



December 6, 2001

Billie Blanchard, CPUC
 c/o Environmental Science Associates
 225 Bush Street, Suite 1700
 San Francisco, CA 94104-4207

Subject: CPUC Application Numbers 00-05-035 and 00-12-008
 Martinez Regional Shoreline

Dear Ms. Blanchard:

Thank you for providing the East Bay Regional Park District ("District") with a copy of the Draft Mitigated Negative Declaration (MND) for Pacific Gas and Electric Company's (PG&E) proposed sale of the Richmond-to-Pittsburg Pipeline to the San Pablo Bay Pipeline Company (SPBPC). Per your fax of November 20, 2001, we are submitting our written comments prior to the extended comment deadline of December 7, 2001. Thank you for granting the one week time extension.

Summary of Comments

The District has no comment on the purpose or need for the proposed project. Our comments focus primarily on the construction and operational impacts associated with a segment of pipeline within or adjacent to District lands at Martinez Regional Shoreline and the San Francisco Bay Trail in the Martinez area. Potentially significant impacts include construction and operational impacts to park facilities, public access, wetlands, endangered species habitats and park maintenance and operations. These impacts are not adequately discussed, nor are effective mitigation measures proposed for these impacts in the MND. The MND is clearly inadequate and should be withdrawn until these deficiencies can be adequately addressed.

It is not clear to the District that "PG&E has secured the necessary rights of way for a 4,000 foot replacement section", as described in the MND. PG&E has failed to provide consideration called for under the agreement to grant the easement required to relocate the pipeline across District property. Such a failure of consideration casts strong doubt on the legality of the document conveying the easement.

The MND should specifically state that PG&E, SPBPC and/or their successors are required to obtain a District encroachment permit to construct within District lands. As such, the District should be listed as a Responsible Agency under CEQA. We may need to rely upon the CPUC's

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MND in processing the required encroachment permit application. A discussion of these potential impacts and requirements are provided later in this letter.

The remainder of the pipeline passes through or near existing or proposed public open space and regional trail systems that could be affected by pipeline maintenance, future replacement, operations and possible failure and release of product. Figure 1 in the MND provides a poorly reproduced copy of an 8 ½ by 11 map of the 35-mile pipeline. The quality and scale of this map is not suitable to determine the location of the pipeline or potential impacts. As a result, we could not determine which District facilities might be affected or how they might be affected by this project. Potentially affected facilities could include Point Molate, Point Pinole Regional Shoreline, San Pablo Bay Shoreline, Carquinez Straits Regional Shoreline, Waterbird Regional Preserve, Point Edith, Bay Point Regional Shoreline, San Francisco Bay Trail and Delta-DeAnza Regional Trail. Should any of these facilities be affected by this project, we request immediate notification and consultation with PG&E, SPBPC and CPUC about such impacts. We are also requesting that the District be provided with detailed mapping of the entire pipeline route so that we can determine how other District facilities may be affected by this project. Until such information is provided, we cannot provide a complete set of comments about the proposed project. Accordingly, the public review period should be extended, and the CPUC should provide sufficient mapping and information to address potential impacts and receive complete input from affected parties.

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Martinez Regional Shoreline

The District has owned and operated this 343-acre shoreline park since 1976. Facilities include recreational areas operated by the City of Martinez, plus large lawns, picnic facilities, nature trails, Alhambra Creek and tidal wetlands. An 18-acre portion of the park was restored in 1999-2001 through a series of agreements between the District, Caltrans and the City of Martinez. The goals of this enhancement project are to

1. provide for enhanced public access;
2. restore Alhambra Creek and its associated tidal wetlands;
3. provide new habitat for endangered species;
4. reduce District maintenance costs; and
5. provide for additional flood water capacity in Alhambra Creek.

The proposed relocation of a 4000-foot segment of pipeline has the potential for significant adverse impacts to Martinez Regional Shoreline and to achieving the five stated goals for the joint shoreline enhancement project. The MND briefly mentions that the potential for conflict with Goal 2 has the potential for significant adverse effects, but that this effect can be mitigated by coordinating project construction with the District. We do not agree with this conclusion because the MND provides insufficient information about how the project would affect Goal 2, nor does it provide adequate information on how such impacts would be mitigated. CEQA is

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very clear that mitigation measures must be well defined and measurable. Furthermore, the MND does not address potential impacts to the other four goals for this project. Based on the information provided in the MND, we can only conclude that this project has the potential for significant adverse effects to all five of the above goals.

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The MND correctly concludes that several of the project impacts to Martinez Regional Shoreline are potentially significant. However, the Negative Declaration improperly concludes that all of these impacts can be successfully mitigated to a less than significant level by imposing mitigation measures based upon the outcome of future studies. Such an approach is clearly inconsistent with CEQA. In order to meet the requirements of CEQA, the MND must provide enough information for the CPUC commissioners, regulatory agencies, responsible agencies and the public to make an informed decision about the project, its impacts and measures to reduce or avoid potentially significant impacts.

It appears that PG&E and SPBPC have not provided sufficient information to the CPUC about the project description, proposed methods of construction, potential project impacts, or suitable mitigation measures. The discussion in the MND is of a very general nature and defers the discussion of essential information until after the CPUC has taken action to approve or deny the application. Such information must be contained within the MND and not deferred to future studies. In considering this project, the CPUC must look at the whole and complete action and it must have a clear understanding the magnitude of potential impacts and feasibility of mitigation measures to reduce these impacts. In the absence of such information, the CPUC cannot conclude that in all cases potentially significant impacts can be reduced to a less than significant level as is required to prepare a Negative Declaration or file a Notice of Determination.

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Therefore, we must conclude from the information provided that some of these impacts will remain significant after mitigation, and on that basis the CPUC should either withdraw the MND and prepare an Environmental Impact Report (EIR) or recirculate the MND with a more comprehensive analysis of potential project impacts and mitigation measures that can be successfully implemented by the applicant.

We provide the following specific comments on the various environmental factors considered in the subject MND.

Aesthetics: The discussion of visual character and agency policies fails to include District Master Plan policies relating to the visual impacts of utilities within parklands. The District's Master Plan specifically prohibits new construction of above-ground utilities. This would include valve stations as described on page I-5 of the MND. Mitigation Measure I.1 should specifically state that valve stations and other above-ground project components cannot be constructed within parkland or within the viewshed of sensitive receptors within the park or trail corridors.

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There are several prominent landscape trees planted along the southern boundary of the park at

the northern edge of the proposed right of way. These trees provide a significant visual buffer between the park and the adjacent concrete building on the Zocchi property. Removal of these trees would result in a significant and unmitigatable visual impact to sensitive receptors in the park. The District will not permit the removal of these trees as part of constructing the pipeline project in this area. The MND should also address the potentially adverse effects of trenching adjacent to these trees and implement the necessary mitigation measures to protect them.

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Biological Resources: The MND overlooks or understates the significance of several potential impacts from the construction and operation of this project on sensitive biological resources. This can be attributed, in part, 1.) to a poor understanding of present site conditions; 2.) lack of adequate biological survey information; 3.) a speculative analysis of construction impacts because the proposed method of project construction has not been defined by SPBPC.; and 4.) the potential effects of a pipeline failure on biological resources has not been considered.

- 1.) Present site conditions have been substantially altered since the right of way was initially mapped in 1998. The 20 foot right of way along the east side of Alhambra Creek was partially excavated by the City of Martinez in 1999 and 2000 to allow for the creation of a flood terrace. As a result, approximately 10 feet of the 20 foot right of way is now a wetland flood terrace of Alhambra Creek. The remaining 10 feet of right of way is upland fill, approximately three feet higher than the excavated flood terrace. As a result of these changes, there may no longer be adequate upland right of way in which to construct the pipeline. Excavation within the adjacent wetland would result in significant, adverse effects to wetlands and to endangered species habitats, including habitat for Delta smelt, Chinook salmon, salt marsh harvest mouse, clapper rail and black rail. Such impacts would conflict with the goals established for the District's marsh enhancement project.

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The MND also references that some form of bank protection may be necessary to prevent exposure of the buried pipeline. Installation of bank protection may prevent the proper establishment of native vegetation and suitable refugia cover along the creek. Such cover is important to waterfowl, nesting marsh birds and for salt marsh harvest mouse. Instead, it would be more appropriate to relocate the pipeline further away from the creek so that the risk of pipeline exposure or failure is eliminated, and so that suitable native cover can be maintained along the creek.

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- 2.) It appears that no field surveys or research was conducted to support the discussion of biological resource impacts or to support the conclusions regarding significance or the effectiveness of proposed mitigation measures. On page IV-3, there is a brief discussion of species that "might" or "may" be present in or near the project area, however, there is no evidence that surveys were performed, data bases searched, experts consulted or other relevant studies reviewed.

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The District, Caltrans and City of Martinez have all generated considerable information about biological resources in this area as part of the planning, design, permitting and construction of the Martinez Marsh Enhancement Project. This information should have been considered by the CPUC in the subject MND. This includes wetland delineations, wildlife and plant surveys, hydrological analysis, hazardous materials investigations, etc.

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Results from field surveys at Martinez show that the endangered salt marsh harvest mouse is present in the project area. It may be adversely affected by construction of the new pipeline. California clapper rail and black rail were not located during recent surveys, however, they were present historically and are two of the targeted species for the enhancement project. Northern harrier and Suisun song sparrow are present in the project area and may be affected by project construction. Black-crowned night heron and white-tailed kite may also be nesting in the pine and eucalyptus trees in the project area. The newly restored wetland and mud flat areas within the proposed right of way have considerable usage by shorebirds and waterfowl. Fish surveys are on-going to determine which of the special-status fish species may be present, however, Delta smelt and Chinook salmon were specifically targeted when the creek was widened and adjacent wetlands restored. Several special-status plant species that were historically present in the project area and may be affected by project construction, including Delta tule pea, Mason's lilaeopsis, Delta mudwort, Suisun Marsh aster and others.

- 3.) The discussion of project impacts is incomplete and much of the analysis of impacts is speculative because the CPUC does not know the proposed method of construction and the applicants have not provided adequate information on the biological resources present or how they might be affected by the project. In all cases where potentially significant effects are identified, the MND assumes that these impacts can be mitigated to a less than significant level. This approach is flawed because the MND lacks the basic information to draw such conclusions. Furthermore, the assessment of certain project impacts and the potential success of mitigation measures are based on the outcome of future studies.

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The MND also errors in assuming that all potentially significant impacts to the District's Marsh Enhancement Project can be resolved by adjusting the timing of construction activities. Such an assumption is again unsubstantiated by the information provided in the MND. The District has not been formally contacted by the CPUC, PG&E or SPBPC to discuss the nature and timing of the two projects or how schedules could be coordinated to avoid potential conflicts. Furthermore, as described under #1 above, project site circumstances have changed considerably since 1998 and it may not be possible to avoid conflicts between the two projects as presently described. The District will not likely grant an encroachment permit that will allow for the construction of new pipeline within the newly restored Alhambra Creek and marsh. Therefore, the potential for conflict between the two projects may not be resolvable in the manner described in Mitigation Measure IV.2 on pages IV-10 and IV-11 of the MND.

- 4.) We could find no discussion in the subject MND about the potentially significant adverse effects of pipeline failure on the biological resources at Martinez Regional Shoreline. The proposed 4,000 foot segment of new pipeline will require a new crossing under Alhambra Creek, and then installation of another ~1,000 foot segment parallel to the creeks east bank (including two 90° turns), and then another ~1,000 segment adjacent to tidal marsh, and finally another small crossing of a drainage into Alhambra Creek near DiMaggio Way. Failure along any portion of the new 4,000 foot section of pipeline would likely result in the discharge of petroleum into Alhambra Creek, adjacent tidal marshlands, and ultimately, San Francisco Bay. Such a discharge would result in a number of significant effects to biological resources, including wetlands, wildlife, and several special-status plant and animal species. The MND does not adequately discuss this potentially significant effect.

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On pages VII-1 and VII-2 of the MND, there is a discussion about pipeline maintenance and inspection. It appears that the existing pipeline has not been test for pipe-wall deterioration for six years. This would appear to be too infrequently for this pipeline when returned to operation in a corrosive saline environment. Given the sensitively of many areas along the route, how frequently would it be tested under normal operations by SPBPC?

The discussion of leak detection on page VII-2 of the MND states that remote control isolation valves can be located up to 10 miles apart along the pipeline. In the event of pipeline failure, how far away would the nearest valve be from the Martinez Shoreline? If the valve was 10 miles away, how much residual oil could actually be discharged from a failure into Alhambra Creek? This could potentially be several thousand gallons of oil. What secondary controls can be implemented to prevent the residual oil from being discharged once the isolation valve has been closed? This potentially significant impact could be greatly reduced in magnitude if the right of way were relocated in the Martinez area away from Alhambra Creek and associated wetlands.

Land Use and Planning: The discussion of consistency with land use and planning fails to include a discussion of this project's consistency with the District's 1997 Master Plan. As one of the responsible agencies who may be permitting construction of the new pipeline in Martinez, the District may need to rely upon the CPUC's MND to meet its own CEQA requirements. As such, the MND should contain a discussion of project consistency with our Master Plan. This would include our policies regarding protection of natural and cultural resources, public access, trails, planning and permitting, facility development, underground utilities, maintenance and operational costs. If ultimately, the MND does not meet District CEQA standards, we may need to prepare our own CEQA document at the applicants expense.

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Park users can currently access Martinez Regional Shoreline from three separate locations. Each of the locations may be subject to closure during some portion of the proposed pipeline

construction. The mitigation measures described in this section do not adequately protect the park from potentially significant impacts due to road and trail closures that access the park. There should be specific mitigation requirements in the MND that prohibit SPBPC and their successors from closing more than one point of access at any given time and these closures should be kept to the minimum necessary to minimize impacts to the public. During each period of closure, SPBPC will need to provide informational signage about how to access other entrances to the park. Flaggers should also be provided to direct park and Bay Trail users to these alternative locations.

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Contrary to the statements contained in the MND, construction activities will not be permitted in the park on Saturdays, Sundays or holidays. In addition, construction activities outside the park during these periods should not restrict access to the park. Construction activities will need to be coordinated to accommodate major events in the park, such as weddings and holiday celebrations. The 4th of July is a major event in the park with thousands of visitors accessing the shoreline to observe fireworks. Open ditches and closures during this period could pose significant safety hazards to park users and should be avoided.

San Francisco Bay Trail: Portions of the San Francisco Bay Trail within Alameda and Contra Costa Counties have been formally adopted by the District and are shown in our 1997 Master Plan. In addition to coordinating with Janet McBride of ABAG, the CPUC and applicants should also be coordinating with the District about potential project impacts to Bay Trail segments under District jurisdiction. Please contact Steve Fiala (note spelling), Trails Specialist, for information about the Bay Trail. The District and City of Martinez are currently finalizing plans for the construction (in 2002) of a new bridge across Alhambra Creek and a key segment of the San Francisco Bay Trail. The 4,000 foot replacement pipeline is proposed for construction along the route of the planned trail and new bridge at Martinez Regional Shoreline. The proposed pipeline project has the potential for significant adverse effects to these public access facilities. Impact IX.2 on page IX-10 and Mitigation Measure IX.2 on page IX-11 should both specifically identify these potential impacts and propose mitigation measures.

Potential impacts to the Martinez Regional Shoreline Bay Trail segment would include both construction and long-term operational impacts. Since the construction schedule and method of construction are not provided in the MND, we are assuming that the proposed pipeline would be constructed after completion of the new Bay Trail segment and new bridge across Alhambra Creek. The new Bay Trail segment will begin at the Nejedly Staging Area at Carquinez Strait Regional Shoreline, dropping down to the south side of the Southern Pacific Train tracks, crossing at-grade at Berrellessa Street, then along Berellessa to the staging area, crossing Alhambra Creek on a new bridge, along the north side of the Zocchi property, crossing the small drainage ditch to connect with DiMaggio Way and continuing through the park. The new Bay Trail segment will intersect or run parallel to the proposed pipeline route at three locations: 1.) the new underground segment along Embarcadero Street; 2.) the at-grade crossing at Berrellessa Street on the north side of the train tracks, west of Alhambra Creek; and 3.) along a ~1,000

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segment starting at the east end of the new bridge over Alhambra Creek to the intersection with DiMaggio Way. Each of these areas of concern are discussed below.

- 1.) Pipeline construction along Embarcadero could restrict or prevent access to the park office, Pidgeon Club, Sportsman's Club, and public access to the shoreline trails. As described above, construction would need to be carefully coordinated with the District to minimize disruption.
- 2.) The at-grade crossing of the Bay Trail at Berrellessa Street may be affected by construction of the new pipeline. Since the method of construction has not been provided by the applicant, we are unsure how this segment would be affected. In general, construction activities that result in closure of Berrellessa Street would impact park and trail users and park operations staff. This could also be a concern for emergency vehicles needing to access the shoreline. If a trench is cut through the trail, this would need to be carefully compacted afterwards to assure that there is no subsidence that would create trip-fall hazards for trail users. Construction would need to be carefully coordinated with the District to minimize disruption.
- 3.) Perhaps the most significant area for potential conflict would be along the northern boundary of the Zocchi property where the proposed pipeline right of way would intrude into the area of the foundation for the new bridge across Alhambra Creek. As currently designed, the east footing and wingwall of the bridge would be located within the proposed right of way, which is already constrained to a 10 foot wide upland area. Since it is likely that the bridge footings will be constructed before the pipeline, it is likely that the pipeline right of way will need to be shifted east at this location to avoid this conflict.

Another area of potential conflict at this location is the ~1,000 foot segment of Bay Trail that will be located immediately adjacent to or on top of the proposed pipeline right of way. Installation, maintenance or replacement of pipeline along this right of way has the potential to damage or destroy the trail surface, landscaping, irrigation system and other park facilities. Furthermore, trail closure may be necessary because of the tight construction area between the existing concrete buildings and the row of landscape trees. Construction would need to be carefully coordinated with the District to minimize disruption. SPBPC would need to repair or replace these facilities as necessary to their pre-construction conditions. Additional compensation will also be necessary for District oversight of project construction.

Noise: Construction related noise may have disruptive effects to park users and wildlife. Construction activities near Alhambra Creek and adjacent wetlands should be timed to avoid noise impacts during high use periods. This would include weekends and holidays for park users in which no construction would be allowed within the park. The winter-spring months for migratory birds would also be an area of concern which should be avoided. There may also be

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specific restrictions for fisheries and special-status species which should be determined in consultation with National Marine Fisheries Service, U.S. Fish and Wildlife Service and California Department of Fish and Game.

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Public Services: Maintenance or replacement of the pipeline underneath the San Francisco Bay Trail at Martinez Regional Shoreline has the potential to disrupt trail users and damage or destroy the trail surface and other park facilities. Pipeline maintenance also has the potential to disrupt maintenance and public safety vehicle access to the Bay Trail and adjacent parklands. A District encroachment permit will be required for such activities and SPBPC will be responsible for repairing or replacing damaged facilities and for coordinating with the District to avoid access conflicts.

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District Encroachment Permit: As a condition of granting an encroachment permit to the applicants, the District will require at a minimum the following fees, information, approvals and protections:

- Warranty for any trail or facility replacement;
- Permit application and project inspection fees;
- Review and approval of construction plans at all phases;
- Copies of all regulatory permits and approvals;
- Copies of all CEQA documents and technical studies prepared to obtain CPUC approvals; and
- District project inspectors ability to stop work for non-compliance with permit conditions.

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Should you have any questions regarding this letter, please contact me at (510) 544-2622. Specific questions regarding trails issues should be directed to Steve Fiala at (510) 544-2602 and questions regarding rights of way should be directed to Jim Townsend at (510) 544-2604.

Sincerely,



Brad Olson
Environmental Program Manager

cc. Richard Pearson, City of Martinez
Steve Fiala, EBRPD
Jim Townsend, EBRPD