

PUBLIC UTILITIES COMMISSION



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August 2, 2016

Ms. Jo Lynn Lambert
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RE: Public Disclosure of CEQA Information – Permit to Construct the Fulton-Fitch Mountain Reconductoring Project – Application No. A.15-12-005

Dear Ms. Lambert:

Pacific Gas and Electric Company (PG&E) submitted materials to the California Public Utilities Commission (CPUC or Commission) as supplements to the Application (A.15-12-005) and Proponent's Environmental Assessment (PEA) for a Permit to Construct (PTC) the Fulton-Fitch Mountain Reconductoring Project (project). PG&E has submitted several documents and maps, in response to CPUC's Deficiency Reports #1, #2, and #3, under CPUC Public Utilities Code (PUC) Section 583. However, information in these submittals must be disclosed to the public in order to prepare an adequately supported environmental document pursuant to the California Environmental Quality Act (CEQA).

Background

CEQA documents are public disclosure documents "explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects" (CEQA Guidelines 15149(b)). Under CEQA, the CPUC is required to "find out and disclose all that it reasonably can" to the public in a CEQA document (CEQA Guidelines Section 15144). Exceptions to public disclosure requirements under CEQA include trade secrets (PRC Section 21160), and location of archaeological sites and sacred lands and information about tribal cultural resources (CEQA Guidelines Section 15120(d), Public Resources Code (PRC) Section 21082.3(c)). With the exception of the location data contained in the cultural reports (CEQA Guidelines Section 15120(d)), information contained in various supplemental biological, wetland, paleontological, and other materials must be presented in the CEQA document to provide the public with an accurate disclosure of the environmental setting and environmental impacts caused by a proposed project (*Cadiz Land Co. v. Rail Cycle* (2003) 83 Cal.App. 4th 74, 87 ["Without accurate and complete information pertaining to the setting of the project and surrounding uses, it cannot be found that the [EIR] adequately investigated and discussed the environmental impacts of the development project."]). Limiting the public disclosure of information contained in these supporting materials inhibits due process, public review that is key to the CEQA process, and the Commission's ability to provide the public with a rational analysis for environmental review decisions.

Request

The information submitted in the PEA and in Deficiency Reports #1, #2, and #3 must be provided to the CPUC in a format that can be fully disclosed to the public, as needed to support and substantiate the conclusions of the CEQA document. Note that the information summarized

in the PEA, which has not been noted as confidential, is not always of sufficient detail to substantiate the impact conclusions, hence the need for the technical surveys/data in the deficiency reports. Information that would be included in the CEQA document is identified in Table 1.

Table 1: Public Disclosure of Information Submitted Under PUC Section 583

Item Name Submitted Under PUC Section 583	Information from Item Requires Disclosure in CEQA Document?	Request
Deficiency Report #1, Response #1A (1/25/16)		
PD-06: Detailed Workspaces and Facility Locations	Yes	Provide a statement clarifying that information within the GIS data can be used to create PDF maps that can be disclosed to the public. GIS files shall not be made available to the public by CPUC Staff.
PD-07: Structure Locations, Details, and Unique IDs	Yes	
PD-09: Substation Modifications	Yes	
PD-11: Staging Areas	Yes	
PD-12: Access Roads and Footpaths	Yes	
PD-14: Vegetation Clearance	Yes	This information is necessary to support the technical analysis that is based on the location, type, and quantity of impacts. Provide information on vegetation clearance in a format that can be disclosed to the public.
BR-01: Wetland Delineation Report	Yes	Information in the wetland delineation report must be disclosed in the CEQA analysis, including the location, size, type, and features of wetlands. The information must be provided to support the CEQA analysis as to whether the project would have impacts on wetlands. Maps, survey methods, types of vegetation found, and wildlife supported must be disclosed in order to substantiate impacts and demonstrate the effectiveness of mitigation, if needed. Provide wetland delineations in a format that can be disclosed to the public. The delineation areas disclosed to the public must cover the whole area of potential effect including areas of indirect effects.

Item Name Submitted Under PUC Section 583	Information from Item Requires Disclosure in CEQA Document?	Request
BR-02: Biological Survey Reports	Yes	<p>Information in the biological survey reports must be disclosed in the CEQA analysis, including the surveyor, survey methods, survey timing, survey results, locations of special status species and habitats, maps, consultations with agencies, and proposed mitigation. This information must be disclosed in the CEQA analysis order to substantiate impacts and demonstrate effectiveness of mitigation, if needed. Biological survey reports are typically included as an appendix to the CEQA document.</p> <p>Biological survey reports must be in a format that can be disclosed to the public. The biological survey areas disclosed to the public must cover the whole area of potential effect including areas of indirect effects.</p>
C/PR-02: Paleontological Report	Partially	<p>Only locations of discovered paleontological resources are typically kept confidential. The background information, methods of assessment, surveyors (if applicable), and findings must all be presented in the CEQA document to substantiate the conclusions of the CEQA analysis as to whether or not the project could impact a paleontological resource.</p> <p>Provide the paleontological report in a format that can be disclosed to the public.</p>
Deficiency Report #1, Response #1B (1/29/16)		
GIS data (updated various workspaces, access routes, poles, and resource data)	Yes	<p>Describing and showing on maps, the location of the project components is critical to the CEQA analysis. Locations of cultural and paleontological resources would not be shown.</p> <p>Provide a statement clarifying that information within the GIS data can be used to create PDF maps that can be disclosed to the public., The GIS files shall not be made publicly available.</p>
Deficiency Report #2, Response #1 (3/18/16)		
GIS data (proposed staging areas, landing zones, and workspace zones)	Yes	<p>Describing and showing on maps, the location of the project components is critical to the CEQA analysis, particularly for the noise analysis.</p> <p>Provide a statement clarifying that information within the GIS data can be used to create PDF maps that can be disclosed to the public. GIS files shall not be made available to the public by CPUC Staff.</p>
Deficiency Report #2, Response #3 (4/22/16)		
Updated Wetland Delineation Report and attachments	Yes	<p>See previous explanation for wetland reports.</p> <p>Provide wetland reports in a format that can be disclosed to the public. The delineation areas disclosed to the public must cover the whole area of potential effect including areas of indirect effects.</p>

Item Name Submitted Under PUC Section 583	Information from Item Requires Disclosure in CEQA Document?	Request
Deficiency Report #1, Response #1E (7/12/16)		
Biology Addendum	Yes	See previous explanation for biological resources reports. Provide Biological Addendum in a format that can be disclosed to the public.

Future Submittals

Please note that for future responses to data requests, information related to project components and mapping, biological impacts, wetland impacts, and paleontological impacts must, at a minimum, be submitted in a format that can be disclosed to the public in order for the response to be considered adequate.

Please direct questions related to this application to me at [REDACTED] or [REDACTED].

Sincerely,



Lisa Orsaba
Project Manager
Energy Division, CEQA Unit

- cc: Mary Jo Borak, Supervisor
Elizabeth Dorman, CPUC Attorney
Nate Lishman, PG&E Land Planner
Tania Treis, Project Manager, Panorama Environmental
Aaron Lui, Deputy Project Manager, Panorama Environmental