondary impacts associated with construction and operation, as detailed in Section I, *supra*. CEQA Guidelines section 15126.4(a)(1)(D) requires that if a mitigation measure would cause one or more significant effects in addition to those that would be caused by the project, the effects of the mitigation measure should be discussed and considered in determining whether to recommend such measures. Here, that analysis demonstrates that undergrounding is not justified to mitigate bird strike impacts because the secondary impacts are too great. PG&E's recommended mitigation measures involving line marking, however, would reduce bird strike impacts to less than significant levels without any additional impacts, and at a dramatically reduced cost. Accordingly, the SDEIR should recommend those measures and, based on their implementation, should find bird strike impacts mitigated to a level that is less than significant. Thus, undergrounding is not necessary or justified.

sf-1001763

X-15

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Ten

1. The Modified and Realigned I-880-A routes are superior because they place the new lines in the northern area within existing transmission line corridors, substantially reducing visual and bird strike impacts.

The SDEIR's comparison of Modified I-880-A and I-880-A routes overemphasizes the impacts resulting from the difference in tower heights between the proposed and existing towers. Indeed, while the towers for the Modified I-880-A route may be taller than the existing 115 kV towers along that route, that difference would also occur with the I-880-A route, and therefore should not weigh against the Modified I-880-A route. In fact, the SDEIR, at page 59, acknowledges that "because birds fly at different heights depending on their species, time of day, the changes in the heights of the towers (and thus the transmission line heights) would not [increase] bird collision risk." Therefore, the additional tower height associated with both the I-880-A and Modified I-880-A routes should not be considered as a limit to either route's potential for reducing bird strike impacts.

With regard to all of the I-880-A routes, the SDEIR's conclusion that bird strike impacts are significant and unavoidable also fails to consider the benefits of available, feasible and effective mitigation via bird flight diverters or other line marking techniques as recommended in its own Mitigation Measure B-9, which is similar to the bird strike mitigation measures proposed by PG&E. (SDEIR, p. 68.) PG&E concurs with the SDEIR that implementation of mitigation measure B-9 would further reduce potential bird strike impacts below significant levels, and in general PG&E supports line marking where necessary to reduce bird collision risk. Accordingly, PG&E agrees that mitigation measure B-9 should be implemented.

The SDEIR's statement at page 66 that "[i]n areas where bird collision risk is highest, the preferred mitigation would be to relocate the line to a lower risk area" oversimplifies this analysis, focusing on bird strike impacts only, to the detriment of others. That paragraph goes on to state that "[f]or the northern portion of the proposed 230 kV transmission line route, the I-880-A and I-880-B Alternatives reduce bird collision risk by moving the line to the east." Indeed, both of those routes would likely reduce bird collision risk, however, the I-880-A routes do so without introducing the substantial visual and land use impacts of the I-880-B route. Thus, when all disciplines are considered, any of the I-880-A routes, are, on balance, preferable to the I-880-B route.

Regarding visual impacts, the SDEIR's conclusion that "realignment of the referenced portion of I-880-A (the Modified I-880-A route) would not substantially lessen the visual impact of this portion of I-880-A or change the outcome of the

sf-1001763

X-16

X-17

Comment Set X, page 6

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Eleven

comparison of alternatives for visual resources” again ignores the fact that placing transmission lines within existing transmission corridors will result in a reduced visual impact, given the perception that the line is already there. (SDEIR, p. 43.) The addition of a single line will not be as noticeable visually as a new line in a different area.

The fact that the Modified I-880-A route will reduce bird strike impacts below a significant level, as well as further reducing visual impacts, which are already less than significant, is demonstrated by the SDEIR’s analysis and recommendation of Mitigation Measure V-3. Like PG&E’s proposal, Mitigation Measure V-3 would reduce bird strike and visual impacts by realigning the I-880-A alternative to bring it alongside an existing 115 kV transmission line corridor. (SDEIR p. 43, Figure B-3.) The SDEIR states that Mitigation Measure V-3 would present a visual advantage over PG&E’s Modified I-880-A route only because of the requirement to bring the Modified I-880-A east to join with the Underground Through Business Park Alternative at the north end of the Bayside Business Park. Accordingly, if the I-880-A route is found to be preferred, the SDEIR recommends implementation of mitigation measure V-3 to reduce visual impacts.

PG&E agrees that Mitigation Measure V-3 would be effective mitigation for bird strikes and visual impacts. This is also true of the Modified I-880-A route. Visual impacts for the V-3 route would be similar to the Modified I-880-A, and like the Modified I-880-A, would be reduced in comparison to the I-880A route proposed in the Draft EIR.

Implementation of Mitigation Measure V-3 in conjunction with the proposed route in the central area would, however, require a “crossover” section along the northern edge of the Bayside Business Park, thereby creating the same impact that the SDEIR claims makes the Modified I-880-A route inferior. Moreover, due to the large angle involved, this crossover section would require either one twin legged or two single leg towers to carry the horizontal loads of the conductors. One leg of a twin legged tower or one tower of a set of two single leg towers would be required to be located in the parking area of the Bayside Business Park, which would cause additional visual impacts and would have additional land use impacts in that it would eliminate parking spaces in the Business Park. As the SDEIR notes, the “Realigned I-880-A route,” on the other hand, would transition directly to the Underground Through Business Park Route, eliminating the need for the crossover structure and therefore avoiding those additional impacts. That would also avoid the additional cost of the crossover section and the angle structure.

Thus, if the CPUC chooses the proposed route for the central portion, PG&E’s Modified I-880-A route should be chosen in the northern area to reduce bird strike and

sF-1001763

X-17

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X-19

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twelve

visual impacts and to eliminate the crossover section through the north edge of the Bayside Business Park. Similarly, if the CPUC chooses the Underground Through Business Park route for the central portion, the route described in Mitigation Measure V-3 and shown on Figure B-3 as the “Mitigation Measure V-3 Route” would eliminate the crossing, while also reducing bird strikes and visual impacts; therefore PG&E recommends implementation of that route in that case.

2. The I-880-B route is inferior to all other routes in the central area, and the Underground through Business Park route is inferior to the proposed route.

The SDEIR’s conclusion that the Underground through Business Park and Modified I-880-B Alternatives are superior because they reduce bird strikes is not supported by the evidence. This conclusion fails to consider the other significant impacts these routes introduce that would be avoided by PG&E’s proposed route for the central area. Specifically, the substantial visual and land use impacts of the I-880-B alternative described in the Draft EIR render it environmentally inferior to either PG&E’s proposed route or the Underground through Business Park route. In fact, the Draft EIR concluded that “the I-880-B alternative would introduce prominent vertical landforms along the south side of Cushing Parkway.” (Draft EIR, pp. C.12-21 -12-23.) PG&E’s proposed route, on the other hand, would avoid these substantial impacts. Moreover, the Modified I-880-B alternative fails to avoid or reduce to a less-than-significant level the claimed potentially significant bird strike impacts, therefore it is not justified under CEQA, particularly in light of its other increased impacts. See 14 Cal. Code Regs. 15126.6 (requiring alternatives that reduce or avoid significant impacts).

The SDEIR’s discussion of the Modified I-880-B route does, however, demonstrate that the original I-880-B route is infeasible due to the new hotel complex that has been constructed at the southwest corner of Cushing Parkway and I-880. As identified in the SDEIR at page 19, “there is no longer room to install the (I-880-B) line adjacent to the freeway.” Thus, the original I-880-B route is infeasible, and no further consideration should be given to that route. CEQA Guidelines section 15126.6 states that “[a]n EIR shall describe a range of reasonable alternatives to the project, or to the location, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effect of the project [I]t must consider a reasonable range of potentially feasible alternatives.” CEQA Guidelines section 15126.6(c) states further that “[a]mong factors that may be used to eliminate alternatives from detailed consideration in an EIR are . . . infeasibility.” Based upon the above, an infeasible alternative such as the original I-880-B route must be disregarded. Moreover, as demonstrated in Section I, supra, all I-880-B routes are

sF-1001763

X-19

X-20

X-21

Comment Set X, page 7

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Thirteen

inferior to PG&E's proposed route or the Underground through Business Park route in the central area.

The SDEIR's discussion of the increased visual impacts that would result from EMF mitigation for the I-880-B route further demonstrates that route's inferiority due to its substantially greater visual and land use impacts when compared to PG&E's proposed route or the Underground through Business Park route. Low cost EMF Mitigation Measure pursuant to the CPUC's EMF Decision (D.93-11-013) include raising towers to increase the distance between the conductor and ground level, thereby reducing magnetic field levels. Raising towers has the potential to increase visual impacts. Because the I-880-B route is more costly than PG&E's proposed route or the Underground through Business Park route, more money is available within the EMF Decision's four percent guideline. Moreover, that route places the line closer to more buildings than PG&E's proposed route or any of the I-880-A routes. Accordingly, EMF mitigation along the I-880-B route involves raising towers by as much as 50 percent, including some as high as 195 feet. This would further increase the already substantial visual impacts of the I-880-B route. Indeed, as the SDEIR itself states, "the most significant environmental concern in the case of the [entire] Northeast San Jose Transmission Reinforcement Project is the visual impacts of increased pole height." (SDEIR, p. 59 (emphasis added).) On that statement alone, the I-880-B route is inferior. With the increases in tower height along the I-880-B route required under the EMF Decision, however, the substantial visual impacts of I-880-B are even worse, and that alternative is even more clearly inferior.

The SDEIR proposes Mitigation Measure V-4 to address this impact. Mitigation Measure V-4 would require a committee to consider on a tower-by-tower basis, how much each should be raised, if at all. As demonstrated in Section III, *infra*, Mitigation Measure V-4 is unprecedented, unjustified and unworkable, and, accordingly, should be rejected. In any case, Mitigation Measure V-4 ultimately cannot reduce the substantial visual impacts of the I-880-B route, because only rejecting the I-880-B route altogether can change the fact that the I-880-B transmission route runs through an area of extremely high visibility, and therefore that its impacts on the millions of motorists on Interstate 880 and on the residents and businesses in the City of Fremont would be tremendous. Like the Draft EIR's conclusion that the visual impacts of the I-880-B route before EMF mitigation would not cause it to be inferior to the proposed route, the SDEIR's conclusion that the increased visual impacts of the I-880-B route after EMF mitigation is implemented and towers are raised could still not render it inferior to the proposed route is wholly unsupported by the evidence in the record. (SDEIR p. 60.) On the basis of visual impacts alone, the I-880-B route is plainly inferior, and factoring in increased tower heights due to EMF mitigation only reinforces that conclusion.

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Fourteen

3. The McCarthy Boulevard Alternative Segment is environmentally inferior and should be rejected.

The SDEIR's conclusion that the McCarthy Boulevard Alternative Segment is environmentally superior is contrary to the evidence because it actually results in greater impacts than the proposed Project. Table D-4 in the SDEIR shows that the McCarthy Boulevard Alternative Segment results in significant, and in some cases unavoidable, impacts in all studied areas. Moreover, the McCarthy Boulevard Alternative would have potentially significant and unavoidable land use impacts, which PG&E's proposed route would avoid.

Without supporting analysis or evidence, the SDEIR claims that the McCarthy Boulevard Alternative Segment would reduce bird strikes in comparison to PG&E's proposed route. (SDEIR, pp. 46-47.) Assuming such a reduction did occur, the SDEIR still concludes that bird strike impacts would be significant and unavoidable, even with this alternative. Interestingly, in light of this conclusion, the SDEIR recommends line marking as mitigation for these significant bird strike impacts along this alternative route. (SDEIR, p. 47) Thus, the SDEIR concurs with PG&E's conclusion that line marking would be a feasible, cost-effective means of reducing potential bird strike impacts to a less-than-significant level. Curiously, however, the SDEIR ignores the obvious conclusion that line marking would be equally effective on the proposed route. When this conclusion is acknowledged, there is no justification for also implementing the McCarthy Boulevard Alternative.

This is particularly true because the McCarthy Boulevard Alternative would also introduce potentially significant park and land use impacts, which the proposed route would avoid. The SDEIR states that the McCarthy Boulevard Alternative "would use lands that are zoned for commercial/industrial uses." (SDEIR, p. 47.) Moreover, "[i]mmediately west of [the McCarthy Boulevard] reroute segment, including the levee east of Coyote Creek, and the creek itself, the land is . . . zoned Park and Public Open Space." *Id.* The SDEIR fails to specify whether this is considered a "Class I - Significant and Unavoidable" impact, but from the text it would appear so. In any case, the proposed route would avoid each of these impacts.

The McCarthy Boulevard Alternative would also introduce substantial visual impacts that the proposed route would avoid. Like the I-880-B routes, the McCarthy Boulevard route is within the designated Interstate 880 scenic corridor. The SDEIR states that "the resulting visual impacts would be substantially greater than the proposed route," but concludes that these impacts would not be significant. The statement of impacts is correct, but the conclusion is incongruous and unsupported. In fact, the SDEIR itself states that the McCarthy Boulevard "route is much more visible than the

sf-1001763

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Comment Set X, page 8

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Fifteen

equivalent segment of the proposed route, and the visible segments are in areas that are sensitive to the City of Milpitas and to recreational trail users along the Bay Trail." (SDEIR, p. 50.) This is a substantial impact that cannot be mitigated.

These additional substantial, unavoidable land use and visual impacts introduced by the McCarthy Boulevard Alternative plainly demonstrate that it is inferior to the proposed route. Surprisingly, the SDEIR nonetheless concludes that "the reroute into the City of Milpitas is considered to be environmentally superior to the equivalent portion of the proposed route from Mileposts 4.9 to 5.6." (SDEIR, p. 50.) The SDEIR states that this conclusion is based on the fact that the McCarthy Boulevard Alternative would reduce bird strikes. This conclusion is contrary to the evidence for at least two reasons. First, the SDEIR itself states that bird strike impacts for the McCarthy Boulevard Alternative would remain significant and unavoidable. (SDEIR, pp. 46-47.) Thus, this alternative does not even achieve its primary objective, undermining the SDEIR's conclusion that this alternative is superior. Second, line marking and other mitigation measures will reduce bird strike impacts of the proposed route substantially, without introducing any of the additional impacts of the McCarthy Boulevard Alternative. Thus, the introduction of those impacts is not justified under CEQA, which encourages alternatives that reduce or avoid significant impacts, not alternatives like the McCarthy Boulevard Alternative that will increase impacts.

Not only is it unjustified, but on balance, the McCarthy Boulevard Alternative is inferior. The SDEIR's conclusion to the contrary is unsupported and defies common sense. To add the potentially significant land use and visual impacts, as well as the additional cost, of the McCarthy Boulevard Alternative, without achieving any reduction in bird strike impacts, would result in environmental degradation, not environmental improvement, contrary to the fundamental goals of CEQA. Accordingly, the McCarthy Boulevard Alternative should be rejected.

4. Additional underground construction to avoid less-than-significant predation impacts is not required under CEQA and is environmentally and economically inferior due to the secondary impacts and additional expense that it would introduce.

In Mitigation Measure B-8, the SDEIR proposes additional undergrounding in the southern area to mitigate less-than-significant predation impacts.¹ Such additional

¹ In the northern areas, no potentially significant predation impacts have been identified. Nonetheless, the Modified I-880-A and Realigned I-880-A routes would further reduce any
(Footnote Continued)

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Sixteen

underground construction is not required under CEQA, nor supported by the discussion in the SDEIR. The Draft EIR concluded that potential predation impacts on the salt marsh harvest mouse and the salt marsh wandering shrew would be less-than-significant. (Draft EIR, pp. 3-65 - 3-66.) Based on a comment letter received from the Refuge, however, the SDEIR now (apparently) concludes that predation impacts 1) are potentially significant and 2) that nearly one mile of additional underground construction, through the former Fremont Airport property between Mileposts 4.1 and 4.9, may be required to avoid this impact. This conclusion is not supported by the evidence and ignores mitigation already proposed by PG&E, which would similarly reduce or avoid predation impacts without the substantial expense and secondary impacts of undergrounding.

The SDEIR's conclusion that predation impacts would be significant without mitigation is only "apparent" because there is no statement of the pre-mitigation impact level. The SDEIR states only that "[b]ased on the USFWS comments, an additional mitigation measure is recommended to reduce potential predation impacts to less than significant levels." (SDEIR, p. 62.) CEQA only requires mitigation for potentially significant impacts. 14 Cal. Code Regs. § 15126.4(a)(3). Yet, although it now suggests mitigation for predation impacts, the SDEIR never concludes, whether based solely on the USFWS letter or some other unreported evidence, that there is somehow now a potentially significant predation impact. Accordingly, the SDEIR fails to substantiate any legal basis for even requiring mitigation for predation impacts, much less mitigation carrying the expense and additional impacts of undergrounding.

In any case, undergrounding may not even achieve the desired reduction in perching and predation opportunities because, while it would result in the construction of three fewer transmission towers, it would also result in the construction of two additional transition structures along the margins of the area of concern. (Conversely, with the Underground through Business Park Alternative, these transition structures would be on the edge of the developed business park, away from the harvest mouse and wandering shrew habitats.) Furthermore, as described in Section I, *supra*, undergrounding is inferior because it would introduce potentially significant impacts of its own that the similarly effective mitigation measure proposed by PG&E (described

potential predation impacts, because the tower locations for those routes are along the margins of the Pacific Commons Preserve and adjacent to developed areas, rather than through the Preserve where more predators and prey are likely to be present.

sf-1001763

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Comment Set X, page 9

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Seventeen

below) would avoid. Where multiple, similarly effective mitigation measures are available, CEQA encourages the selection of the measure with the fewest secondary impacts. See 14 Cal. Code Regs. § 15126.4. As demonstrated below, that surely is not Mitigation Measure B-8, which ironically, would take the habitat of the very species, the wandering shrew and salt marsh harvest mouse, that it is intended to protect.

Generally, underground construction in undeveloped areas results in more disruption to the environment than overhead construction. This is particularly true here, where underground construction in the former Fremont Airport area has the potential to result in groundwater contamination or other, significant impacts due to the existing hazardous soils conditions on the property. Moreover, the area in which this additional undergrounding is recommended has potentially significant geological deficiencies that would make underground construction infeasible. These deficiencies include shifting sands and unconsolidated bay mud sediments, which the SDEIR itself finds "would place the buried conduits at some risk of damage from differential settlement, a significant and unavoidable impact." (SDEIR, p. 51.) The two transition structures that would be required in the vicinity of Milepost 4.9 will be about 350 feet from Coyote Creek and may be subjected to liquefaction hazards in the event of a major earthquake. This alternative would also require PG&E to bore underneath Scott Creek, which if even feasible, would further increase cost, construction difficulties, traffic disruptions, habitat disturbances and the susceptibility to damage from future seismic or geologic events. Finally, as detailed above, underground construction is much more costly than an overhead line, resulting in increased economic impacts to the ratepayers, but with little or no benefit to the environment.

As opposed to the SDEIR's unjustified recommendation for undergrounding, PG&E has proposed that the dramatically less expensive mitigation measure of installing perch preventers on tower cross arms to eliminate potential habitat loss and predation impacts on the salt marsh harvest mouse and the salt marsh wandering shrew. The additional cost to extend two underground 230 kV circuits through the Fremont Airport property as described in the SDEIR is estimated to be \$6,850,000, whereas the cost to install perch preventers is a few thousand dollars. The use of perch preventers (rows of plastic spikes fitted to the tops of horizontal surfaces of the tower) would be a cost effective way of preventing raptors from perching on the towers. Also, as noted above, there would be at least two transition structures required for this underground route, as opposed to three towers for the proposed overhead route. PG&E expects that there would be a greater difficulty of placing perch preventers on the two transition structures near Milepost 4.9 due to the greater density of hardware on those compared to a basic transmission line pole. Thus, the additional predation impacts introduced by Mitigation Measure B-8 may be unavoidable, thereby further reducing its effectiveness.

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Eighteen

Specifically, PG&E's proposed mitigation measure provides for the following:

- Use of tubular steel poles within the Bay portion of the Project to minimize perching and predation opportunities;
- Use of bird guards to discourage perching at tower locations;
- Predation opportunities will be evaluated during preconstruction survey and PG&E will contribute to a predator control program in Santa Clara County to help control feral cat/red fox predation;
- Artificial burrows will be installed (where property owners concur) to increase escape cover for burrowing owls;
- Habitat enhancement opportunities will be developed with the resource agencies at all tower locations designated as contributing to the issue of predation and habitat enhancement will be developed to increase escape cover for prey.

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These mitigation measures would be as effective as undergrounding at reducing predation opportunities, but would add substantially less cost to the Project, and would avoid new, potentially significant impacts that undergrounding would introduce. Accordingly, the undergrounding proposed in Mitigation Measure B-8 is not cost effective or environmentally beneficial. In light of its additional impacts, and the fact that there are other measures that will mitigate or avoid potential predation without those additional impacts, undergrounding between Mileposts 4.1 and 4.9 is an inferior, inappropriate and legally unjustified response to potential predation impacts. Mitigation Measure B-8 should not be adopted.

B. Newly submitted Bird Studies are not relevant to the Project or the Project area, and therefore should not form the bases for the SDEIR's conclusions.

The SDEIR's conclusion that the proposed Project would have significant bird strike impacts is based on information that is not relevant to the proposed Project or the area in which it is proposed. In addition to applying an inappropriate threshold of significance that does not account for the lack of impacts to protected species, and to failing to give appropriate consideration to the benefits of line marking and similar techniques, the SDEIR's bird strike analysis relied on two bird collision studies which contain information that is speculative at best and which may not be applicable here. Those studies, therefore, should be disregarded. Specifically, the Water Pollution Control Plant ("WPCP") Study and the Mare Island Study, which are the only two studies relied on by the SDEIR on this topic, are not relevant to the Project or the Project area. Curiously, the SDEIR, on the other hand, disregarded the South San Francisco Bay Study, which is much more specific to both the Project and the Project area than the other two studies.

X-31

sf-1001763

Comment Set X, page 10

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Nineteen

The SDEIR concluded from the WPCP and Mare Island studies, which it identified as "recent studies" though all were done prior to 1997, that "[t]he primary factor determining the number of birds colliding with a transmission line is the number of birds flying through the area." (SDEIR p. 62.) The SDEIR identified factors that influence the rate of bird collisions as including bird species, age, flocking behavior, weather conditions, topography and line placement. (SDEIR p. 63.) The conclusions of these studies to the Project, (for example that "bird strikes would be estimated at 9,500 each year") are speculative at best. This information does not constitute reliable evidence of potential Project impacts due to the lack of any relationship between these studies and the Northeast San Jose Project. Also, these studies do not reference the use of any bird strike mitigation or consider the effectiveness of such mitigation. Accordingly, these studies should be given little or no weight in evaluating the potential for bird strikes along the Project alternatives. The specific problems with each study are detailed below.

1. The South San Francisco Bay Study was improperly disregarded by the SDEIR.

While relying on the inapplicable WPCP and Mare Island studies, the SDEIR expressly declined consider the South San Francisco Bay Study as evidence of bird strike potential, even though it is the only study that was developed for the purpose of evaluating bird strikes in the Project area. The SDEIR identified that study as questionable because "[a]lthough Leitner's 1981 study indicates low mortality along the section of line studied, bias associated with estimating collision mortality at the site is also cited." The claimed bias is due to the fact that the study was done in mostly clear weather conditions. Indeed, weather is one factor in a bird collision potential analysis. According to the SDEIR, however, there are a number of other factors as well. (SDEIR, p. 63.) Therefore, clear weather alone does not justify ignoring this valuable, relevant information. Ultimately the study showed that there was a small potential for bird strikes. Given that the study was completed along the Project route and for the purpose of evaluating the bird strike potential in the area, it should form the primary basis for the SDEIR's analysis and conclusions regarding the potential for bird strikes. Without explanation, however, the SDEIR ignores this study completely. The SDEIR's rejection of this study is not justified.

2. The Water Pollution Control Plant Study is inapplicable in that its purpose was not to study bird strikes, and it should not influence the SDEIR's conclusions.

On the other hand, the Water Pollution Control Plant Bird Study (the "WPCP Study"), submitted by the City of San Jose, and relied on in the SDEIR, was not

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty

developed for determining the potential for bird strikes in the area. Accordingly, it is not relevant here and it should not influence the EIR's conclusions. Because this study was not done for the purpose of estimating the potential for bird collisions, it lacks several critical elements for determining such an impact. First, the direction and height of flight to the ponds was not studied. Second, time of flight was not determined, although there is an indication it partially depends on tides. These are two of the very factors explicitly relied on in the SDEIR for determining the potential for bird collisions. To state that these are the key factors, and then to rely on a study that is completely devoid of information on those two points, is incongruous.² The WPCP Study, therefore, is not reliable or relevant evidence upon which to base conclusions regarding potential impacts, and it should be ignored. Interestingly, even this study's findings, for example that Mallards, Northern Shovelers and coots, none of which are protected species, are the most common birds in the area, do not support a conclusion that the proposed Project would introduce significant bird strike impacts. Thus, the SDEIR's conclusions from this study are misplaced and should be disregarded.

3. The Mare Island Study is not applicable to the Project area, and it should not influence the SDEIR's conclusions.

Similarly, the Mare Island Study relied on by the SDEIR is not relevant here and should not be used as an indicator for bird strike potential because the study involved a different county and different types of birds. The Mare Island study area is 50 miles north of the Project area and includes primarily a hayfield area, in addition to the shoreline of a small salt pond. There is nothing in the study to indicate that findings regarding the Mare Island study area are useful or reliable in assessing such impacts in to the proposed Project area, which consists of wetlands, marshlands and large salt pond areas, but no hayfields or similar habitats. Accordingly, that study should not influence the conclusions or analysis of the SDEIR.

III. EMF ISSUES

Mitigation Measure V-4, which proposes the formation of a committee to determine the appropriate EMF mitigation after a route is chosen, is vague and ambiguous, contrary to the mandate of CEQA Guidelines section 15126.4(a)(1)(B), which requires early and complete formulation of mitigation measures. That

² It is interesting to note, however, that although there is an existing 115 kV line in this area, the WPCP Study reaches no conclusions regarding bird collision potential. This is understandable since the study was not done for that purpose, but it seems likely that if bird strikes were observed, they would have been noted in the study.

sf-1001763

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Comment Set X, page 11

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-One

requirement is especially relevant here, given the need to have this project operational by no later than June 2002 (see below). Moreover, as the SDEIR states, there are no significant visual impacts from the project without mitigation, and, as such, CEQA does not even require any mitigation here. (CEQA Guidelines § 15126.4; SDEIR, p. 59.) Because mitigation for secondary, admittedly less-than-significant visual impacts associated with implementation of the CPUC's EMF Decision is not justified under CEQA, and because Mitigation Measure V-4 does not comply with CEQA requirements for mitigation measures, that Measure should not be included in the Final EIR.

As the CPUC has acknowledged, potential EMF impacts are not CEQA impacts because they are not "physical impacts on the environment." 14 Cal. Code Regs. § 15064(d). Nonetheless, PG&E has proposed, through its EMF Field Management Plan, measures to reduce EMF in accordance with the CPUC's EMF Decision, D.93-11-013, 52 CPUC 2d 1 (1993). (SDEIR p. 55.) PG&E's Transmission Line EMF Design Guidelines require that areas adjacent to the project route be prioritized based on land use. Then, if ordered in the CPUC's decision on the project, up to four percent of the total transmission line Project costs are spent to reduce EMF levels in the areas identified as having high priority land uses. These measures are known as "low-cost" reduction measures. As noted, the SDEIR states that with the low cost measures proposed in PG&E's EMF Field Management Plan, visual impacts would not be significant. Thus, the intersection of CEQA and the EMF Decision has been appropriately considered here, prior to the unnecessary introduction of Mitigation Measure V-4. To be sure, there is no justification under CEQA for this Mitigation Measure, which pushes far beyond what has ever been required under the EMF Decision.

In the EMF Decision, the CPUC carefully considered the justification for, and benefits and costs of, EMF reduction measures. In essentially adding a significant new requirement to the EMF Decision, Mitigation Measure V-4 ignores the careful balance that the Commission struck in that decision. A tower-by-tower project design by committee would create an immense drain on time and resources. Moreover, such a requirement is unworkable, given the long lead times required by all utilities in procuring materials and engineering tower designs. If adopted, Mitigation Measure V-4 will set a dangerous precedent that could severely hinder or delay this Project, as well as other transmission projects in the future.

In fact, in this case, Mitigation Measure V-4's proposed deviation from the approach required under the EMF Decision would likely prevent PG&E from meeting the summer 2002 deadline for operation of the proposed Project. PG&E must begin procuring materials and engineering final tower designs long before Mitigation Measure

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Two

V-4 proposes to have the committee even begin meeting, much less producing a final decision on tower heights. By effectively putting a stop to engineering, design, and procurement for at least 90 days after the issuance of a Final Decision on the CPCN, Mitigation Measure V-4 would significantly delay the start of transmission line construction, and thereby block achievement of the project objective of timely reliability and capacity improvements in the South Bay area. This, too, is contrary to CEQA, which requires mitigation measures and alternatives that are consistent with, not contrary to, project objectives.

Moreover, Mitigation Measure V-4, as currently proposed, appears to apply to the entire approximately 7-mile 230 kV transmission line route and the entire 115 kV Trimble-Montague Upgrade route. Consistent with the EMF Decision, PG&E has only proposed low cost EMF reduction measures for the portion of the 230 kV line along the Bayside Business Park and at four towers near residential properties along the 115 kV line route, which are the only "priority" land uses in the Project area. As such, there can be no secondary visual impacts associated with compliance with the CPUC's EMF Decision for any other portions of the line, and thus no need for Mitigation Measure V-4 to apply in areas other than along the limited portions of the line where PG&E's Field Management Plan has proposed tower increases. Certainly, the timing problems referenced above are even more serious when one begins to imagine the committee personally visiting each of the approximately 29 230 kV and 115 kV tower sites required for the I-880-B route for example, preparing visual simulations and perhaps modeling EMF for each of them, and so on. The infeasibility of Mitigation Measure V-4 further demonstrates that measure's lack of appropriate specificity under CEQA and its lack of deference to the CPUC's EMF Decision.

In sum, Mitigation Measure V-4 is unprecedented, unjustified and unworkable. It should not be included in the Final EIR. Decision, D.93-11-013, 52 CPUC 2d 1 (1993). (SDEIR p. 55.) Essentially, PG&E's Transmission Line EMF Design Guidelines require that land uses adjacent to the project route be prioritized based on public concern. Then, pursuant to the CPUC's decision on the project, up to four percent of the total transmission Project costs are spent to reduce EMF levels in the areas identified as having high priority land uses. These measures are known as "low-cost and no cost" mitigation measures under the CPUC's EMF Decision. As noted, the SDEIR states that with the mitigation proposed in PG&E's EMF Field Management Plan, visual impacts would not be significant. Thus, the intersection of CEQA and the EMF Decision has been appropriately considered here, prior to the unnecessary introduction of Mitigation Measure V-4. Mitigation Measure V-4 is unjustified, unprecedented and beyond the scope of the EMF Decision.

sf-1001763

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Comment Set X, page 12

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Three

In the EMF Decision, the CPUC carefully considered the justification for, and benefits and costs of, requiring EMF mitigation. In essentially adding a significant new requirement to the EMF Decision, Mitigation Measure V-4 ignores the careful balance that the Commission struck in that decision. A tower-by-tower project design by committee would create an immense drain on time and resources. Moreover, such a requirement is unworkable, given the long lead times required by all utilities in procuring materials and engineering tower designs. If adopted, Mitigation Measure V-4 will set a dangerous precedent that could severely hinder or delay this Project, as well as other transmission projects in the future.

In fact, any deviation from the standard approach in this case would prevent PG&E from meeting the summer 2002 deadline for operation of the proposed Project. PG&E must begin procuring materials and engineering final tower designs long before Mitigation Measure V-4 proposes to have the committee even begin meeting, much less producing a final decision on tower heights. Accordingly, due to the potential delays it could cause, Mitigation Measure V-4 would block achievement of the project objective of timely reliability and capacity improvements in the South Bay area. This is contrary to CEQA, which requires mitigation measures and alternatives that are consistent with, not contrary to, project objectives. Moreover, Mitigation Measure V-4, as currently proposed, appears to apply to the entire Project area. Consistent with the EMF Decision, however, PG&E has proposed EMF mitigation only for the portion of the line along the Bayside Business Park and for the 115 kV Trimble-Montague Upgrade, which are the only "priority" land use areas in the Project area. This further demonstrates Mitigation Measure V-4's lack of the appropriate specificity or deference to the CPUC's EMF Decision.

In sum, Mitigation Measure V-4 is unprecedented, unjustified and unworkable. It should not be included in the Final EIR.

PART TWO: TECHNICAL COMMENTS AND CORRECTIONS

PG&E respectfully submits the following list of technical comments and corrections to the SDEIR. Specific comments relating to text are noted below. In each case, the page number and relevant text has been identified. Recommended changes are noted in bold text.

A. Executive Summary

Table ES-1, Biological Resources Issues, is unclear when it states "[p]otential bird collision impacts remain significant along most overhead lines." (SDEIR, p. 2) If a significant impact is identified, the route for which the impact is significant should be

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Four

identified. Simply stating that the impact will occur on *most* overhead lines, or that the impact is considered to be significant and unavoidable in *several* areas is unclear and misleading. The table should be revised to reflect the impacts associated with specific routes, as those routes are described in the Description of Alternatives section.

B. Introduction

On page 9, the third line of the first sentence of the paragraph under "A.2 Description of Proposed Project and Alternatives" refers to connections to the upgraded 115 kV distribution system. The phrase "115 kV distribution system" should be changed to "115 kV transmission system." This avoids confusing the higher voltage 115 kV system that transmits power between substations with the lower voltage system (21kV and below) that distributes power to most of PG&E's customers.

On page 10, the fourth bullet item under "A.2.1 Proposed Project" refers to a "Distribution Line Upgrade" and "four existing 115 kV distribution lines." The phrase "Distribution line Upgrade" should be changed to "Single Circuit 115 kV Line Upgrade" to avoid confusing the Montague-Trimble 115 kV Single Circuit Transmission Line with a lower voltage line that distributes power to customers. The phrase "four existing 115 kV distribution lines" should be changed to "four existing 115 kV transmission lines" for the same reason given in the paragraph above.

On page 13, the second bullet item referring to the Westerly Route Upgrade Alternative should be changed to reflect that the two existing 115 kV double-circuit lines would be removed after two new 230 kV double circuit lines (with one operating at the 115 kV voltage) were installed and energized in order to maintain electrical service to the City of Santa Clara and downtown San Jose.

On page 13, the fourth bullet item "Northern Receiving Station site" states that the site could accommodate both facilities, apparently meaning a 115 kV substation for the City of Santa Clara's use and a PG&E 230/115 kV substation. This statement gives the false impression that the Northern Receiving Station site is equivalent as an alternative to the Los Esteros Site. This statement should be changed to "This site, located in the City of Santa Clara, has been approved by the City for use as a 115 kV substation and could accommodate a 230/115 kV substation that would provide less capacity and no room for future expansion as compared to the Los Esteros site."

On page 13, the word "alternative" before the colon in the first sentence under A.2.2.2 should be changed to "alternatives."

sf-1001763

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X-43

Comment Set X, page 13

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Five

C. Alternatives Descriptions

The pagination of Figure B-3 and Figure B-4 is incorrect.

On page 16, the second sentence of the second paragraph under B.2.1 "US DataPort Substation Alternative" should be changed to reflect the correct relationship between PG&E's proposed Los Esteros Site and the US DataPort Site. The sentence should be changed to "This substation alternative would be very close to PG&E's proposed site: the northwest corner of PG&E's proposed Los Esteros site would be located on the easterly boundary of the US DataPort Substation Alternative."

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On page 19, the third bullet item describing the connection point with PG&E's proposed route in the central portion of the 230 kV transmission line should be changed to reflect the correct route segment. The sentence should be changed to: "If the proposed route through the Bayside Business Park were selected, the underground route could be extended to the west of Fremont Boulevard, along Clipper Court and through the parking lot to the point where the proposed route enters the Bayside Business Park."

On page 25, the discussion of the Southern Underground Alternative states that two transition structures would be required at each creek crossing. This is incorrect. A total of four transition structures will be required for this alternative. The text should be revised accordingly.

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On page 27, the second to last sentence in the first full paragraph should be changed to "Thermal select backfill would be installed and compacted above the duct bank to maximize heat dissipation."

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The notation with the arrow pointing to the duct bank on the left hand side of Figure B-7 should be changed to state "Engineered Fill (To Maximize Heat Dissipation)."

D. Impact Analysis

On page 33, the dimension, "1,500 feet" should be changed to "600 feet" in the third sentence of the second full paragraph.

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On page 35, Mitigation Measure V-2 should be revised to recognize potential limitations on landscaping due to CPUC safety regulations and connections to adjacent facilities, e.g. CREC and WPCP, that will be required. Therefore, Mitigation Measure V-2 should allow for landscaping plans to take account of adjacent developments and their related landscaping plans, including requiring no landscaping in certain areas as

X-48

sf-1001763

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Six

appropriate. Specifically, with respect to views from Highway 237 to the south, a large portion of the southern boundary of the US DataPort Site would be adjacent to C-Star Power's CREC facility. Thus, trees or landscaping would be unnecessary in that location. Likewise, the electrical connection between the US DataPort Site and the WPCP would make landscaping difficult or unsafe directly beneath those lines.

X-48

PG&E also suggests that Mitigation Measure V-2 be revised to remove the requirement that landscaping plan must be submitted to the CPUC prior to the start of construction. Given the imminent need for the Project, construction and operation should not be delayed due to an incomplete landscaping plan. Nonetheless, PG&E intends to work in a timely, good faith manner with the City of San Jose to develop a plan for submission to the CPUC.

On page 37, the last full paragraph, first sentence should be revised to state, "This underground alternative would eliminate the significant and unavoidable risk of bird collision associated with the proposed project route for this segment only." Also, in the same paragraph, last sentence, there is no evidence in the record that the San Francisco Bay National Wildlife Refuge was informed of the California tiger salamander problem associated with the Northern Underground Alternative. The SDEIR should be revised to more accurately reflect its bases for incorporating the Refuge's comments or conclusions.

X-49

On page 38, the first sentence of the last paragraph under "C.3.6 Hydrology" should be changed to state that it will be necessary to bore or trench under the flood control channel crossing Cushing Parkway.

On page 39, the last sentence of the first full paragraph states, "The application of Mitigation Measure H-9 (which requires evaluation of areas with shallow groundwater) would reduce this impact to a less than significant level." Mitigation Measure H-9 provides for the testing of groundwater and the above sentence should be revised to reflect that. Moreover, it should be made clear, and the conclusion regarding the effectiveness of the mitigation measure should reflect, that this mitigation measure does not reduce impacts to shallow groundwater due to trenching activities.

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On page 40, the paragraph under C.3.9 Public Health, Safety, and Nuisance discusses EMF emissions from underground transmission lines. This discussion should be removed from this section because electric and magnetic fields have not been proven to cause public health, safety, or nuisance impacts. The CPUC, in Decision 93-11-013, found that the scientific community had not yet isolated any impact of utility related exposures on public health (Finding of Fact No. 3) and that recent (1993) EMF studies have not concluded that an EMF health hazard actually exists or that there is a clear

X-51

sf-1001763

Comment Set X, page 14

MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Seven

cause-and-effect relationship between utility property or operations and public health (Finding of Fact No. 7). The CPUC also found that scientists have been unable to develop a consensus that there is a definite link between EMF exposure and adverse public health (Finding of Fact No. 29). Only potential physical impacts need be considered in the EIR. 14 Cal. Code Regs. § 15064(d). EMF exposure, therefore, should not be considered to have an environmental impact.

On page 42, the second full sentence should be revised to state, "In addition, the liquefaction risk is significant, **and** unavoidable **and** permanent."

On page 42, section C.4 identifies "nuisance" (referring to EMF impacts) as a discipline not analyzed because the alternatives are the same distance from occupied structures. Actually, the Modified I-880-A Alternative would move the lines farther from the Bayside Business Park than the I-880-A or the Underground through Business Park routes, therefore any "nuisance" would be reduced. In any case, "nuisance" is not a factor or "discipline" generally considered separately in a CEQA analysis. See 14 Cal. Code Regs., Appendix G (listing areas to be evaluated but not including "nuisance").

On page 47, the first paragraph should be revised to account for bird strike mitigation which will reduce potentially significant impacts to less than significant levels.

On page 47, the second paragraph in section C.6.2 does not specify a Class level for the potentially significant recreation impacts, e.g. "Class 1 - Significant and Unavoidable."

On page 52, Mitigation Measure H-9a proposes construction in a shallower trench when avoidance of shallow groundwater is not possible. This cannot be done because CPUC General Order 128 requires a minimum of 32 inches of cover for all transmission line trenches.

On page 54, section C.7.8 should be revised to account for the probability of encountering hazardous soil conditions during constructing by stating, "In addition, the Southern Underground Alternative would have impacts in transportation, land use, **and** hydrology **and** hazards greater than for the proposed route."

On page 54, the last sentence should be changed to "However, this underground alternative is preferred over the proposed route because the majority of the conductors would be underground, and not visible."

sf-1001763

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MORRISON & FOERSTER LLP

Mr. Brad Wetstone
November 27, 2000
Page Twenty-Eight

On page 61, the last sentence in the first paragraph should be preceded by: "Additional burial depth will reduce the capacity of an underground line because the lower rate of heat dissipation."

On page 61, the bulleted items noting the impacts of two feet of additional conduit burial are highly dependent on the circumstances of the area and cannot be assumed to occur in every situation. This should be noted prior to listing the impacts.

On page 62, the statement, "an additional mitigation measure is recommended to reduce potential predation impacts to less than significant levels" should clarify that the Draft EIR concluded that predation impacts would be less-than-significant, and therefore that the additional mitigation recommended by the SDEIR is not required.

On page 64, the SDEIR implies that all shorebirds will collide with the proposed transmission line, regardless of actual bird type or activity or proposed mitigation. The third paragraph, third sentence should be revised to read "Shorebirds **may** collide with the proposed line where it **crosses** the tidal portions of Coyote Creek, and in or near the salt ponds."

E. Comparison of Alternatives

On page 72, the evaluation of the Northern Area Alternatives should properly address the name of the Modified I-880-A Alternative. Simply calling this new alternative the I-880-A Alternative is incorrect. This section should be revised to reference all alternatives by the proper names.

F. References

On page 77, the reference to Thomas Ryan's personal communication with Sheila Byrne should reference the complete date and Dr. Byrne's complete title.

sf-1001763

X-59

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X-63

Comment Set X, page 15

MORRISON & FOERSTER LLP

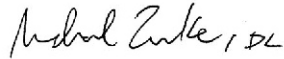
Mr. Brad Wetstone
November 27, 2000
Page Twenty-Nine

Exhibit A
Standard 230 kV Transition Structure

PART THREE: CONCLUSION

PG&E appreciates the opportunity to comment on the SDEIR. Should you have questions about these comments, please do not hesitate to contact me, David Levy of my office, or David Kraska of PG&E directly. Thank you.

Very truly yours,



Michael H. Zischke

Enclosure

cc: Ms. Susan Lee
David T. Kraska, Esq.
David C. Levy, Esq.

sf-1001763