



# Citizens Committee to Complete the Refuge

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*Comment letter sent via electronic mail only*

California Public Utilities Commission

July 24, 2025

505 Van Ness Avenue

San Francisco, CA 94102

Attn: Power the South Bay Project (A.24-05-014)

Email: [tommy.alexander@cpuc.gov](mailto:tommy.alexander@cpuc.gov)

Re: Comments on the Draft Environmental Impact Report (DEIR) for the LS Power Grid California, Power the South Bay Project (SCC # 2023071095)

Dear Mr. Alexander,

These comments are submitted on behalf of the Citizens Committee to Complete Refuge regarding the *Draft Environmental Impact Report (DEIR)* for the *Power the South Bay Project*. We thank you for the opportunity to provide comments. Our comments are focused on the impacts and proposed mitigation measures for biological resources. We support and incorporate by reference the comments submitted by the Center for Biological Diversity, Santa Clara Valley Bird Alliance, and Loma Prieta Chapter of the Sierra Club.

LS Power Grid California, LLC (LSPGC), proposes to construct a new 230-kilovolt (kV) alternating current (AC) transmission line that would run from the existing Pacific Gas and Electric Company (PG&E) Newark 230 kV Substation to the existing Silicon Valley Power (SVP) Northern Receiving Station (NRS) 230 kV Substation in Santa Clara. The total project alignment is approximately twelve miles, approximately ten miles of the alignment would be undergrounded, with the remaining two miles suspended overhead on 15 new overhead transmission line structures. The project would include eight creek crossings where horizontal direct drilling is proposed to cross the creeks underground. The project would also involve modifications at both substations.

Based upon our review of the DEIR, we have significant concerns regarding the proposed open trenching to underground the utility lines along the Cushing Parkway Causeway through the Warm Springs Vernal Pool Unit of the Don Edwards San Francisco Bay National Wildlife Refuge and urge that the alternative of

attaching the lines to the underside of the causeway be implemented instead. In addition, we have the following concerns:

- A potential area of waters of the U.S./State have been mischaracterized as “annual grassland” in Staging Area 3, Staging Area 12 may also have potential waters of the U.S./State
- Maps depicting locations of waters of the U.S./State should be provided in the environmental impact report (EIR) that also depict the potential impacts to areas subject to regulation by Section 404 of the Clean Water Act or the Porter-Cologne Act to enable decision-makers and the public to determine direct and indirect impacts to aquatic resources.
- The DEIR fails to identify the environmental criteria which will be utilized to inform the final selection of the three to four staging areas, nor does the DEIR adequately analyze and propose mitigation for the selected staging areas (deferral).
- The language of the proposed Applicant-proposed measures (APM), Field Protocols (FP), and mitigation measures must be strengthened.

#### **Commenters:**

The Citizens Committee to Complete the Refuge has a long history of advocacy for the protection of wetlands and species habitat along the edges of the bay. In the 1960's our senior members were part of a group of citizens who became alarmed at the degradation of the bay and its wetlands. We joined together, and with the support of Congressman Don Edwards, requested that Congress establish a Wildlife Refuge. The process took 7 long years and in 1972 bipartisan legislation was passed to form the San Francisco Bay National Wildlife Refuge. Public Law 92-330 was enacted:

“That, for the preservation and enhancement of highly significant wildlife habitat in the area known as south San Francisco Bay in the State of California, for the protection of migratory waterfowl and other wildlife, including species known to be threatened with extinction, and to provide an opportunity for wildlife-oriented recreation and nature study within the open space so preserved...”

In the late 1980's recognizing that important habitats adjacent to the Bay, that were crucial to maintaining the health of the Bay were continuing to be lost to development, we turned to Mr. Edwards again, and in 1988 (the first year he submitted it) his legislation to double the size of the Refuge was signed into law. In 1988, Congress passed Public Law 100-556, which increased the U.S. Fish and Wildlife Service's acquisition authority from 23,000 acres to a total of 43,000 acres.

Our group has commented on Section 404 and 401 Clean Water Act issues and pressed for the redesign of projects such as the 746-acre Catellus project (Pacific Commons) in Fremont to reduce the adverse impacts of the project on extremely rare vernal pool wetlands and numerous listed and sensitive species. The Section 404 Clean Water Act permit review process for the Pacific Commons project, ultimately resulted in the addition of approximately 444 acres of vernal pool complex habitat to the Warm Springs Unit of the Refuge.

**Impacts to the Warm Springs Vernal Pool Unit of the Don Edwards San Francisco Bay National Wildlife Refuge Should Be Avoided as it is an Area of State and Regional significance:**

- California has lost more than 90% of its vernal pool habitat<sup>1</sup> and the Warm Springs Unit represents the only remaining vernal pool habitat in the South and Central San Francisco Bay.

The 1999 Baylands Ecosystem Habitat Goals Project<sup>2</sup> states:

“Historically, large areas of grasslands with vernal pools occurred in the Project area in only three areas” adjacent to Suisun Marsh, along Sonoma Creek, and in the Warm Springs area in the South Bay.”

And the recommendation from this report for the South Bay is that “Adjacent moist grasslands, *particularly those with vernal pools*, should be protected and improve for wildlife.”

- The Warm Springs Unit supports three federally-listed species including the California tiger salamander, the vernal pool tadpole shrimp, and Contra Costa goldfields. The proposed Recreational Trails would be immediately adjacent to Critical Habitat for the federally-listed vernal pool tadpole shrimp and Contra Costa goldfields.



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<sup>1</sup> U.S. Environmental Protection Agency. *Vernal Pools*. <https://www.epa.gov/wetlands/vernal-pools>

<sup>2</sup> Monroe, M; Olofson, PR; Collins, JN; Grossinger, RM; Haltiner, J; Wilcox, C. 1999. Baylands Ecosystem Habitat Goals. SFEI Contribution No. 330. U. S. Environmental Protection Agency, San Francisco, Calif./S.F. Bay Regional Water Quality Control Board, Oakland, Calif. p. 328.



The Warm Springs vernal pool complex also supports a number of rare plant species and supports migratory bird and resident bird populations. As a permit requirement for the construction of the Pacific Commons Planned District, Catellus (the developer) was required, by federal and state regulatory agencies, to provide mitigation for significant losses of rare vernal pool wetlands habitat and take<sup>3</sup> of federally listed species.

After completion of the required habitat mitigation, these lands were turned over to the U.S. Fish and Wildlife Service and have become part of the Warm Springs Unit of the Don Edwards San Francisco Bay National Wildlife Refuge. Another of the required mitigations for the development of the Pacific Commons site was the construction of the Pacific Commons Linear Park at the end of Stevenson Boulevard (Nobel Road). Over the years the area of the Warm Springs Unit of the Refuge and the Pacific Commons Linear Park has become a haven during the fall and winter migration for rare and unusual birds, including, but not limited to, Ferruginous Hawks, Prairie Falcons, Golden Eagles, Peregrine Falcons, Greater White-fronted Geese, Cackling Goose, Harris' Sparrow, and Swamp Sparrow. The Linear Park, and the Refuge lands adjacent, are at #24 of Species Leaders in Alameda County, with 202 species identified to date (<https://ebird.org/spain/region/US-CA-001/hotspots>).



- Due to the significance and sensitivity of vernal pool habitats, proposed open trenching to underground the utility lines along the Cushing Parkway Causeway should be avoided in favor of the alternative that attaches the utility lines to the underside of the causeway. Open trenching will alter soil structure and can alter ground elevations. Proposed mitigation measures calling for restoration of ground elevations might not be sufficient to ensure the impacts of the trenching

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<sup>3</sup> **Take** as currently defined under the Endangered Species Act means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." – Endangered Species Act of 1973, Section 3

**"Harass"** means "harass" means an action that "aggressively disturbs or annoys" a species, potentially leading to injury or death, such as disturbance of normal behavior patterns for breeding, feeding, sheltering.

will be less than significant as even subtle changes in ground elevation can result in changes to the direction of surface flows and/or the amount of water flowing to adjacent pools. It's critically important that impacts that could alter the topography and hence the hydrologic regime of this vernal pool complex, be avoided, since the hydroperiod of vernal pools directly influences the ability of several state and federally listed species to complete their life cycles.

- The open trench alternative should also be avoided at this location to ensure the hydrological connectivity between the two vernal pool complexes bisected by the causeway is maintained. The entire reason the causeway was required, as opposed to a roadway on earthen fill with multiple culverts, was to ensure adequate ecological connectivity between the two portions of the vernal pool complex. As mentioned above, even minor alterations in ground elevations can result in changes to the hydrological regime of this vernal pool complex.

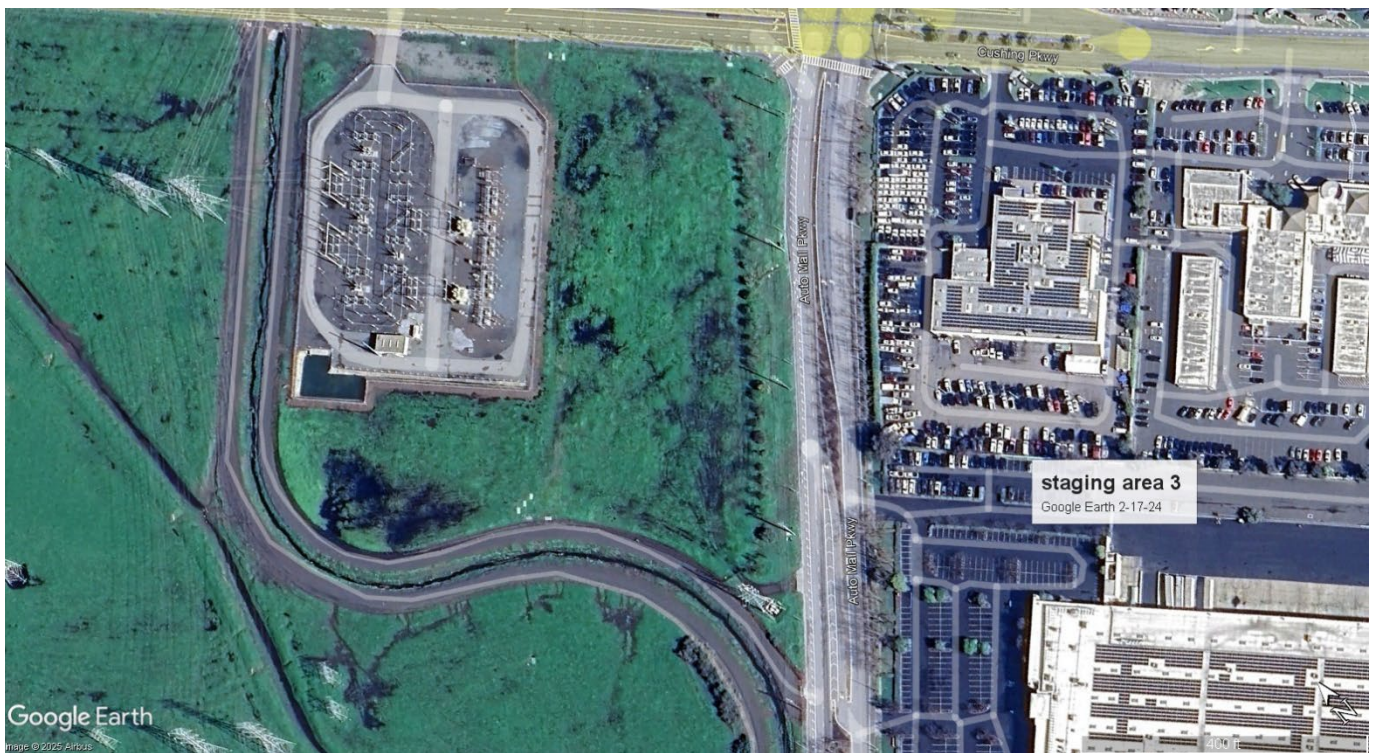
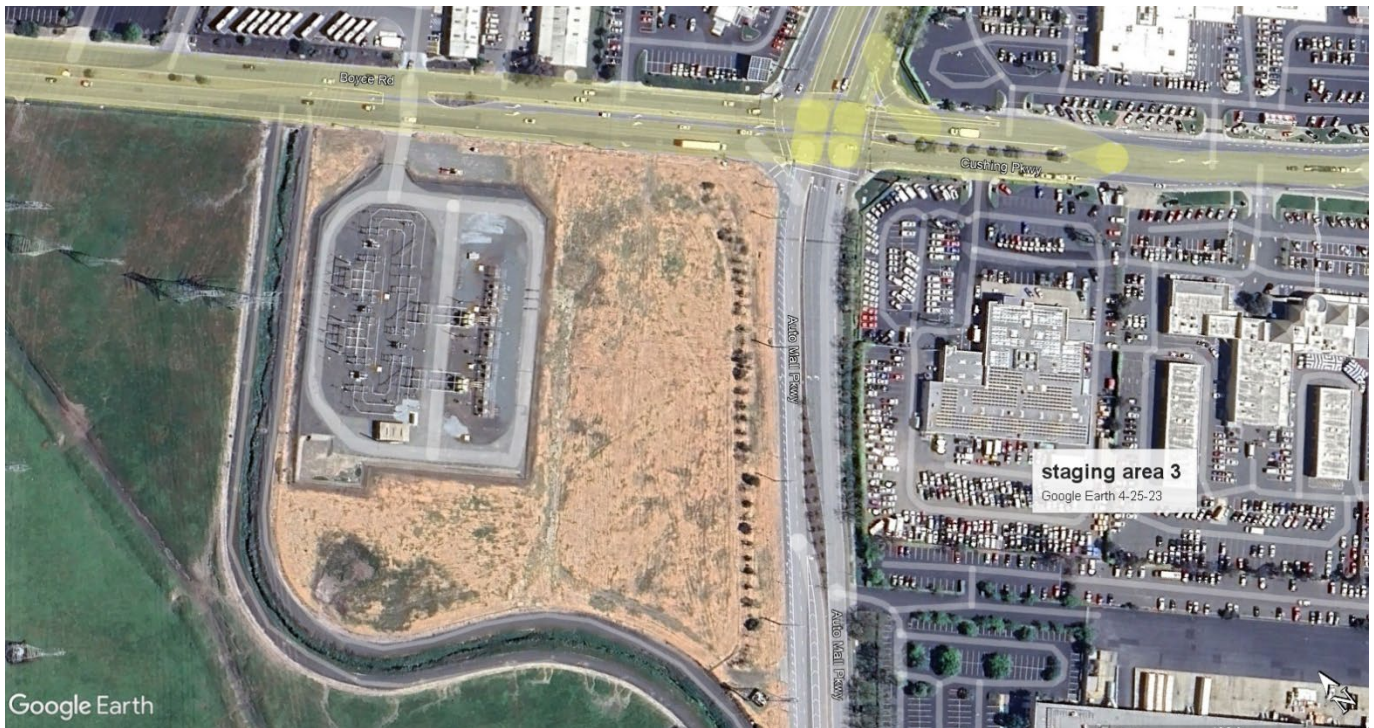
**Potential waters of the U.S./State appear to have been missed within Staging Area 3:**



Figure 3.4-1A depicts two habitat types within Staging Area 3 – “disturbed” and “annual grassland.” Our review of Google Earth aerial images suggest that wetlands habitat that has persisted in the same location since 2006 have not been mapped.

The area of interest is outlined in red in the Google Earth image from March 13, 2006 and appears in aerial images from April of 2023 and February of 2024.





We urge that the vegetation community for this staging area be reverified. Additionally, Staging Area 12 should be reviewed for potential waters of the U.S./State.

**Figures/maps depicting the extent of waters of the U.S./State within the Project Area and the Areas of Jurisdiction that will be impacted by the proposed project must be provided in the EIR:**

The maps associated with Figures 3.4-1A – 3.4-1F are of insufficient resolution to understand where aquatic resources will be impacted by direct impacts, or to provide decision-makers and the public with the opportunity to fully identify, analyze and propose mitigation for indirect impacts that may result to surrounding resources through implementation of the proposed project. The EIR must provide the maps that clearly delineate the location of jurisdictional waters/wetlands. These same maps should indicate where project impacts are proposed (permanent and temporary). In addition, for plant species, it is reasonable to request that numbers of listed and rare plants that may be impacted be provided (though this may be in the form of a table if the actual locations should not be disclosed). The request for this mapping and information are not unreasonable requests as this information will be required during the permit and consultation processes.

**Criteria for selection of the final 3-4 out of 12 potential staging areas must be provided in the DEIR:**

The Project Description p.2-29 states: “The Project anticipates using approximately three to four staging areas during construction. The 12 potential staging area sites have been included because site availability during the construction window years in the future is uncertain at this stage.”

However, a number of the potential staging areas have sensitive habitat/support listed or sensitive species or their habitats or contaminant issues, while others appear to be fully developed with existing infrastructure in place. Thus, all staging areas cannot be considered similar in their potential impacts to the environment. Is it truly availability that will be the final determining factor in the selection of staging areas?

Staging areas of particular concern include:

- Staging Area 3 – We have already stated the habitat description for this staging area may require revision, and if waters of the U.S./State are present, permits would be required for temporary and permanent impacts.
- Staging Sites 5 adjoins Coyote Creek and the outfall for Penitencia Creek inclusive of riparian and brackish marsh habitat.
- Staging Site 6 adjoins Coyote Creek and the Santa Clara Valley Water District’s Coyote Creek overflow easement that includes wetlands, marsh habitat and a salt marsh harvest mouse mitigation site.
- Staging Site 9 adjoins sensitive burrowing owl and wetland habitats.
- Staging Sites 10, 11, and 12 are within the permanently-buried contaminant area known as Cisco Systems Site 6. Sites 10 and 11 adjoin Site 12 which includes wetland habitat and adjoins the Guadalupe River. Sites 11-12 are also identified as Project construction sites.

The DEIR needs to prepare and include Staging Area Site Selection Guidance that describes and prioritizes criteria per Project goals and lists site attributes that make a site more or less suitable.

Availability would be one of the criteria. Criteria can but do not necessarily have to eliminate problematic sites but will identify sites that require all appropriate mitigation.

The DEIR impermissibly defers Staging site-specific impact analysis and mitigation of the final sites.

Staging sites, by condition and location, have potential for varied and substantial impacts on surrounding sensitive areas. The DEIR includes multiple mitigation measures that will apply to Staging Areas. Omitted mitigations discussed in this letter need to also apply. Given the DEIR's expectation of delayed identification of Staging Areas and the CEQA need to avoid deferral of mitigation, a Staging Area Site Management Plan needs to be included in the DEIR. It would utilize the Selection criteria applied to each site and incorporate all mitigations of the DEIR inclusive of the mitigation measures recommended by this letter.

Importantly, mitigations need to recognize both human and wildlife impacts. Noise, vibration, dust, waste dispersal, water or contaminant runoff mitigations that currently refer only to human impacts must also consider impacts to wildlife and habitat. This is critically important wherever Staging Areas adjoin sensitive wildlife habitat and waters and the Refuge. The wildlife and habitat importance would need to be described in the Staging Area Site Management Plan.

**General comments regarding proposed mitigation measures:**

- The use of Applicant Proposed Measures (APM), Best Management Practices (BMP), PG&E Field Protocols (FP), and proposed Mitigation Measures should be consolidated into a more useable format, or at minimum, the requirements when dealing with similar issues should be consistent. As just one example, APM BIO-1: Restoration of Disturbed Areas is silent regarding post restoration monitoring. MM 3.4-1b: Habitat Restoration and Monitoring states where revegetation occurs, plants will be monitored for a minimum of 5 years. Inconsistencies in the language of these various mitigation measures will lead to unnecessary confusion at best or worse compliance failure. Each APM, BMP, FP, MM that cover proposed mitigation for the same impacts should be scrutinized to ensure consistency in the language utilized.
- Similar to the inconsistencies described when consultation regarding listed species is mentioned, for species that are covered both by the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA), there are instances where only consultation with CDFW is mentioned. In all instances where species are covered by both acts, consultation should be required with both CDFW and the USFWS, and in instances where impacts will occur within the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge), consultation with Refuge staff should occur as well.
- For impacts to creeks, consultation should occur not only with CDFW and USFWS, but also the National Marine Fisheries Service (NMFS) as well.
- A number of mitigation measures refer to the need for a "qualified biological monitor." The DEIR should clarify for all instances where state or federal listed species are involved, the phrase "qualified biological monitor" means a monitor approved by CDFW and USFWS.
- The DEIR makes the assumption that "restoration" will adequately ensure that the impacts of the project are less than significant. Under indirect impacts resulting from ground disturbing activities, the DEIR fails to consistently identify changes to the existing hydrological regime of wetlands in the vicinity of the project as an indirect impact. This should be rectified and mitigation measures for "restoration" should include the requirement for the following:



- Preconstruction mapping of the areal extent of all wetlands within the project area and those adjacent to the project area.
  - Preconstruction mapping of the existing ground elevations within the project area and areas adjacent to the proposed project (i.e. areas disturbed by temporary impacts)
  - Post construction monitoring of the areal extent of all wetlands within the project area and those adjacent to the project area for a period of 5-years.
- Protocol level surveys for aquatic related resources (species, wetlands, etc.) should occur during normal rainfall years and not under drought conditions.
  - The use of phrases like “whenever practicable” do not instill confidence that a particular impact will actually be minimized.

#### Specific comments to Mitigation Measures:

- APM BIO-1 – As stated above, this mitigation measure should include post-restoration monitoring for 5 years as stated in MM 3.4-1b.
- APM BIO-4 – For purposes of clarification, the entire length of Cushing Parkway through the Warm Springs Vernal Pool Unit should be considered a “sensitive area” not just the locations of individual vernal pools as within a vernal pool complex, the upland areas are intimately connected with the vernal pools themselves.
- APM BIO-7 – “Suitable habitat areas for Salt Marsh Harvest Mouse” must recognize that SMHM are not restricted in occurrence to coastal salt marsh habitat – they have been found in diked baylands and agricultural fields. Surveys should not be restricted to coastal salt marsh, but should include adjacent upland areas. Smith<sup>4</sup> reported that SMHM were trapped in high management treatment habitats after the areas had been recently disced.
- APM BIO-10 – The words “whenever practicable” should be struck. The measure already states that the “...most likely areas for nighttime construction are within commercial and industrial areas and not residential or potentially sensitive biological areas. Night work is not anticipated during O&M except during emergencies.” [emphasis added]
- APM BIO-11 – The size of buffers, impacts to listed species not covered by the Santa Clara Valley HCP, and mitigation measures to avoid impacts to active nests need to be reviewed and approved by appropriate CDFW and USFWS staff before proceeding with work.
- APM BIO-15 – We urge the following change to the language be made – “If the nesting or breeding activities by a Federal- or State-listed species are observed, LSPGC shall consult with the USFWS and CDFW ~~as necessary~~ and work will not proceed until appropriate protective measures have been reviewed and approve by these agencies.”
- APM BIO-16 – We encourage the following work window exclusion of February 1<sup>st</sup> to October 31<sup>st</sup> for any work within an active colony, be included for the Crotch’s bumblebee if it is documented within the project area, and that a 50’ minimum buffer be required.
- APM BIO-17 – We urge that the work window for work in vernal pools be readjusted to July 1<sup>st</sup> through October 15<sup>th</sup> to ensure the pools and areas surrounding are dry and will not be prone to

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<sup>4</sup> Smith, Katherine. *Emerging Perspective on Salt Marsh Harvest Mouse Conservation and Management – Ducks, Dikes and Demographics*. 2014. California Department of Fish and Wildlife, UC Davis. Bay Delta Science Conference. <https://scienceconf2014.deltacouncil.ca.gov/sites/default/files/uploads/2014-10-30-306PM1-SMITH.pdf>

tire rutting or will support construction mats without alterations to the existing ground elevations.

- APM BIO-18 - Similar to the vernal pool work window, we recommend that the work window for California tiger salamander (CTS) be adjusted to July 1<sup>st</sup> through October 15<sup>th</sup> to ensure CTS have left the vernal pools and are back in aestivation burrows. Suitable buffers – CTS are known to migrate as far as 1.3 miles from their breeding ponds to their aestivation burrows, and California red-legged frog (CRLF) have been observed to travel as far as two miles overland, therefore, work should not be conducted until the dry season to avoid adverse impacts to these listed species.
- APM BIO-19 – Wetlands and aquatic resources delineations should be conducted during normal rainfall years and not during drought conditions.
- PG&E BMP BIO-1 – “The survey shall occur within the best detection timeframe and within two weeks of construction.” Please clarify what is meant by “the best detection timeframe” and who makes the determination – is it CDFW?
- PG&E BMO BIO-2 – The language of this BMP should be amended to clarify that if active nests of listed species are observed during construction, that the qualified monitor will stop construction, and consult with CDFW and USFWS regarding appropriate next steps before construction can proceed.
- PG&E FP-5 – The language of this FP should be amended to increase the proposed “at least two business days” to “at least five business days” and clarify that work will not proceed until the conservation landowner has acknowledged receipt of the notice.
- PG&E FP-6 – The language of this FP should be revised to read “Minimize potential for ~~covered~~ wildlife species to seek refuge or shelter in pipes...” And “Immediately contact a qualified biologist if a covered species is suspected, or discovered. In the instance that a covered species is discovered, the qualified biologist will report to CDFW/USFWS of how the issue was resolved.”
- PG&E FP-14 – This FP should be modified to clarify that “commercial weed free seed mix” will not be utilized within the Warm Springs Vernal Pool Unit unless approval is received by the Refuge and/or Endangered Species Branch of the USFWS Sacramento Field Office. Any revegetation plans for this location must be approved by USFWS.
- PG&E FP-15 – The buffer of 250 feet should be measured from the Ordinary High-Water Mark of the vernal pool and not the edge of the vernal pool as the edge may vary depending on the how early or late in the season the buffer is delineated. Use of the OHWM is the most protective of the areal extend of a vernal pool.
- PG&E FP-16 – The buffer of 50 feet from the OHWM for wetlands, ponds or riparian areas should be increased to 100 feet, though if the areas support listed species consultation with CDFW/USFWS should be required to ensure the buffer is adequately protective. Buffers for vernal pools must be set by CDFW/USFWS for pools that support listed species. As described above, a 250 feet buffer is likely to be inadequate for CTS that are dispersing from vernal pools to their aestivation burrows.

#### **Impact Assessment:**

- Failure to provide the results of focused studies significantly constrains the public’s ability to understand the magnitude of the project impacts and to provide substantive comments, such as the need to consider different alternatives to the proposed activities (e.g. siting of transmission towers, etc.).
- MM 3.4-1a – This mitigation measure mentions “no-disturbance buffers” but fails to identify how these buffers are determined, whether they will be reviewed and approved by CDFW/USFWS,

nor is any information available regarding the magnitude of potential impacts (numbers of plants, etc.), therefore it is impossible to determine that the impacts would be reduced to a level that is less than significant.

- P.3.4-54 – “Construction vehicle movement would avoid sensitive habitat to the maximum extent possible, and LSPGC would coordinate with USFWS and other applicable agencies to determine whether permits would be required for potential impacts to special-status invertebrates or amphibians (APM BIO-16 and APM BIO-18).” When during this process will this occur? The earlier in the process the better to avoid delays and to ensure impacts truly are reduced to levels that are less than significant. Construction vehicle access should be clearly delineated prior to the permit and consultation processes if traversing sensitive/listed species habitats.
- MM 3.4-1b – “At least 30 days before the scheduled commencement of Project activities, the applicant shall submit a Restoration Plan to CDFW and the CPUC for review and written approval. No Project activities shall commence until the Restoration Plan is approved by CDFW in writing.” The USFWS, U.S. Army Corps of Engineers (Corps) and San Francisco Bay Regional Water Quality Control Board (RWQCB) should be added to the list of agencies who should review and approve the Habitat Restoration and Monitoring Plans.
- P.3.4-55 – Any restoration and revegetation plan must be reviewed and approved by all the appropriate regulatory and resource agencies and not just CPUC and CDFW. Similarly, sign-off on the achievement of final success criteria should be reviewed and approved by all appropriate regulatory and resource agencies. Successful restoration must also include evidence that the hydrological regime or aquatic resources (and hydroperiod of impacted/adjacent vernal pools) has been restored.
- MM 3.4-1d – It should not be assumed that the use of mats for construction vehicles is adequate to ensure adverse changes to the hydrological regime of the vernal pool complex has not occurred. This can only be confirmed by post construction monitoring of the areal extent of impacted and adjacent vernal pools. Based upon the language of this mitigation measure as proposed, it is not possible to make a determination that the impacts of the project would be reduced to a level that is less than significant.
- p.3.4-57 –  
“Should unavoidable impacts be identified during species-specific surveys for vernal pool tadpole shrimp, Western bumblebee, or Crotch’s bumblebee, which are not covered under the Santa Clara Valley HCP, federal ITP coverage would be pursued for vernal pool tadpole shrimp, or state ITP coverage for Western bumblebee and Crotch’s bumblebee, in consultation with CDFW or USFWS (APM BIO-16). For these reasons, construction effects on invertebrates as it relates to this criterion would be mitigated to a less-than-significant level.”

The language above sounds like deferral of mitigation, while consultation with USFWS and CDFW will impose mitigation requirements, the DEIR should at least provide some performance standards to offset the impacts to listed species, such as minimum habitat replacement ratios, etc.

## **Conclusion:**

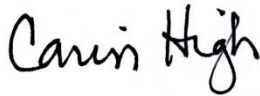
As identified above the DEIR has failed to provide information crucial to inform the public’s understanding of the direct and indirect impacts that may occur if the project is implemented as described. In addition, the proposed mitigation measures are inconsistent in their language and insufficient as written to ensure the impacts of the



project on significant biological resources including the Don Edward San Francisco Bay National Wildlife Refuge will be reduced to a level that is less than significant.

Thank you for the opportunity to provide comments. We request that we be kept informed of additional opportunities to review the proposed project and provide comments.

Respectfully submitted,

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Carin High  
CCCR Co-Chair

A handwritten signature in black ink that reads "Eileen McLaughlin". The script is cursive and fluid.

Eileen McLaughlin  
CCCR Board Member