

memorandum

date July 2, 2015

to Connie Chen

from Mike Manka and Cory Barringhaus

subject Amendment to the Final Initial Study/Mitigated Negative Declaration for the Missouri Flat to Gold Hill Reconductoring Project.

Introduction

This memorandum provides a description of revisions to the regulatory setting and mitigation measures of the Final Initial Study/Mitigated Negative Declaration (IS/MND) for the Missouri Flat Reconductoring Project. These revisions are the result of comments provided by the California Department of Fish and Wildlife (CDFW) on the Final IS/MND via email to Connie Chen on April 8, 2015. Additional clarification of CDFW comments was provided on a conference call with Angela Calderaro (CDFW) on April 22, 2015.

The CDFW has requested several mitigation measures be enhanced to further reduce potential impacts on biological resources. In addition, CDFW provided clarification regarding their application of the California Endangered Species Act (CESA) as it applies to the state-endangered Stebbin's morning glory (*Calystegia stebbinsii*). The impacts described in the Final IS/MND have not changed. CDFW also expressed concern that work may be conducted which would require PG&E to get a Streambed Alteration Agreement from CDFW.

In addition, CDFW requested additional mitigation be implemented for tricolored blackbird (*Agelaius tricolor*) based on the species having been granted an emergency listing under CESA in December 2014. However, on June 11, 2015 the California Fish and Game Commission rejected the recommendation from the CDFW to accept the petition to list the tricolored blackbird. Consequently, the tri-colored blackbird is not currently considered a candidate species under the CESA, and enhanced mitigation intended to ensure compliance with the CESA is no longer warranted and no revisions are proposed.

The following discusses amendments to the regulatory setting and mitigation measures presented in the Final IS/MND related to the biological resources discussed above. The proposed changes will serve to amend the Final IS/MND being considered by the California Public Utilities Commission.

Enhanced Mitigation Measure and Updated Permitting requirements for Stebbin's Morning Glory

The CDFW in its comment presented its interpretation of how CESA should be applied in the case of the Stebbin's morning glory. Contrary to the description in the Final IS/MND, CDFW states that the impacts associated with Stebbin's morning glory would require PG&E to consult regarding potential impacts on the species. Upon further review by the CPUC, it is determined that PG&E should consult with CDFW as part the project mitigation. This does not change the impact analysis presented in the Final IS/MND but does change the regulatory setting description on p. 3.4-38 of the Final IS/MND as shown below in underline/~~strike through~~ text:

California Endangered Species Act

CESA (Fish and Game Code 2050 et seq.) generally parallels the main provisions of FESA. CDFW administers the listing of endangered and threatened species under CESA through Title 14, CCR Sections 670.2 and 670.5, and regulates these species under Fish and Game Code 2050 et seq. CDFW may allow take of such species through its issuance of permits pursuant to Fish and Game Code Section 2081, except for designated "Fully Protected" and certain other species. Unlike its federal counterpart, CESA adopts a narrower definition of "take," and CESA's protections apply to candidate species that have been petitioned for listing. Under CESA, "take" is defined as to "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill". State lead agencies are required to consult with CDFW to ensure that any action undertaken would not jeopardize the continued existence of any endangered or threatened species or result in destruction or adverse modification of essential habitat.

Native Plants Protection Act

This Act is intended to preserve, protect, and enhance endangered or rare native plants in California. Vascular plants identified as rare or endangered by the CDFW and the California Native Plant Society (CNPS), but which may have no designated status or protection under federal or state endangered species legislation, are defined according to a California Rare Plant Rank as follows:

- **Rank 1A:** Plants presumed extinct
- **Rank 1B:** Plants rare, threatened, or endangered in California and elsewhere
- **Rank 2:** Plants rare, threatened, or endangered in California, but more numerous elsewhere
- **Rank 3:** Plants about which more information is needed (a review list)
- **Rank 4:** Plants of limited distribution (a watch list)

Consistent with CEQA Guidelines § 15380, plants designated with a CRPR of 1A, 1B, or 2 are considered to meet the criteria of endangered, rare, or threatened, and so are analyzed as "special-status species" in this document. Also pursuant to CEQA Guidelines § 15380, CRPR 3 and 4 species and species deemed Locally Unusual and Significant (LU&S) may be analyzed under CEQA if there is sufficient information to assess potential impacts.

~~California Fish and Game Code Section 1913 (b) (Native Plant Protection Act) provides a utility company exemption from certain applications of the CESA (specifically from the requirement to obtain a "take" permit) when only CESA listed plants, and not habitat for CESA listed wildlife species, would be affected by a project. Section 1913(b) states that "...the removal of endangered or rare native plants from~~

~~a canal, lateral ditch, building site, or road, or other right of way by the owner of the land or his agent, or the performance by a public agency or a publicly or privately owned utility of its obligation to provide service to the public, shall not be restricted...because of the presence of rare or endangered plants, except as provided in subdivision (e).” Subdivision (e) requires landowners to provide CDFW ten days’ notice to salvage affected plants prior to construction. The Applicant would apply this exemption to avoid obtaining a CESA “take” permit for the Project’s impacts on Stebbin’s morning glory.~~

Based on CDFW comments and additional discussion, the following enhancements to Mitigation Measures 3.4-3 and 3.4-4 on p. 3.4-49 of the Final IS/MND:

Mitigation Measure 3.4-3: In addition to the areas within the BLM Pine Hill Preserve, PG&E will apply the measures identified in APM BIO-5.3 to other areas within the project footprint known to support rare plant populations. Mitigation measures defined in the Rare Plant Strategy would be applied at a 1.5 to 1.0 planting ratio for impacts on Stebbin’s morning glory.

Mitigation Measure 3.4-4: In addition to the measures described in APM BIO-6 PG&E will consult with and obtain any required permits from CDFW regarding the project’s impacts on Stebbin’s morning glory and submit the Rare Plant Strategy to CDFW for review prior to construction in areas containing Stebbin’s morning glory populations. Additionally, PG&E will provide notification to CDFW at least 10 days prior to affecting special-status plants to allow for the salvage of special-status plants.

CDFW recommendations regarding Lake or Streambed Alteration Agreement Requirements

CDFW “recommends that a Notification of Lake or Streambed Alteration Agreement (LSAA) be submitted by the project applicant to the Department.” However, the analysis in the Final IS/MND (p. 3.4-50) shows no adverse impacts on stream or stream corridor features as shown below:

- c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means: *LESS THAN SIGNIFICANT WITH MITIGATION INCORPORATED.***

The Project has been designed to avoid impacts to the majority of waterways and wetlands. In addition, the Project would not remove, fill, or result in the hydrologic interruption to waterways or wetlands. Construction equipment and vehicles may need to cross several seasonal drainages to access Project work areas. In addition, to access an existing wood pole along the Gold Hill No. 1 Line north of U.S. 50 between Bass Lake Road and Tierra De Dios Drive, one seasonal wetland would be traversed for approximately 50 feet. The existing pole would be left in place for distribution purposes and the new pole would be installed east of the existing pole, outside of the limits of the seasonal wetland. Work activities in the seasonal wetland would be limited to approximately 50 feet of overland access and the temporary staging of construction vehicles at the pole base to make minor modifications to aboveground features; no ground-disturbing or fill would be required. With the application of APM BIO-7 (Seasonal Wetland Protection), APM HYDRO-1 Stormwater Pollution Prevention Plan, APM HYDRO-2 (Water Feature Protection Requirements), and Mitigation Measure 3.4-1, in addition to the limited scope and temporary nature of proposed activities in the vicinity of some seasonal drainages and one seasonal wetland, which is predominantly dry year-round, the Project would not result in adverse effects on these features.

In the event that during construction, activities affecting the bed, bank, or flow of water under CDFW jurisdiction become anticipated, PG&E would be required to submit a notification of LSAA to CDFW. This statement merely clarifies regulations and does not require an amendment to the Final IS/MND.

No changes to impacts resulting from implementation of enhance mitigation measures

The description of impacts on biological resources described in the Final IS/MND would not change as a result of these revisions. The enhanced mitigation measures would not result in any new or additional impacts.