

**CALENDAR ITEM**

**49**

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N. Lee

C. Spurr

**CONSIDER ADOPTION OF AN ENVIRONMENTAL IMPACT REPORT AND  
ISSUANCE OF A GENERAL LEASE - RIGHT OF WAY USE**

**APPLICANT:**

Pacific Gas and Electric Company  
P.O. Box 770000  
Mail Code N10A  
San Francisco, CA 94177

**AREA, LAND TYPE, AND LOCATION:**

Sovereign lands in the Sacramento River, adjacent to Sutter County Assessor Parcel Numbers 35-030-019, 35-330-020, 35-351-007, and 35-330-014 and Yolo County Assessor Parcel Numbers 057-050-03 and 057-060-04, near the cities of Sacramento and West Sacramento, Sutter, and Yolo counties.

**AUTHORIZED USE:**

Construction, use, operation, and maintenance of a 30-inch diameter steel natural gas pipeline as shown on the attached Exhibit A, and described in Exhibit B.

**LEASE TERM:**

20 years, beginning August 11, 2009.

**CONSIDERATION:**

\$3,100 per year; with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

**SPECIFIC LEASE PROVISIONS:**

Insurance:

Liability insurance in the amount of no less than \$10,000,000.

Bond:

1. Surety Bond: \$50,000

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2. Construction Performance Bond: In an amount equal to the construction cost for those portions of the pipeline that cross sovereign lands and to be submitted prior to the start of construction.
3. Mitigation Monitoring Program Performance Bond: \$400,000

Other:

Applicant is required to submit for Commission staff's review and approval the final engineering design and construction plans at least 60 days prior to construction for those portions of the project crossing sovereign lands.

**OTHER PERTINENT INFORMATION:**

1. Applicant has the right to use the uplands adjoining the lease premises.
2. Pacific Gas and Electric Company (PG&E) is proposing to construct a 30-inch diameter natural gas pipeline (Lines 406 and 407) and a new distribution feeder main from the town of Esparto in Yolo County to the western limits of the city of Roseville in Placer County. The proposed pipeline is approximately 40 miles long and will span four counties: Yolo, Sutter, Sacramento, and Placer. Line 406 will begin at PG&E's existing Lines 400 and 401 in Yolo County at the foot of the Coast Range and extend east to PG&E's existing Line 172A near the town of Yolo. Line 407 will extend from PG&E's existing Line 172A, where the proposed Line 406 terminates, east to PG&E's existing Line 123 near the city of Roseville. The proposed Distribution Feeder Main (DFM) will extend from the new Line 407 south and will parallel Powerline Road to the Sacramento Metro Air Park development in Sacramento County. The proposed Line 407 will cross the Sacramento River, which is located on State-owned sovereign land. An application has been submitted by PG&E for a General Lease – Right of Way Use to authorize the construction, use, operation, and maintenance of the proposed natural gas pipeline.
3. According to PG&E, its existing natural gas transmission system within the Sacramento Valley region no longer provides sufficient capacity to deliver reliable natural gas service to existing customers or to extend service to planned development in the region. PG&E has indicated that without the addition of the Lines 406/407 Natural Gas Pipeline Project (Project), customer service reliability will be at risk and unplanned core customer outages could occur as early as 2009. PG&E's local gas transmission system serving Yolo, Sacramento, El Dorado, Placer, Sutter, Yuba, and Nevada counties has operated at maximum capacity over the last several years and has required an escalating amount of annual investments in pipeline

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capacity to maintain customer service reliability and serve new customers.

4. The Project will service several major residential and commercial development projects that will serve, in part, the following growth areas:
  1. The Metro Air Park, which is a 1,800-acre commercial development just east of the Sacramento International Airport in Sacramento County;
  2. The Sutter Pointe Project, which designates 7,500 acres of the 10,500-acre Industrial/Commercial Reserve area in southern Sutter County for residential, industrial, commercial, and educational development;
  3. The Placer Vineyards Project, which is a planned 5,230 acre development of a mixed-use, master-planned community in Placer County;
  4. The Sierra Vista Specific Plan, which is a proposed 2,100 acre development of residential and commercial uses, schools, parks, and open space in Placer County.
5. A combination of construction techniques will be used to install the new pipeline, including conventional trenching, horizontal directional drilling (HDD), and conventional boring techniques, such as hammer boring and auger boring/jack-and-boring. Conventional trenching involves installation of the pipe within an open trench followed by backfilling. The HDD construction technique uses a hydraulically-powered horizontal drilling rig to tunnel under vertically and/or horizontally-large sensitive surface features such as water areas, levees, and wetlands. Hammer boring is a non-steerable pipeline construction technique that drives an open-ended pipe for short distances under surface features such as roads or smaller water areas. Auger boring/jack-and-boring consist of installing pipe simultaneously with the excavation process.

The Sacramento River crossing will be completed using HDD construction methods for approximately 1,400 feet in length and at a minimum of 60 feet beneath the River. The proposed HDD activities under the River are anticipated to be completed during the work window for aquatic species of June 1 through November 30 in order to avoid impacts to special status fish species.

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6. The pipeline will be constructed, operated, and maintained in accordance with all applicable requirements included in the U.S. Department of Transportation (DOT) regulations in 49 Code of Federal Regulations (CFR) 192, "Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards." The proposed Project will also be subject to California Public Utilities Commission (CPUC) standards as embodied under General Order 112E. These regulations, which are intended to protect the public and to prevent natural gas facility accidents and failures, include specifications for material selection and qualifications; odorization of gas; minimum design requirements; and protection of the pipeline from internal, external, and atmospheric corrosion. In addition, the proposed pipeline will be operated in accordance with PG&E's Emergency Plan Manual.

**7. ENVIRONMENTAL PROCESS:**

The California State Lands Commission (CSLC), as Lead Agency, in accordance with the provisions of the California Environmental Quality Act (CEQA), determined that the proposed Project may result in potentially significant adverse environmental impacts. Therefore, an Environmental Impact Report (EIR) was required pursuant to and in accordance with CEQA (Public Resources Code, section 21000 et seq.), the CEQA Guidelines (California Code of Regulations, Title 14, Chapter 3, section 15000 et seq.), and the CSLC's guidelines implementing CEQA.

The Notice of Preparation (NOP) for the Environmental Impact Report (EIR) was circulated for a 30-day public review and comment period from June 19, 2007 through July 18, 2007. The NOP was sent to federal, state and local agencies, environmental and public interest groups, affected landowners, local libraries, newspapers, and other interested parties (collectively called interested persons). Commission staff conducted four public scoping meetings during the NOP public review period, two in the city of Woodland on July 9, 2007, and two in the city of Roseville on July 10, 2007, to provide an opportunity for agencies and the general public to learn about the proposed project and to participate in the environmental analysis by providing oral or written comments on the scope of the EIR.

The Notice of Availability of the Draft EIR and Notice of Public Hearings was sent to interested persons on April 29, 2009. The Draft EIR was circulated for a 45-day public review period that started on April 29, 2009 and ended June 12, 2009.

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Commission staff also conducted four public hearings, two in the city of Roseville on June 3, 2009, and two in the city of Woodland on June 4, 2009. At the hearings an overview of the proposed project was provided, as well as a brief summary of Draft EIR findings. The Commission's decision-making process was also explained. The public was then given the opportunity to present oral and/or written testimony on the Draft EIR and its contents.

Issues raised during the scoping and public comment period on the Draft EIR were addressed in the Final EIR that was released on July 21, 2009. The Final EIR consists of the Draft EIR, comments received during the 45-day public comment period, responses to those comments, and changes to the text of the Draft EIR. On July 21, 2009, the Commission issued a Notice of Intent to certify the EIR, which was sent to the interested persons.

### **ENVIRONMENTAL ISSUES:**

The Final EIR identified significant impacts for the following areas that can be reduced to less than significant with the application of the mitigation measures required under the Mitigation Monitoring Program (MMP), Exhibit C, attached: Aesthetics, Biological Resources, Cultural, Historic, and Paleontological Resources, Geology and Soils, Hydrology and Water Quality, Noise, Transportation and Traffic, and Greenhouse Gas emissions .

The Final EIR indicates that not all of the identified significant impacts can be reduced to less than significant with the application of the mitigation measures required under the Mitigation Monitoring Program (MMP), Exhibit C, attached. The **Significant and Unavoidable (Class I)** impacts addressed in the Final EIR are discussed below.

### **Air Quality**

The Final EIR found that construction of the proposed project would produce PM<sub>10</sub> (fugitive dust) in excess of the current threshold of one of the air districts in which the proposed project would be located. The Final EIR also found that construction of the proposed project would produce oxides of nitrogen (NO<sub>x</sub>) and reactive organic gas (ROG) emissions greater than the current thresholds of all four air districts where the proposed project would be located. ROG and NO<sub>x</sub> are ozone precursors that react in the atmosphere in the presence of sunlight to form ozone. Ground-level ozone is a respiratory irritant and an oxidant that increases

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susceptibility to respiratory infections and can cause substantial damage to vegetation and other materials.

Residual Air Quality Impacts:

Mitigation measures MM AQ-1a, MM AQ-1b, MM AQ-1c, and MM AQ-1d reduce the Project's construction-generated PM<sub>10</sub> and NO<sub>x</sub> to less than significant for the Yolo-Solano Air Quality Management District, Feather River Air Quality Management District, Sacramento Metropolitan Air Quality Management District, and Placer County Air Pollution Control District. Although implementation of MM AQ-1b would likely reduce ROG emissions associated with the Project, the amount of vicarious ROG reductions from implementation of the mitigation measure is unknown. Currently, there are no programs for offsetting construction emissions of ROG.

While both ROG and NO<sub>x</sub> are required for the formation of ozone and the reduction of either precursor affects the amount of ozone generated, the relationship between ROG and NO<sub>x</sub> concentrations and the formation of ozone is nonlinear. Reductions of both ROG and NO<sub>x</sub> are required to reach attainment of the ozone standards. Since the Project's construction would continue to exceed the regional ROG thresholds, the Project would substantially contribute to the existing exceedance for federal and State ozone standards for the years of construction, and impacts would remain significant.

Approval of the Project would require the CSLC to adopt a Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093), if, after all feasible mitigation is applied, the CSLC finds that the impacts of the Project would not be reduced to a level that is less than significant (see Exhibit E).

**Pipeline Risk of Upset / Public Health and Safety related to Land Use**

Transportation of natural gas by pipeline involves some risk to the public in the event of an accidental release of gas, with the greatest hazard being fire or explosion following a rupture.

Natural gas is composed primarily of methane. If methane were to be released from the proposed Project, it would need to mix with enough oxygen to become combustible. Natural gas does not explode unless it is confined sufficiently within a specific range of mixtures with air and is

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ignited. Methane has an ignition temperature of 1,000° F and is flammable at concentrations between 5 percent and 15 percent in air. Many variables affect the size of an explosion, including rate of vapor cloud formation, size of the vapor cloud within the combustible range, concentration of vapors, degree of vapor cloud confinement, and other factors.

The pipeline and aboveground facilities associated with the proposed project would be designed, constructed, operated, and maintained to meet or exceed the Department of Transportation (DOT) Minimum Federal Safety Standards in Title 49 CFR Part 192 and other applicable Federal and State regulations including the California Public Utilities Commission, General Order 112-E. These regulations, which are intended to protect the public and to prevent natural gas facility accidents and failures, include specifications for material selection and qualification; inspections; leak surveys; valve testing; pipeline patrols; odorization of gas; minimum design requirements; and protection of the pipeline from internal, external, and atmospheric corrosion.

The risk threshold used is a one in a million (1:1,000,000) chance of a fatality. This threshold is used by the California Department of Education for siting schools, and is the industry standard threshold. During operation, there would be individual risks to building occupants, residential, commercial, and school sites, as well as to vehicle occupants. The risks would include the release of natural gas, which could reach a combustible mixture and if an ignition source was present, a fire and/or explosion could occur, resulting in possible injuries and/or deaths.

Over the life of the pipeline (50 years), the probability of a pipeline release that would result in a fire varies from 3.2 percent for a rupture to 7.5 percent for a puncture (1-inch diameter hole); while the probability of a pipeline release that would result in an explosion varies from 2.0 percent for a rupture to 4.7 percent for a puncture. The probability of a puncture or rupture over the life of the pipeline is low and has been used in the probabilistic risk assessment, the results of which are summarized below.

The risks were calculated for each segment of the proposed project as well as the total risk from the project. The Line 406 individual frequency of serious injury or fatality from the proposed project is approximately a 1:350,000 likelihood of a serious injury or fatality annually. The individual frequency for Line 407 East is approximately 1:27,000. The individual frequency for Line 407 West is approximately 1:130,000. The individual

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frequency for the Distribution Feeder Main (DFM) is approximately 1:1,100,000.

The overall project pre-mitigation likelihood of serious injury or fatality is approximately 1:16,000, which is roughly sixty times greater than the generally accepted criteria of 1:1,000,000. The pre- and post-mitigation risk posed by each of the individual line segments, except the DFM, exceed the individual risk significance criteria of 1:1,000,000.

### Residual Risk of Upset / Public Health and Safety Impacts:

The Project design features and the proposed mitigation measures (MM HAZ 2-a and MM HAZ 2-b) reduce the risk by approximately 50 percent.

The overall project anticipated individual risk would still be approximately 1:30,000, which exceeds individual risk significance thresholds (of 1:1,000,000) by a factor of thirty. In addition, the sensitive receptors located within certain distances along the proposed Project alignment would be significantly impacted due to risks of explosion, torch fires, and flash fires. For purposes of CEQA, a sensitive receptor is considered to be a location that houses or attracts children, the elderly, people with illnesses, or other large groups of people. Examples of sensitive receptors include hospitals, residences, convalescent facilities, schools, and parks.

Approval of the Project would require the CSLC to adopt a Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093), if, after all feasible mitigation is applied, the CSLC finds that the impacts of the Project would not be reduced to a level that is less than significant (see Exhibit E).

### **ALTERNATIVES**

Alternatives that were analyzed in the EIR include the No Project Alternative, and twelve different pipeline alignment options. Each option represented a particular segment of alignment that differed in location from the proposed Project so as to attempt to reduce environmental impacts.

While none of the options A through L reduce any of the Class I impacts to less than significant, nor any of the Class II impacts to less than significant

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without mitigation, some of the options do reduce the magnitude of the impacts associated with the proposed Project.

Some of the options (Options A, B, C, D, E, and G) would reduce the number of agricultural fields that would be segmented by the Project pipeline. However, this would result in the movement of the pipeline closer to roadways, residences, and in some cases, businesses, thereby increasing the number of people that would be at greater risk if a leak or rupture of the pipeline were to occur with a subsequent explosion and/or fire.

Option F would decrease the number of trees impacted, but would increase the magnitude of impacts to other biological resources by bordering an ephemeral drainage with adjacent wetlands that the proposed Project avoids.

Option H would result in a reduction in the magnitude of impacts from construction due to the movement of a portion of the pipeline further away from residences. However, this option would increase the magnitude of impacts to biological resources due to an increase in the number of trees, wetlands, and riparian woodland communities impacted within the Yolo Bypass.

Options I and J would reduce the magnitude of risk of upset hazards to a planned high school along Baseline Road by moving the pipeline to a location outside of a 1,500-foot safety buffer requested by the Center Joint Unified School District. Alternative Options K and L would reduce the magnitude of the risk of upset hazards to a planned elementary school south of Baseline Road. The California Education Code, section 17213, specifies that a school district may not approve a project involving the acquisition of a school site unless it determines that the property to be purchased or built upon does not contain a pipeline situated underground or aboveground that carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line used only to supply that school or neighborhood. The California Code of Regulations, Title 5, section 14010(h), states that, "the site shall not be located near an above-ground water or fuel storage tank or within 1,500 feet of the easement of an above ground or underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional."

Option I would reduce the magnitude of impacts to trees, and would reduce construction noise by moving the pipeline location further from

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residences along Baseline Road. However, this option would increase the magnitude of impacts to biological resources by impacting a seasonal wetland, swale, vernal pool and a creek not associated with the proposed alignment. With Option I, the annual likelihood of serious injury or fatality along Line 407 would decrease 14 percent.

Option J would reduce the magnitude of impacts from construction noise due to the movement of a portion of the pipeline to a location with fewer residences. However, this option would increase the magnitude of impacts to biological resources such as seasonal wetlands and swales, and a vernal pool, though reduce impacts to trees (potential Swainson's hawk nesting habitat). This option would also increase the magnitude of disturbance to soils, which may increase the potential for introduction of invasive species. With Option J, the annual likelihood of serious injury or fatality along Line 407 would decrease 10 percent.

Option K would move the pipeline approximately 150-feet further to the north, just beyond the 1,500-foot safety buffer requested by the Center Joint Unified School District. Option K would increase the magnitude of impacts to biological resources such as seasonal wetlands and swales, and a vernal pool. With Option K, the annual likelihood of serious injury or fatality along this segment of Line 407 would decrease approximately 2 percent.

Option L would involve installing the portion of Line 407, which is within 1,500 feet of a planned elementary school, using horizontal directional drilling techniques. Option L would not result in the increase or decrease in the magnitude of any other impacts associated with the proposed alignment. With Option L, the annual likelihood of serious injury or fatality along Line 407 would decrease approximately 3 percent.

### **Environmentally Superior Alternative**

Under the No Project Alternative, a natural gas pipeline would not be constructed between existing Lines 400 and 401 in Yolo County and the existing Line 123 in Placer County. PG&E's studies indicate that the natural gas transmission and distribution system may not be able to reliably serve current customers and planned development in Yolo, Sacramento, Sutter, and Placer counties by 2009. Additionally, continued growth in those counties would put further strain on existing natural gas infrastructure, and could result in emergency restriction or interruption of services. The No Project alternative would not result in any of the impacts

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associated with the proposed Project. However, the No Project alternative would not meet the basic project objectives.

The CEQA Guidelines section 15126.6(e)(2) state, in part, that “If the environmentally superior alternative is the ‘No Project’ alternative, the EIR shall also identify an environmentally superior alternative among the other alternatives.”

The environmentally superior alternative incorporates Alternative Options I and L into the proposed Project alignment. With Option I, the annual likelihood of serious injury or fatality along Line 407 would decrease 14 percent. The decrease in the magnitude of safety risks impacts to planned schools would outweigh the additional magnitude of impacts to biological resources associated with Option I. The increased magnitude of wetland and vernal pool impacts would be mitigated by the measures outlined in Sections 4.4.4 and 4.4.5. With Option L, the annual likelihood of serious injury or fatality along Line 407 would decrease approximately 3 percent. Option L would not result in the increase in the magnitude of any impacts associated with the proposed alignment.

CSLC staff recommends that the environmentally superior alternative, incorporating Alternative Options I and L into the proposed Project, be approved by the Commission (CEQA Guidelines, Title 14, California Code of Regulations, section 15092).

### **OTHER ISSUES**

#### **Agricultural Lands**

The proposed project would temporarily disturb 511 acres of farmland within the 100-foot temporary ROW (329 acres in Yolo County, 91 acres in Sutter County, 18 acres in Sacramento County, and 73 acres in Placer County). The proposed project would prohibit the planting of deep-rooted plants, such as trees or vines within 10 feet on either side of the pipeline centerline (20 feet total within the permanent easement). This would result in the limitation of crops grown on approximately 102 acres of farmland within the four counties to row crops, field crops, or any other crops that do not involve deep rooted plants. The proposed project would result in the loss of 2.0 acres of orchards located within Yolo and Sutter counties. The proposed project would permanently impact 2.55 acres of farmland across all four counties for the permanent above-ground stations.

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The proposed project would bisect several agricultural parcels, and would extend along the edges of several agricultural parcels. Alternative options that would avoid bisecting agricultural parcels are Options A, B, C, D, and E. The alternative options A, B, D, and E would move the proposed pipeline to the edges of agricultural fields along roadways, which would move the pipeline closer to homes. This would increase the risks to people residing in those homes. Options A and B would also increase risks to Durst Organic Farmers, and could create an additional “high consequence area” along the pipeline, because of the number of people that congregate within the 646-foot impact radius of the pipeline. Durst Organic Farms has a processing facility and other buildings that are occupied by 20 or more permanent employees within a minimum of 50 days in a twelve month period (per the 49 CFR 192 regulations).

The amount of farmland permanently impacted (2.55 acres) across all four counties, and the amount of farmland converted from deep rooted plants (orchards) to other types of crops (2.0 acres) in Yolo County does not represent a significant regional loss. Therefore, impacts to agricultural resources are considered to be less than significant and no mitigation measures have been proposed.

### **Planned Developments**

Several developments are planned within Sutter and Placer Counties along the proposed pipeline route. These include the Sutter Pointe Specific Plan area, the Curry Creek Community Plan area, the Sierra Vista Specific Plan area, and the Placer Vineyards Specific Plan area. The planned areas that have certified EIRs and have been adopted by the respective counties are the Placer Vineyards Specific Plan in Placer County, and the Sutter Pointe Specific Plan in Sutter County. In Sacramento County the Sacramento Metro Air Park is planned for development, but has not yet been approved.

The proposed project would not conflict with these development plans, but would be implemented to provide natural gas service to those areas. As with any high pressure natural gas transmission line, there is a risk for injury and fatality due to a leak or unintentional release of natural gas resulting in the potential for explosion or fire. The most frequent causes of incidents include corrosion and outside forces. Proper design, construction, and maintenance of the pipeline would minimize leaks and corrosion

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The Project design features and the proposed mitigation measures (MM HAZ-2a and MM HAZ-2b) reduce the risk by approximately 50 percent. The overall project anticipated individual risk would still be approximately 1:30,000, which exceeds the individual risk significance threshold (of 1:1,000,000) by a factor of thirty. In addition, the sensitive receptors located within certain distances along the proposed Project alignment would be significantly impacted due to risks of explosion, torch fires, and flash fires.

Approval of the Project would require the CSLC to adopt a Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15093), if, after all feasible mitigation is applied, the CSLC finds that the impacts of the Project would not be reduced to a level that is less than significant (see Exhibit E).

### **Planned Schools**

The Center Joint Unified School District requested that alternatives be provided in the EIR that would avoid or lessen public safety impacts to two planned schools along Base Line Road. The California Education Code, section 17213 specifies that a school district may not approve a project involving the acquisition of a school site unless it determines that the property to be purchased or built upon does not contain a pipeline situated underground or aboveground that carries hazardous substances, acutely hazardous materials, or hazardous wastes, unless the pipeline is a natural gas line used only to supply that school or neighborhood. The California Code of Regulation, Title 5, section 14010(h) states that, "the site shall not be located near an aboveground water or fuel storage tank or within 1,500 feet of the easement of an aboveground or underground pipeline that can pose a safety hazard as determined by a risk analysis study, conducted by a competent professional."

Options were included in the Draft EIR to address the planned school sites within the approved Placer Vineyard Specific Plan.

Option I would move the pipeline to a location outside of the Center Joint Unified School District's (CJUSD) 1,500 foot safety buffer of a planned high school along Base Line Road. This option would increase the length of the pipeline by 2,900 feet and would impact an additional seasonal wetland, swale, vernal pool, and creek.

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Option J would also move the pipeline to a location outside of the CJUSD's 1,500 foot safety buffer of a planned high school along Base Line Road. This option would increase the length of the pipeline by 5,250 feet and would impact an additional seasonal wetland, swale, vernal pool, and creek.

Option K would move the pipeline to a location outside of the CJUSD's 1,500 foot safety buffer of a planned elementary school south of Base Line Road. This option would increase the length of the pipeline by 70 feet, would require the redesign or relocation of the proposed HDD at this location, and would impact a vernal pool and seasonal wetlands.

Option L would reduce the risks to a planned elementary school to be located south of Base Line Road and within 1,500 feet of the proposed pipeline. This option would extend the proposed HDD approximately 1,345 feet to the east along Base Line Road. This option would reduce individual risks by increasing the depth of cover to 35 feet through the 1,500 foot safety buffer zone.

**Trees / Nesting Habitat/Swainson's Hawk**

Approximately 206 trees occur within the Project site and would be disturbed due to construction of the proposed Project. An additional 1,967 trees occur within 250 feet of the Project site.

In addition to their potential habitat value, native oak trees receive further protection under state and county tree protection ordinances, which generally recognize the value of oak trees to both the natural and human environments. Oaks bring with them a host of species that rely on acorns as a food source particularly during winter months.

Installation of the pipeline has the potential to significantly impact Swainson's hawk and other protected bird nesting habitat. There are several large, native trees within the Project site, many of which have recorded occurrences of nesting by Swainson's hawk.

PG&E shall avoid disturbance to active raptor nests at all locations. Pre-construction surveys shall be performed in all areas to identify potential raptor nesting sites within or near the ROW.

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Implementation of APM BIO-29, APM BIO-30, MM BIO-2a, and MM BIO-2b would reduce impacts to native trees and nesting bird species to less than significant. Implementation of the APMs and MMs ensures that no net loss of native trees would occur as a result of Project construction, that all native trees within the Project site are identified and mapped; that avoided trees are identified and protected during Project construction; and that trees directly or indirectly impacted by Project construction are replaced.

**Wetlands**

The proposed Project would impact wetlands and vernal pools along the pipeline route, resulting in a long-term change in its hydrology or soils, or the composition of vegetation of a unique, rare, or special concern wetland community.

There are several APMs incorporated into the Project design that reduce potential direct impacts to federal and State jurisdictional wetlands and water, including APM BIO-1, APM BIO-2, APM BIO-3, APM BIO-5, APM BIO-7, APM BIO-12; APM BIO-13, APM BIO-14, APM BIO-16, APM BIO-17, APM BIO-18, APM BIO-19, APM BIO-20, APM BIO-21, APM BIO-22, APM BIO-23, APM BIO-24, and APM BIO-35. Implementation of the APMs and the additional mitigation measures MM BIO-1a, MM BIO-1b, and MM BIO-1c will reduce impacts to federal and State-jurisdictional wetlands and water features to less than significant.

Implementation of the APMs and MMs would ensure that where wetland and/or vernal pool avoidance is not possible, PG&E will develop and implement a Wetland Restoration and Monitoring Plan that would describe restoration methods and compensatory mitigation, and that backfilling and restoration activities properly ensure that wetland functionality is restored to disturbed features. For vernal pool habitat suitable for special-status crustaceans, direct, unavoidable impacts will be mitigated through preservation and creation of additional habitat at an approved mitigation bank.

8. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15025), the staff has prepared an EIR identified as Commission EIR No. 740, State Clearinghouse No. 2007062091. The EIR was prepared and circulated for public review pursuant to the provisions of the CEQA. A Mitigation Monitoring Program has been prepared in conformance with the

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provisions of the CEQA (Public Resources Code section 21081.6) and is contained in Exhibit C, attached hereto.

Findings made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, section 15091) are contained in Exhibit D, attached hereto.

A Statement of Overriding Considerations made in conformance with the State CEQA Guidelines (Title 14, California Code of Regulations, Section 15093) is contained in Exhibit E, attached hereto.

State Lands Commission staff recommends that the environmentally superior alternative, incorporating Alternative Options I and L into the proposed Project, be approved by the Commission. (CEQA Guidelines, Title 14, California Code of Regulations, Section 15092).

9. This activity involves lands which have NOT been identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. However, the Commission has declared that all lands are "significant" by nature of their public ownership (as opposed to "environmentally significant"). Since such declaration of significance is not based upon the requirements and criteria of Public Resources Code sections 6370, et seq., use classifications for such lands have not been designated. Therefore, the finding of the project's consistency with the use classification as required by Title 2, California Code of Regulations, section 2954 is not applicable.

**APPROVALS REQUIRED:**

U.S. Army Corps of Engineers; U.S. Fish and Wildlife Service; National Oceanic and Atmospheric Administration Fisheries; Central Valley Regional Water Quality Control Board; California Department of Fish and Game; California Department of Transportation; State Reclamation Board; Feather River Air Quality Management District; Placer County Air Pollution Control District; Yolo-Solano Air Quality Management District; Yolo County Flood Control and Conservation District; City of Roseville; Sacramento, Yolo, Placer, and Sutter counties; and Reclamation Districts 730, 1000, 1600, and 2035

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**EXHIBITS:**

- A. Site and Location Map
- B. Land Description
- C. Mitigation Monitoring Program (Click on link below)  
[http://www.slc.ca.gov/Division\\_Pages/DEPM/DEPM\\_Programs\\_and\\_Reports/PG\\_E\\_Line\\_406\\_407\\_Pipeline\\_Project/PG\\_E\\_Line\\_406\\_407\\_Pipeline\\_Project.html](http://www.slc.ca.gov/Division_Pages/DEPM/DEPM_Programs_and_Reports/PG_E_Line_406_407_Pipeline_Project/PG_E_Line_406_407_Pipeline_Project.html)
- D. CEQA Findings
- E. Statement of Overriding Considerations

**PERMIT STREAMLINING ACT DEADLINE:**

February 1, 2010

**RECOMMENDED ACTION:**

IT IS RECOMMENDED THAT THE COMMISSION:

**CEQA FINDING:**

CERTIFY THAT EIR NO. 740, STATE CLEARINGHOUSE NO. 2007062091, WAS PREPARED FOR THIS PROJECT PURSUANT TO THE PROVISIONS OF THE CEQA, THAT THE COMMISSION HAS REVIEWED AND CONSIDERED THE INFORMATION CONTAINED THEREIN, AND THAT THE EIR REFLECTS THE COMMISSION'S INDEPENDENT JUDGMENT AND ANALYSIS.

ADOPT THE MITIGATION MONITORING PROGRAM, AS CONTAINED IN EXHIBIT C, ATTACHED HERETO.

ADOPT THE FINDINGS, MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15091, AS CONTAINED IN EXHIBIT D, ATTACHED HERETO.

ADOPT THE STATEMENT OF OVERRIDING CONSIDERATIONS MADE IN CONFORMANCE WITH TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15093, AS CONTAINED IN EXHIBIT E, ATTACHED HERETO.

APPROVE THE ENVIRONMENTALLY SUPERIOR ALTERNATIVE, INCORPORATING ALTERNATIVE OPTIONS I AND L INTO THE PROPOSED PROJECT. (CEQA GUIDELINES, TITLE 14, CALIFORNIA CODE OF REGULATIONS, SECTION 15092).

**AUTHORIZATION:**

AUTHORIZE ISSUANCE OF A GENERAL LEASE – RIGHT OF WAY USE TO PACIFIC GAS AND ELECTRIC COMPANY, BEGINNING

CALENDAR ITEM NO. 49 (CONT'D)

AUGUST 11, 2009, FOR A TERM OF 20 YEARS, FOR THE CONSTRUCTION, USE, OPERATION, AND MAINTENANCE OF A 30-INCH DIAMETER STEEL NATURAL GAS PIPELINE AS SHOWN ON EXHIBIT A (FOR REFERENCE PURPOSES ONLY) AND DESCRIBED IN EXHIBIT B ATTACHED AND BY THIS REFERENCE MADE A PART HEREOF; CONSIDERATION IN THE AMOUNT OF \$3,100 PER YEAR; WITH THE STATE RESERVING THE RIGHT TO FIX A DIFFERENT RENT PERIODICALLY DURING THE LEASE TERM, AS PROVIDED IN THE LEASE; GENERAL LIABILITY INSURANCE IN THE AMOUNT OF NO LESS THAN \$10,000,000; SURETY BOND IN THE AMOUNT OF \$50,000; A CONSTRUCTION PERFORMANCE BOND IN AN AMOUNT EQUAL TO THE CONSTRUCTION COST OF THOSE PORTIONS OF THE PIPELINE THAT CROSS SOVEREIGN LANDS, AND A MITIGATION MONITORING PROGRAM PERFORMANCE BOND IN THE AMOUNT OF \$400,000.