

## Memorandum

To : Ms. Billie Blanchard  
California Public Utilities Commission  
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Date: November 29, 2001

From : Robert W. Floerke, Regional Manager   
Department of Fish and Game - Central Coast Region, Post Office Box 47, Yountville, California 94599

Subject: Proposed Pacific Gas and Electric Company Application to Sell Project, Notice of Completion (NOC), Cities of Richmond, Pittsburg, and Hercules, Contra Costa County, SCH 2001102139

Department of Fish and Game personnel have reviewed the NOC and the Draft Mitigated Negative Declaration (MND), dated October 30, 2001, for the Proposed Pacific Gas and Electric Company's (PG&E) "Application to Sell the Richmond-to-Pittsburg Pipeline and Hercules Pump Station" and San Pablo Bay Pipeline Company's (SPBPC) "Application to Own and Operate These Assets" Project.

The Department must comply with the requirements of the California Environmental Quality Act (CEQA) in issuing incidental take permits for State-listed threatened and endangered species. The Department will also act as a responsible agency for any activities affecting a stream zone that require a Streambed Alteration Agreement (SAA). The document describes two creeks, Alhambra Creek and an unnamed drainage near Ferry Street, that would be crossed for installation of the 4,000-foot replacement pipeline section and also describes several special status species that have the potential to be found in this area. The MND should adequately discuss the project's impacts and potential mitigation measures that will satisfy requirements for SAA issuance.

The Draft MND indicates that the approval of the project would have potentially significant impacts to biological resources, and proposes mitigation measures to avoid or reduce impacts to less than significant levels. The document describes Mitigation Measure IV.I, which proposes that prior to construction activities the SPBPC shall conduct a biological survey of all areas affected by construction of the replacement pipeline section in Martinez and submit the survey to the California Public Utilities Commission (CPUC) mitigation monitor. Furthermore, the document states that if the survey

report indicates an adverse effect on special status species, the SPBPC shall consult with the Department and other appropriate resource agencies and shall implement measures required by the resource agencies including monitoring by the CPUC monitor. The document includes an example of measures that might be required such as preconstruction surveys for California red-legged frogs. The mitigation alternatives discussed in the MND also describe cleaning up any bentonite released into drainages as a measure that may be required.

It is the Department's position that mitigation measures deferred to later action, such as Mitigation Measure IV.1, would not adequately comply with CEQA and mitigate potentially significant impacts. Surveys should be conducted for any rare, threatened or endangered species that may exist on-site. Surveys for sensitive species, particularly plants, should be conducted at the proper time of the year. Survey results and specific mitigation measures must be included in the document. Surveys to be conducted at a later time, or mitigation measures to be identified at some future time, are not acceptable. It has been determined by court ruling that such studies and mitigation measures would be improperly exempt from the process of public and governmental scrutiny which is required under CEQA. A document which requests future studies or future identification of mitigation is considered incomplete. The MND should be revised to include survey results and specific mitigation measures proposed to reduce potential impacts to less than significant levels.

I1

Any proposed mitigation measures should be specifically discussed in the document, initiated concurrently with the project to reduce or eliminate any significant direct, indirect, or cumulative impacts to biological resources, including special status species, and included in the site-specific project activities identified in the MND. The Department recommends that a monitoring program be included in the mitigation to ensure that the measures are part of effective, measurable, and enforceable programs. Any measures included in the MND should address both permanent and temporary impacts.

I2

Any unavoidable impacts to wetland and stream habitat should be mitigated to provide comparable habitat to the impacted habitat functions and values. If on-site habitat enhancement or off-site compensatory mitigation is proposed,

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such proposed mitigation should include sufficient acreage to mitigate for the loss of impacted habitat, functions and values and to satisfy all applicable regulatory requirements such as SAA issuance.

For wetland areas and for streams, the Department recommends that the project provide adequate protection of the resources and minimize the need for future maintenance and bank armoring in the channel. The Department discourages the use of structures and rip-rap for erosion protection and recommends that suitable landscaping, consisting of native species, be planted.

I3

The U. S. Army Corps of Engineers (Corps) has jurisdiction over activities which include the discharge of fill material in wetland areas under Section 404 of the Clean Water Act. If work is to be done in wetland areas, we recommend the Corps be notified to determine if they have jurisdiction and require a permit.

I4

We appreciate your consideration of our comments. Department personnel are available to address these concerns in greater detail. Please contact John Krause, Associate Wildlife Biologist, at (415) 454-8050; or Scott Wilson, Habitat Conservation Supervisor, at (707) 944-5584.

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