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STAFF REPORT: PERMIT AMENDMENT

Amendment Application No.: 9-17-0408-A1

Applicant: Pacific Gas & Electric Company

Location: Along nine segments of existing natural gas transmission pipeline rights-of-way, including six sites in the City of Eureka and three sites in unincorporated Humboldt County ([Table 1](#) and [Exhibits 1, 2](#)).

Description of Previously Approved Project: Vegetation maintenance, including tree removal and clearing of woody vegetation in riparian, wetland and upland habitats, at 24 individual sites.

Proposed Amendment: Vegetation maintenance at 9 additional sites, including removal of 17 trees and clearing of 0.2 acres of woody vegetation in riparian and wetland habitats.

Staff Recommendation: Approval with conditions.

SUMMARY OF STAFF RECOMMENDATION

This proposed amendment would add nine new project sites to Pacific Gas & Electric Company (PG&E)'s natural gas pipeline vegetation maintenance program, being carried out along multiple segments of existing buried pipeline right-of-way (ROW) in the Humboldt Bay Area ([Exhibits](#)

1, 2). At each of the project segments ([Table 1](#)), all woody vegetation within five feet of the pipeline (a 10-foot-wide strip) and all trees out to 14 feet (a 28-foot wide strip) would be removed in order to improve emergency access, allow for pipeline inspection and maintenance, and reduce the risk that deep-rooted vegetation would damage the anti-corrosion “wrap” that surrounds the pipeline. The proposed work is a component of PG&E’s statewide Community Pipeline Safety Initiative (CPSI), and is necessary to address pipeline safety concerns and improve emergency access in accordance with utility standards and federal law.

The proposed project qualifies as a repair and maintenance activity. Although certain types of repair and maintenance projects are exempt from coastal development permit (CDP) requirements, the Commission’s adopted 1978 guidelines on such projects (*Repair, Maintenance and Utility Hookup Exclusions from Permit Requirements*) indicate that a CDP is required for the removal of trees greater than 12 inches in diameter at breast height (dbh) and more than 500 square feet of brush, while Section 13252 of the Commission’s regulations requires a CDP for repair and maintenance activities that are located in environmentally sensitive habitat areas (ESHA) and include the placement or removal of solid material and/or the presence of mechanized equipment. A significant portion of the proposed vegetation removal would be located within ESHA, and would involve the removal of solid material (i.e., vegetation), and the clearing of large trees (≥ 12 inches dbh) and areas of brush in excess of 500 square feet. While a CDP is therefore required, the Commission is limited to reviewing whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act.

Previously-approved CDP No. 9-17-0408 allowed for vegetation removal at 24 individual project sites subject to a number of special conditions providing necessary protections for environmentally sensitive habitat areas (ESHA), wetlands, coastal streams, sensitive species, and cultural resources. The Commission also included [Special Condition 7](#), which required preparation of a Habitat Mitigation Plan providing for: (a) restoration (invasive species removal and native plant replanting) of riparian and wetland habitats, at 3:1 and 4:1 ratios, respectively, to compensate for project impacts to these ESHAs; (b) new planting of native trees, at a 3:1 ratio of planting to removal, to compensate for the removal of riparian trees and large conifers; and (c) establishing performance standards and a 5-year monitoring program. These special conditions would continue to apply to the additional project work sites proposed under this amendment.

The proposed activities at the nine additional work sites would result in the removal of an additional 17 riparian trees and the clearing of 0.23 acres of coastal wetlands and riparian woodland ESHA. In order to mitigate the additional impacts to these ESHAs associated with the proposed amendment, staff recommends that [Special Condition 7](#) be modified to include an additional 0.76 acres of riparian and wetland habitat restoration and the planting of 51 additional riparian trees. As conditioned, staff recommends the Commission find the vegetation work consistent with the habitat, wetlands, water quality, and other policies of the Coastal Act.

Commission staff recommends **approval** of coastal development permit amendment application 9-17-0408-A1, as conditioned. The motion and resolution are on Page 4 of this report. The standard of review for this coastal development permit amendment application is the Chapter 3 policies of the Coastal Act.

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APPENDICES

[Appendix A](#) – Substantive File Documents

[Appendix B](#) – Previously Approved Conditions for CDP No. 9-17-0408

EXHIBITS

[Exhibit 1 – Project Locations](#)

[Exhibit 2 – Project Work Sites](#)

[Exhibit 3 – Applicant’s Proposed Avoidance and Minimization Measures](#)

[Exhibit 4 – Applicant’s Proposed Cultural Resource Protection Measures](#)

I. MOTION AND RESOLUTION

Motion:

*I move that the Commission **approve** the amendment to Coastal Development Permit 9-17-0408 subject to conditions set forth in the staff recommendation.*

Staff recommends a **YES** vote on the foregoing motion. Passage of this motion will result in approval of the permit amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of Commissioners present.

Resolution:

The Commission hereby approves the Coastal Development Permit amendment 9-17-0408-A1 and adopts the findings set forth below on grounds that the development, as amended, will be in conformity with the policies of Chapter 3 of the Coastal Act and will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3. Approval of the amended permit complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the development on the environment, or 2) there are no further feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

II. STANDARD AND SPECIAL CONDITIONS

The Standard Conditions 1-5 and Special Conditions 1-11 of CDP 9-17-0408 remain in full force and effect. **Special Conditions 7 and 11** are modified as shown below in ~~bold double strikethrough~~ and bold double-underlined text. [Appendix B](#) provides the text of all previously approved conditions.

7. **Habitat Mitigation Plan.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall submit to the Executive Director for review and approval a Habitat Mitigation Plan that describes a compensatory mitigation program addressing the losses of riparian and wetland habitat, riparian woodland trees, and large conifer trees associated with the proposed project. The Executive Director shall complete the required review within 30 days. The Mitigation Plan may be directly implemented by the Permittee or by a separate entity receiving funding from the Permittee, or a combination of the two. In all cases, the Plan shall fulfill the requirements detailed below, and the Permittee shall be responsible for ensuring that the requirements of the condition are met.

A. Restoration Requirements: The Mitigation Plan shall provide for the following:

- (1) Restoration of at least ~~3.7~~ 4.15 acres of riparian woodland or scrub habitat, including a minimum of ~~249~~ 372 native riparian trees, to compensate for the

clearing of the clearing of ~~1.24~~ 1.37 acres of these habitats and removal of ~~83~~ 134 trees under the proposed project, as amended;

- (2) Restoration of ~~0.22~~ 0.53 acres of freshwater or estuarine wetland habitat to compensate for the clearing of ~~0.055~~ 0.13 acres of these habitats under the proposed project, as amended;
- (3) Planting of at least 385 native conifer trees to compensate for the removal of large trees under the proposed project.

Wherever possible, habitat restoration and tree planting shall occur at or adjacent to the project sites undergoing vegetation removal, consistent with pipeline maintenance and safety considerations and subject to landowner approval. If these or other factors preclude on-site habitat restoration, off-site mitigation locations within the coastal zone may be used. Any off-site locations for restoration and tree planting shall be identified, and a description of the existing conditions warranting restoration provided.

For the purposes of the Plan, “restoration” shall consist of the removal of invasive or non-native vegetation from an existing, degraded riparian or wetland habitat area, to be followed by the planting of native trees, shrubs and herbaceous plants appropriate to the respective habitat type. The Plan shall provide a description of restoration activities including specific methodologies for invasive species removal and native species re-establishment, and shall identify the native species to be planted. Where feasible, invasive or non-native species shall be removed by hand, and any herbicide use will be minimized and limited to invasive/non-native species. Planting of native species shall take place in the fall to enable root establishment during the rainy season. Invasive species removal activities shall occur at least once annually following the initial treatment until performance criteria for native species cover have been achieved (see below).

- B. Reporting and Monitoring: The Plan shall include and describe a five-year, annual monitoring program, including annual reporting to the Executive Director, to assure the long-term success of the habitat restoration and tree-planting program. Documentation for all years subsequent to the first year shall identify the success rate of the restored habitat area(s) and tree plantings, as measured by percent cover and percent of native vegetation within the area(s) (restored habitat) and percent survival (for trees). If after five years the restored habitat area(s) do not provide at least 80% cover of native vegetation and at least 80% total native vegetation, the Permittee shall either propose retreating and/or replanting the area(s) to achieve those levels or propose additional restoration areas. Similarly, if the five-year survival rate of the planted trees does not exceed 80%, the Permittee shall undertake additional tree-planting until this threshold is achieved.

11. **Restriction on Future Vegetation Management.** This permit authorizes only the vegetation removal activities specifically described and quantified in the Permittee’s CDP and CDP amendment application materials, and as summarized in [Table 1](#) of this staff report and Table 1 of the staff report for the original CDP. Accordingly, any future vegetation management at the project sites shall require an amendment to this permit from

the Commission, unless the Executive Director determines that no amendment is legally necessary.

III. FINDINGS AND DECLARATIONS

A. PROJECT BACKGROUND

On July 13, 2017, the Commission approved coastal development permit (CDP) No. 9-17-0408 allowing Pacific Gas & Electric Company (PG&E) to perform vegetation maintenance along 24 segments of existing, buried high-pressure natural gas transmission pipelines in the Humboldt Bay Area, including sites in the City of Arcata and unincorporated Humboldt County. The project, which is a component of PG&E's statewide Community Pipeline Safety Initiative (CPSI), is necessary to address pipeline safety concerns and improve emergency access in accordance with PG&E utility standards and federal law requiring the management of vegetation within gas transmission rights-of-way (ROW). Clearing of vegetation along the existing gas lines will further several safety objectives, including: (1) Allowing access to the lines for ground-level surveys and leak testing; (2) clearing the ROW of deep-rooted vegetation that has the potential to damage the protective "wrap" around the gas pipelines which prevents corrosion; (3) facilitating aerial surveys of the pipelines; and (4) allowing for quicker access, shorter response times and timely repair of the pipelines in the event of a gas leak or other emergency.

At each work site, the approved vegetation maintenance consists of the manual removal of all woody vegetation within five feet of the pipelines, and all trees out to 14 feet. In aggregate, the approved project will result in the removal of 107 riparian trees, 163 large conifer trees (defined as those with a diameter of 12 inches or greater at a height of 4.5 feet, "diameter at breast height" or "dbh"), numerous smaller trees (less than 12 inches dbh), and approximately 62,000 square feet (1.42 acres) of brush and shrubs. The approved vegetation maintenance will be carried out within or adjacent to several coastal habitat types, including riparian woodland, upland forest and scrub, non-native grassland, freshwater and estuarine wetlands, and coastal streams and watercourses. To date, PG&E has not yet fulfilled all pre-project special conditions, and approved vegetation maintenance activities have not yet commenced.

B. PROPOSED PERMIT AMENDMENT

PG&E proposes to add nine new work sites to the previously-approved project. The additional project sites would include six along the Highway 101 corridor, near Fay Slough, in the City of Eureka, and three others in unincorporated Humboldt County ([Exhibits 1, 2](#)). All proposed vegetation removal would occur within existing PG&E ROW. Vegetation communities within or adjacent to the project sites include riparian woodland, upland forest and scrub, non-native grassland, and freshwater and estuarine wetlands (*see* [Table 1](#), below). Several of the project segments would also include vegetation removal adjacent to or within the banks of coastal streams and watercourses. Vegetation proposed for removal includes native and exotic species.

At each of the additional work sites, PG&E proposes to remove all woody vegetation within five feet of the pipeline, and all trees out to 14 feet. In total, the proposed project amendment would result in the removal of 17 riparian trees and approximately 9,180 square feet (0.21 acres) of brush and shrubs. Specific information on the vegetation removal proposed for each site included within this amendment is given in [Table 1](#), below.

Table 1: Gas pipeline right-of-way vegetation maintenance activities proposed under CDP Amendment Application No. 9-17-0408-A1.

<i>Site #</i>	<i>Location</i>	<i>Proposed Tree Removal</i>	<i>Proposed Brush Removal</i> (vegetation type)	<i>Existing Conditions and Environmental Setting</i>
RW-V-9596-15	Hwy. 101 between Indianola Cutoff and Brainard APN: 402-161-012	none	720 sq. ft. blackberry (freshwater & estuarine wetland)	645-ft long strip south of road containing estuarine and freshwater emergent/shrub wetlands, within CDFW Fay Slough Wildlife Area; adjacent to an unnamed watercourse. Contains suitable habitat for several special status species (Tables 2 , 3).
RW-V-9597-15	Hwy. 101 between Indianola Cutoff and Brainard APN: 402-161-012	none	720 sq. ft. blackberry (freshwater & estuarine wetland)	820-ft long strip south of road containing estuarine and freshwater emergent/shrub wetlands, within CDFW Fay Slough Wildlife Area; adjacent to an unnamed watercourse. Contains suitable habitat for several special status species (Tables 2 , 3).
RW-V-1069-16	Hwy. 101 at Brainard APN: 402-161-001	none	1,224 sq. ft. blackberry and unspecified brush (freshwater & estuarine wetland)	590-ft long strip south of road containing estuarine and freshwater emergent/shrub wetlands, within CDFW Fay Slough Wildlife Area; within/adjacent to unnamed sloughs Contains suitable habitat for several special status species (Tables 2 , 3).
RW-V-9594-15	Hwy. 101 at Brainard APN: 402-271-001	none	720 sq. ft. blackberry (freshwater & estuarine wetland)	1,130-ft long strip south of road containing estuarine and freshwater emergent/shrub wetlands, within CDFW Fay Slough Wildlife Area; adjacent to an unnamed watercourse. Contains suitable habitat for several special status species (Tables 2 , 3).
RW-V-1079-16	Hwy. 101 at Brainard APNs: 017-082-001; 017-102-009	1 red alder	1,980 sq. ft. blackberry and unspecified brush (riparian/wetland)	720-ft long strip south of road containing estuarine and freshwater emergent/shrub wetlands, within CDFW Fay Slough Wildlife Area; adjacent to an unnamed watercourse. Suitable habitat for special status species (Tables 2 , 3).
RW-V-1056-16	Hwy. 101 at Brainard APNs: 017-102-006, -010, -012	2 buckthorn 2 elderberry	2,448 sq. ft. brush (riparian/wetland)	865-ft long strip south of road containing estuarine/freshwater wetlands and riparian vegetation, including willow, buckthorn, elder-berry, and blackberry. Within the banks of Fay Slough and adjacent to other watercourse, CDFW Fay Slough Wildlife Area. Suitable habitat for special status species (Tables 2 , 3).
RW-V-1131-16	Myrtle Ave. at Blue Blossom Ln., Indianola APN: 402-071-059	5 red alder	720 sq. ft. unspecified brush (riparian/wetland)	240-ft roadside strip of mature riparian woodland dominated by red alder and willow, understory of Himalayan blackberry. Includes unnamed watercourse with wetland vegetation.
RW-V-1038-16	East of Hwy. 101 at Herrick Ave., Pine Hills APNs: 302-181-033, -034	none	1,296 sq. ft. brush (riparian)	Primarily dense riparian vegetation, incl. Himalayan blackberry, elderberry, willow, etc. Adjacent to unnamed watercourse. Contains suitable habitat for special status plants and white-tailed kite (Tables 2 , 3).
RW-V-1159-16	East of Meadowbrook Dr., Spruce Point APN: 305-031-006	7 willow	108 sq. ft. blackberry (riparian/wetland)	Primarily mature riparian woodlands and freshwater wetlands within the banks of Elk River. Contains suitable habitat for special status fish species, including critical habitat for Chinook salmon and steelhead. Suitable foraging habitat for white-tailed kite. (Tables 2 , 3).

Vegetation Removal Methods

Vegetation removal would be performed manually with chainsaws, truck-towed or track chippers, bucket trucks, and similar equipment. No ground-disturbing activities such as excavation or removal of plant roots are proposed. Rather, vegetation would be trimmed to within 6 inches of ground level, and vegetation within the herbaceous layer would be left intact. Where work is located adjacent to or within environmentally sensitive habitat areas (ESHA, see below), PG&E proposes to work with hand tools only (e.g., chainsaws, loppers), and to haul vegetation to a designated location to be chipped. Outside of ESHA and where appropriate, vegetation would be lopped, chipped, and removed or scattered on-site. PG&E states that its work crews would clearly identify and protect non-selected trees and understory ground cover to ensure they are not impacted by work activities. As described in the staff report for the original permit, PG&E has proposed to implement a variety of protective measures to minimize habitat disruption and other environmental impacts associated with the vegetation removal activities.

Project Timing and Duration

Vegetation removal at the nine additional work sites is expected to begin in the late summer or fall of 2017 following the issuance of all required permits and authorizations, with the goal of completing the proposed work by the end of the year. However, because of the potential for delays related to severe weather, the work at certain project sites may be delayed until the dry season in 2018. The work at any one site is expected to require one to three days. Project activities would occur during daylight hours and would not require work at night or the use of artificial lighting.

C. OTHER AGENCY APPROVALS

City of Eureka and County of Humboldt

Six of the proposed additional project work sites are located within the City of Eureka and three sites are located within unincorporated Humboldt County. Each local jurisdiction has indicated that no additional permits or authorizations are required for the proposed vegetation maintenance, other than a CDP.

Consolidated Permit

Coastal Act Section 30601.3 provides the Commission with the authority to act upon a consolidated permit for proposed projects that require a coastal development permit from both a local government with a certified local coastal program (LCP) and the Commission. This authority is triggered if the applicant, local government, and Executive Director (or Commission) consent to consolidate the permit. The standard of review for such permits is the Chapter 3 policies of the Coastal Act, with the certified LCPs providing guidance. Three of the proposed additional vegetation removal project sites (RW-V-1038-16, -1131-16, and -1159-16) are located within the LCP jurisdiction of the County of Humboldt. In June of 2017, the County Planning and Building Department, with the consent of the applicant and Executive Director, agreed to consolidate permit action under this permit for those aspects of the proposed project within its jurisdiction and those aspects within the Commission's retained permit jurisdiction, consistent with Coastal Act Section 30601.3. The six other work sites included in the proposed amendment are located within the Commission's retained jurisdiction.

D. PERMIT AUTHORITY, EXTRAORDINARY METHODS OF REPAIR AND MAINTENANCE

Coastal Act Section 30610(d) generally exempts from Coastal Act permitting requirements the repair or maintenance of structures that does not result in an addition to, or enlargement or expansion of the structure being repaired or maintained. However, the Commission retains authority to review certain extraordinary methods of repair and maintenance of existing structures that involve a risk of substantial adverse environmental impact as enumerated in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part (emphasis added):

Notwithstanding any other provision of this division, no coastal development permit shall be required pursuant to this chapter for the following types of development and in the following areas: ...

(d) Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of, the object of those repair or maintenance activities; provided, however, that if the commission determines that certain extraordinary methods of repair and maintenance involve a risk of substantial adverse environmental impact, it shall, by regulation, require that a permit be obtained pursuant to this chapter.

Section 13252 of the Commission administrative regulations (14 CCR 13000 *et seq.*) provides, in relevant part, for the following (emphasis added):

(a) For purposes of Public Resources Code section 30610(d), the following extraordinary methods of repair and maintenance shall require a coastal development permit because they involve a risk of substantial adverse environmental impact:...

(3) Any repair or maintenance to facilities or structures or work located in an environmentally sensitive habitat area, any sand area, within 50 feet of the edge of a coastal bluff or environmentally sensitive habitat area, or within 20 feet of coastal waters or streams that include:

(A) The placement or removal, whether temporary or permanent, of rip-rap, rocks, sand or other beach materials or any other forms of solid materials;

(B) The presence, whether temporary or permanent, of mechanized equipment or construction materials.

All repair and maintenance activities governed by the above provisions shall be subject to the permit regulations promulgated pursuant to the Coastal Act, including but not limited to the regulations governing administrative and emergency permits. The provisions of this section shall not be applicable to methods of repair and maintenance undertaken by the ports listed in Public Resources Code section 30700 unless so provided elsewhere in these regulations. The provisions of this section shall not be applicable to those activities specifically described in the document entitled Repair, Maintenance and Utility Hookups, adopted by the Commission on September 5, 1978 unless a proposed activity will have a

risk of substantial adverse impact on public access, environmentally sensitive habitat area, wetlands, or public views to the ocean...

Section II-B-1-e of the document entitled “Repair, Maintenance and Utility Hookup Exclusions from Permit Requirements” adopted by the Commission on September 5, 1978 states the following, in relevant part (emphasis added):

e. Grading and Clearing. Maintenance activities shall not extend to the construction of any new roads to the site of the work. A permit is required for grading an undisturbed area of greater than 500 sq. ft., removal of trees exceeding 12 inches dbh or clearing more than 500 sq. ft. of brush or other vegetation...

As discussed previously, the proposed project involves the removal of vegetation as a part of the maintenance of several existing natural gas pipelines within PG&E’s ROW, and is necessary in order to maintain pipeline functionality and safety. Section 30610 of the Coastal Act, Section 13252 of the Commission’s administrative regulations, and the “Repair, Maintenance, and Utility Hook-Up Exclusions from Permit Requirements” guidelines (1978 Utility Exclusions) adopted by the Commission in 1978 provide for the exemption of certain types of repair and maintenance projects from CDP requirements, unless certain “*extraordinary methods of repair and maintenance*” enumerated in the regulation could “*involve a risk of substantial adverse environmental impact.*”

The proposed vegetation management along the additional nine pipeline segments presents a risk of substantial adverse environmental impact pursuant to Section 30610 of the Coastal Act and Section II-B-1-e of the 1978 Utility Exclusions because the various projects involve the removal of large trees (greater than 12 inches dbh), the clearing of more than 500 square feet (0.01-acre) of brush or other vegetation, and/or would involve the permanent removal of vegetation within 50 feet of an ESHA (riparian habitats and areas with potential to support rare, protected or sensitive plant and wildlife species – see [Table 1](#) and [Section IV.E](#), below) and/or within 20 feet of coastal waters, including streams and wetlands. As presented in [Table 1](#), the proposed amendment involves the removal of 17 trees (one greater than 12 inches dbh) and the clearing of 9,180 square feet of brush from nine individual work sites within riparian woodland, freshwater and estuarine wetlands and/or coastal streams. The proposed vegetation maintenance therefore requires a coastal development permit under Section 30610 of the Coastal Act, Section II-B-1-e of the 1978 Utility Exclusions, and Section 13252 of the Commission regulations.

In considering a permit application (or an amendment thereto) for a repair or maintenance project pursuant to the above-cited authority, the Commission reviews whether the proposed *method* of repair or maintenance is consistent with the Chapter 3 policies of the Coastal Act. In other words, the Coastal Commission’s authority over repair and maintenance activities applies only to the methods by which a repair and maintenance activity is carried out, not the repair and maintenance activity itself. Also, the Commission’s evaluation of such repair and maintenance projects does not extend to an evaluation of the underlying existing development’s conformity with the Coastal Act.

E. ENVIRONMENTALLY SENSITIVE HABITAT AREAS

Section 30107.5 of the Coastal Act states:

“Environmentally sensitive area” means any area in which plant or animal life or their habitats are either rare or especially valuable because of their special nature or role in an ecosystem and which could be easily disturbed or degraded by human activity and developments.

Section 30240 of the Coastal Act states:

- (a) *Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas.*
- (b) *Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas, and shall be compatible with the continuance of those habitat and recreation areas.*

The Humboldt Bay Area Plan section of the Humboldt County LCP includes Natural Resources Protection Development Policy 1a, which provides guidance on the identification of environmentally sensitive habitats in areas around Humboldt Bay:

- 1. *Identification of Environmentally Sensitive Habitats*
 - a. *Environmentally sensitive habitats within the Humboldt Bay Planning Area include:*
 - (1) *Wetlands and estuaries, including Humboldt Bay and the mouth of the Mad River.*
 - (2) *Vegetated dunes along the North Spit to the Mad River and along the South Spit.*
 - (3) *Rivers, creeks, gulches, sloughs and associated riparian habitats, including Mad River Slough, Ryan Slough, Eureka Slough, Freshwater Slough, Liscom Slough, Fay Slough, Elk River, Salmon Creek, and other streams.*
 - (4) *Critical habitats for rare and endangered species listed on state or federal lists.*

The proposed vegetation removal work at the nine additional project sites would occur within or adjacent to sensitive vegetation communities and habitat types ([Table 1](#)), including riparian woodland and freshwater and estuarine wetlands. As discussed in greater detail in the staff report for CDP 9-17-0408, these sensitive, rare, and easily degraded habitat types constitute environmentally sensitive habitat areas (ESHA) under the Coastal Act and Humboldt County LCP. Most of the project sites also contain suitable habitat for rare and sensitive species and nesting birds that, if present, could be easily disturbed or harmed by the proposed removal of trees and brush. Sensitive plant species that may occur at project sites include the federal- and state-listed, endangered Western lily (*Lilium occidentale*), and several species with California Rare Plant Ranks (CRPR) of 1B or 2B, considered by the CDFW to be rare, threatened or endangered in California, with a moderate to high degree and immediacy of threat. Sensitive

plant species with the potential to occur in the riparian and wetland habitats at project sites are listed in [Table 2](#).

Table 2: Sensitive Plant Species with Potential to Occur at Project Sites

Scientific Name	Common Name	Regulatory Status*	Work Sites with Suitable Habitat
<i>Carex lyngbyei</i>	Lyngbye's sedge	CRPR 2B	RW-V-1038, -1056, -1069, -1079, -9594, -9596, -9597
<i>Carex praticola</i>	Northern meadow sedge	CRPR 2B	RW-V-1131
<i>Castilleja ambigua</i> var. <i>humboldtensis</i>	Humboldt Bay owl's clover	CRPR 1B	RW-V-1038, -1056, -1069, -1079, -9594, -9596, -9597
<i>Chloropyron maritimum</i> ssp. <i>palustre</i>	Point Reyes salty bird's beak	CRPR 1B	RW-V-1056, -1069, -1079, -9594, -9596, -9597
<i>Lathyrus palustris</i>	Marsh pea	CRPR 2B	RW-V-1038
<i>Lilium occidentale</i>	Western lily	FE, SE, CRPR 1B	RW-V-1056, -1069, -1079, -9594, -9596, -9597
<i>Viola palustris</i>	Alpine marsh violet	CRPR 2B	RW-V-1056, -1069, -1079, -1131, -9594, -9596, -9597

*CRPR = California Rare Plant Rank; FE = federally-listed endangered; SE = state listed endangered

Many of the project sites also contain suitable habitat for rare and sensitive wildlife species, including Townsend's big-eared bat, a state species of special concern and candidate for listing under the California Endangered Species Act and white-tailed kite, a raptor designated as "fully protected" by the CDFW, along with several rare and sensitive fish species. Sensitive wildlife species with the potential to occur in the riparian, wetland and aquatic habitats at project sites are listed in [Table 3](#) (below).

Although PG&E's biological resource assessments did not include avian surveys, the riparian and wetland habitats at the project work sites were determined to provide suitable habitat for nesting birds. Birds using the project sites may include sensitive species such as raptors and species protected under the Migratory Bird Treaty Act.

Table 3: Special-Status Wildlife Species with Potential to Occur at Project Sites

Scientific Name	Common Name	Regulatory Status*	Work Sites with Suitable Habitat
<i>Acipenser medirostris</i>	Green sturgeon	FT	RW-V-1056, -1069, -1079, -9594, -9596, -9597
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat	SC, SSC	RW-V-1056, -1069, -1079, -1131, -9594, -9596, -9597
<i>Elanus leucurus</i>	White-tailed kite	SFP	RW-V-1038, -1159
<i>Eucyclogobius newberryi</i>	Tidewater goby	FE, SSC	RW-V-1056, -1069, -1079, -1159, -9594, -9596, -9597
<i>Oncorhynchus mykiss</i>	Steelhead	FT	RW-V-1159
<i>Oncorhynchus tshawytscha</i>	Chinook Salmon	FT	RW-V-1159
<i>Spirinchus thaleichthys</i>	Longfin smelt	FC, ST, SSC	RW-V-1056, -1069, -1079, -1159, -9594, -9596, -9597
<i>Thaleichthys pacificus</i>	Eulachon	FT	RW-V-1056, -1069, -1079, -1159, -9594, -9596, -9597

* FE = federally-listed endangered; FT = federally-listed threatened; FC = federal candidate for listing; ST = state listed threatened; SC = state candidate; SSC = state species of special concern; SFP = CDFW "fully protected".

As discussed above, because the proposed project consists of maintenance activities necessary to the safe operation of an existing gas pipeline, the Commission reviews only the consistency of the proposed method of maintenance with Coastal Act ESHA policies, and not the consistency of the underlying existing development.

Impacts to Riparian and Wetland Habitats

At all nine of the additional project sites, riparian and wetland vegetation grows directly above the buried gas pipelines or within the area (within five feet of the pipeline for brush; within 14 feet for trees) proposed for clearing. In total, the proposed additional work would result in the removal of approximately 0.21 acres (9,180 square feet) of riparian and wetland vegetation and 17 individual riparian trees of all sizes (see [Table 1](#)).¹ While there can be considerable overlap between riparian and wetland vegetation types, four of the additional project sites have been identified as containing wetland vegetation (RW-V-1069-16, -9594-15, -9596-15, -9597-15), four as containing both wetland and riparian vegetation (RW-V-1056-16, -1079-16, -1131-16, -1159-16), and one as supporting riparian woodland only (RW-V-1038-16). Based on these categorizations, the proposed additional work would result in the clearing of approximately 0.08 acres (3,384 square feet) of wetland vegetation and 0.13 acres (5,796 square feet) of riparian or mixed vegetation. Vegetation at the project sites consists of a mixture of native and non-native species, including such common species as red alder (*Alnus rubra*), willow (*Salix* spp.), Cascara buckthorn (*Rhamnus purshiana*), elderberry (*Sambucus* spp.), coyote brush (*Baccharis pilularis*) and native (*Rubus ursinus*) and exotic Himalayan blackberry (*R. armeniacus*).

Although the proposed vegetation management activities would not involve the removal of non-woody, herbaceous vegetation, and would not fill or otherwise fully eliminate wetland and riparian habitat areas, the habitat value of the treated areas would be reduced due to the altered vegetation structure (removal of tree canopy and/or shrub understory), resulting in loss of cover, feeding areas, nest sites, and other similar functions. Following the initial vegetation removal effort, PG&E intends to maintain the cleared areas free of major woody vegetation, which would effectively render permanent these habitat alterations.

Impacts to Sensitive Species

In most cases, PG&E's biological assessments found a "low" potential for the sensitive plant and animal species listed in [Tables 2](#) and [3](#) to occur at the project sites. However, no focused surveys were carried out to detect the presence of these species, and it remains uncertain whether the sites actually support special-status species. In the absence of more definitive information, the Commission must assume that the proposed vegetation removal work has the potential to affect sensitive plant species, either directly, through inadvertent removal or trampling during project implementation, or indirectly, through the permanent alteration of growing conditions at a given site. Similarly, project activities have the potential to directly harm or disrupt the behavior of rare and sensitive wildlife species, and to destroy or alter the riparian and wetland habitats on which they depend. The proposed removal of woody vegetation would also permanently alter suitable nesting habitat for bird and raptor species.

¹ For sites containing riparian and/or wetland habitat for which the species or type of brush removal was not specified in PG&E's CDP application, Commission staff has assumed, conservatively, that all the proposed brush removal consisted of riparian or wetland vegetation.

Impact Avoidance and Minimization Measures

PG&E's project description includes several measures intended to reduce the environmental impacts of the proposed vegetation management activities while still achieving pipeline safety goals. To this end, woody vegetation would be cut or trimmed to within 6 inches of ground level rather than uprooted, and no excavation or grading is proposed. Within ESHA, vegetation removal would be performed with hand tools only, and cut vegetation would be hauled to designated locations for chipping. Vehicle travel, parking and equipment laydown/staging would be restricted to existing roads, rights-of-way, and paved or previously-disturbed areas. Vehicle crossings of streams or wetlands would be limited to existing roads. At sites where special status species have the potential to occur, a qualified biologist would be stationed on-site for all work activities, and would perform daily pre-project surveys prior to the start of work to "clear the work area of sensitive species." At sites where sensitive plant species could occur, PG&E would seek to work outside the blooming season to the extent feasible, and for work during the blooming season, would perform pre-project plant surveys and implement measures, such as flagging and work restrictions, to protect any identified sensitive plants. A complete list of the applicant's proposed measures is provided in [Exhibit 3](#).

In approving CDP 9-17-0408, the Commission found that the following Special Conditions (see [Appendix B](#)) were necessary to minimize project impacts to ESHA and sensitive species, and to formalize PG&E's proposed protection measures:

- [Special Condition 2](#) requires the appointment of a qualified biologist to be present on site during all project activities to identify sensitive habitats and ensure that these resources are avoided outside the designated vegetation removal areas.
- [Special Condition 3](#) minimizes the disruption of habitat values in ESHA by requiring PG&E to clearly delineate and demarcate the limits of all project work areas, access routes and staging/laydown areas on project plans and in the field, and to avoid project activities beyond these limits during construction.
- [Special Condition 4](#) requires PG&E to carry out pre-project focused surveys of all proposed project sites, including staging and access areas, for the presence of sensitive plant and wildlife species which may have the potential to occur, and to the maximum extent feasible, adjust or limit project activities to avoid impacts to individuals or colonies of sensitive species. Prior to carrying out the surveys, a survey plan shall be submitted to the Executive Director for review and approval in order to ensure that proper protocols are in place to determine the presence or absence of sensitive species with potential to occur within the vegetation removal area. Where federally-listed, state-listed or other special status plant species are detected and impacts are unavoidable, PG&E shall develop and implement a salvage, propagation, replanting and mitigation program, to be submitted to the Executive Director for review and approval, prior to commencing any activity that could potentially impact the sensitive species.
- [Special Condition 5](#) requires biological monitoring of all project phases involving either vegetation removal activities or the use of heavy equipment in order to minimize risks to sensitive species. The biological observer(s) shall conduct daily pre-project surveys to determine that the work site is free of sensitive species, and during project activities shall monitor the work area and adjacent habitat for the presence of sensitive wildlife species.

If a sensitive species is observed in or near the active work area and is at risk of harm, the biological monitor shall have the authority to suspend work until the animal has left the area or is no longer at risk.

- [Special Condition 6](#) requires PG&E to conduct nesting bird surveys within and adjacent to project sites within a week of any vegetation clearing that would occur during the bird nesting season (defined as February 15 through August 31). Under this condition, if nesting or breeding activity is detected, PG&E must establish species-specific exclusion zones, to be kept free of disturbance, around the breeding habitat or nesting site, until the juvenile birds have fledged and left the area. The size of the species-specific buffers shall be established in a Nesting Bird Protection Plan, to be submitted for the Executive Director's review and approval, using the best available science and expert recommendations and guidance from the CDFW and U.S. Fish and Wildlife Service.
- [Special Condition 11](#) authorizes under CDP 9-17-0408 only the specific vegetation removal activities described in PG&E's CDP application materials on file with the Commission, and requires that PG&E seek further authorization if and when additional vegetation removal becomes necessary.

As noted in Section II, above, each of these Special Conditions would continue to apply to the nine additional sites added to the vegetation maintenance project under the proposed amendment. [Special Condition 11](#) has been modified to reflect the proposed amendment.

Mitigation

In approving CDP 9-17-0408, the Commission found that the Special Conditions, in combination with the applicant's proposed measures, would minimize the project's adverse effects to ESHA and protect sensitive plant and animal species. However, in order to mitigate the unavoidable loss and modification of riparian woodland and wetland ESHA habitats associated with the proposed vegetation maintenance, the Commission also included [Special Condition 7](#), which requires PG&E to prepare and implement a Habitat Mitigation Plan, for Executive Director review and approval, that provides for the restoration of riparian and wetland habitats, either on or off of the project sites. As adopted, [Special Condition 7](#) required that the clearing of 1.24 acres of riparian woodland ESHA be mitigated through the restoration of 3.71 acres of riparian woodland habitat (a 3:1 ratio), and the clearing of 0.055 acres of wetland vegetation be mitigated through the restoration of 0.2 acres of wetland habitat (a 4:1 ratio). Restoration may consist of either (a) habitat creation or (b) improvement via the removal of invasive or non-native vegetation and replanting with native vegetation. The removal of riparian trees was required to be mitigated through the planting of new native trees at a 3:1 ratio. The Commission found that, in this case, because the clearing of trees and woody vegetation from the project sites would degrade, but not eliminate, existing habitat values, it was appropriate to use restoration of riparian and wetland habitats, rather than *creation* of new habitat, as a mitigation tool. Moreover, due to the widespread invasion of these habitats in the Humboldt Bay region by non-native species (such as Himalayan blackberry), the Commission found that restoration consisting of invasive species removal following by native species planting would produce tangible benefits for these native habitat types.

[Special Condition 7](#) also requires that the Mitigation Plan specify the locations where habitat restoration and tree replanting would take place and the habitat types and native plants to be

used. The condition also requires that the restoration work occur at or in close proximity to the project sites wherever possible. However, because PG&E has indicated that most of the landowners of the affected parcels have refused on-site revegetation, the condition allows for off-site mitigation. The Mitigation Plan shall also include a 5-year monitoring plan and performance standards to assure the success of the habitat restoration and tree planting program.

As described above, the proposed addition of nine new project sites to the vegetation maintenance program would result in the clearing of an additional 0.08 acres (3,384 square feet) of coastal wetland vegetation, 0.15 acres (6,552 square feet) of riparian and mixed riparian/wetland vegetation, and the removal of an additional 17 riparian trees. In order to mitigate these additional habitat impacts, additional habitat restoration must be carried out. In order to assure that the impacts of the amended project are fully mitigated, the Commission is modifying [Special Condition 7](#) to require (a) the restoration of an additional 0.31 acres (13,536 square feet) of coastal wetland habitat (a 4:1 ratio), (b) the restoration of an additional 0.45 acres (19,656 square feet) of riparian woodland habitat (a 3:1 ratio), and (c) the planting of an additional 51 native riparian trees (a 3:1 ratio), in accordance with all other provisions of [Special Condition 7](#).

Correction of Error in CDP 9-17-0408

As issued, CDP 9-17-0408 [Special Condition 7](#) included the requirement that PG&E plant 249 individual riparian trees to mitigation for project-related tree removal in riparian woodland habitats. As reflected in PG&E's original CDP application, its pre-hearing comments on the staff report, and the July 10, 2017 staff report addendum, this requirement was based on incorrect information on the number of trees that would be removed, and should have been increased to 321 trees (mitigating for removal of 107 riparian trees). However, due to staff error, the 249 tree requirement was included in the issued version of CDP 9-17-0408. The riparian tree mitigation total of 372 trees, as shown in the modified [Special Condition 7](#), above, includes both the corrected mitigation requirement from the original staff report addendum and the new mitigation requirement stemming from tree removal at the nine additional project sites.

Conclusion

For the reasons described above, the Commission finds that the proposed amendment, as conditioned, will be carried out in a manner protective of nearby environmentally sensitive habitat areas and is therefore consistent with applicable policies of Coastal Act Section 30240.

F. PROTECTION OF COASTAL STREAMS AND WATER QUALITY

Section 30231 of the Coastal Act states:

The biological productivity and the quality of coastal waters, streams, wetlands, estuaries, and lakes appropriate to maintain optimum populations of marine organisms and for the protection of human health shall be maintained and, where feasible, restored through, among other means, minimizing adverse effects of waste water discharges and entrainment, controlling runoff, preventing depletion of ground water supplies and substantial interference with surface water flow, encouraging waste water reclamation, maintaining natural vegetation buffer areas that protect riparian habitats, and minimizing alteration of natural streams.

Coastal Act Section 30232 states:

Protection against the spillage of crude oil, gas, petroleum products, or hazardous substances shall be provided in relation to any development or transportation of such materials. Effective containment and cleanup facilities and procedures shall be provided for accidental spills that do occur.

Each of the additional proposed project sites include or are located adjacent to coastal streams, sloughs, and ditches. At several of the sites, proposed vegetation removal work would occur within the banks of a watercourse (see [Table 1](#)). Many of the affected watercourses connect to Humboldt Bay and provide suitable habitat for rare and sensitive estuarine and anadromous fish species, including tidewater goby, longfin smelt, green sturgeon, eulachon, steelhead, and Chinook salmon (see [Table 3](#)). If carried out in an uncontrolled manner, the proposed vegetation clearing activities could have several adverse effects on coastal streams and sensitive aquatic species, including habitat alteration from the improper disposal of cut vegetation, increased sedimentation and turbidity related to ground disturbance and erosion, and the introduction of contaminants from spills of fuel or other hazardous materials.

In an effort to minimize the potential for project-related impacts to coastal streams, watercourses and aquatic species, PG&E has proposed to implement a number of impact avoidance and minimization measures for project sites that intersect or are adjacent to a waterway. Most crucially, the proposed measures would include: (a) prohibitions on project activities within wetted areas of a waterway and on the dragging, disposal or placement of woody debris, chipped material or other materials within the bank or channel of a waterway; (b) limitation of work within the banks of a waterway to foot access, hand crews and manual equipment only, and prohibition of heavy-equipment operation within 25 feet of a waterway; (c) prohibition on stump grinding, chipping or mastication or use of herbicide within the banks of a waterway; (d) directional felling of bank-top trees away from the waterway; and (e) no refueling of motorized equipment (e.g., chainsaws) or parking of vehicles or mobile equipment within 100 feet of a waterway (see [Exhibit 3](#)).

In its approval of CDP 9-17-0408, the Commission found that adverse effects on coastal streams, water quality and sensitive aquatic species could be minimized through the adoption of [Special Condition 8](#), which incorporated the applicant's proposed avoidance and minimization measures for streams and anadromous species. To provide further protection against hazardous material spills related to project activities and to ensure the necessary response to any spills that may occur, the Commission also adopted [Special Condition 9](#), which requires PG&E to implement specific spill prevention and response measures for the project, including daily vehicle and equipment inspections for leaks, identification of all materials that will be immediately available to respond to project-related spills, necessary telephone contacts for spill notifications, and others. As noted in Section II, above, each of these Special Conditions would continue to apply to the nine additional sites added to the vegetation maintenance project under the proposed amendment.

For these reasons, the Commission finds that the proposed amendment, as conditioned, will be carried out in a manner that is protective of marine organisms, coastal streams and water quality, and will protect against spills of hazardous substances, and is therefore consistent with Coastal Act Sections 30231 and 30232.

G. CULTURAL RESOURCES

Coastal Act Section 30244 states:

Where development would adversely impact archaeological or paleontological resources as identified by the State Historic Preservation Officer, reasonable mitigation measures shall be required.

The project area lies within the traditional territory of the Wiki division of the Wiyot tribe. At the time that Euro-Americans first made contact in this region, the Wiyot lived almost exclusively in villages along the protected shores of Humboldt Bay and near the mouths of the Eel and Mad Rivers. Today, representatives of the Wiyot Tribe are the Table Bluff Reservation Wiyot Tribe, the Blue Lake Rancheria, and the Bear River Band of the Rohnerville Rancheria. The proposed additional vegetation removal sites would occur at multiple locations both inland of and near the shorelines of Humboldt Bay and its tributary streams and sloughs. Although no historic structures or archaeological deposits are known to exist at the project sites, the sites are nonetheless located within areas that could contain cultural resources.

The proposed vegetation removal work would not involve any excavation or other significant ground disturbance, limiting the potential for the damage or disturbance of cultural resources. Nonetheless, PG&E has proposed to implement measures for the protection of cultural resources and human remains (*see Exhibit 4*). In approving CDP 9-17-0408, the Commission found that cultural resources that may be discovered at the project work sites would be protected through the adoption of [Special Condition 10](#) (Appendix B). This special condition requires that if an area of cultural deposits is discovered during the course of the project, all project activities must cease and a qualified cultural resource specialist, in conjunction with the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria THPOs, must analyze the significance of the find. To recommence project activities following discovery of cultural deposits, the permittee is required to submit a supplementary archaeological plan for the review and approval of the Executive Director, who will determine whether the changes are *de minimis* in nature and scope, or whether an amendment to this permit is required. Additionally, [Special Condition 10](#) requires PG&E to conduct a pre-project training program to educate field personnel about the potential for inadvertent discoveries of archaeological resources. As noted in Section II, above, Special Condition 10 would continue to apply to the nine additional sites added to the vegetation maintenance project under the proposed amendment.

The Commission finds that with these measures in place the proposed amendment will not adversely impact cultural resources and is therefore consistent with Section 30244 of the Coastal Act.

H. CALIFORNIA ENVIRONMENTAL QUALITY ACT

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

The proposed development has been conditioned in order to be found consistent with the Chapter 3 policies of the Coastal Act. Mitigation measures, including conditions addressing biological resources, environmentally sensitive habitat areas, water quality and oil spill prevention and response, will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.

Appendix A: Substantive File Documents

Coastal Development Permit Application Materials:

Application File and Adopted Findings for Coastal Development Permit No. 9-17-0408
Application for Coastal Development Permit Amendment No. 9-17-0408-A1

Certified Local Coastal Programs:

Humboldt County General Plan, Vol. II: Humboldt Bay Area Plan of the Humboldt County
Local Coastal Program, December 2014.

Other Reports and Resources:

California Department of Fish and Game (CDFG) (2010). List of Vegetation Alliances and
Associations. Vegetation Classification and Mapping Program, September 2010.

Lichvar, R.W., M. Butterwick, W.N. Kirchner and N.C. Melvin (2016). The National Wetland
Plant List: 2016 update of wetland ratings. *Phytoneuron* 2016-30: 1–17.

Lichvar, R.W., M. Butterwick, N.C. Melvin, and W.N. Kirchner (2014). The National Wetland
Plant List: 2014 update of wetland ratings. *Phytoneuron* 2014-41: 1–42.

Websites

<http://gis.co.humboldt.ca.us/Freeance/Client/PublicAccess1/index.html?appconfig=podgis4>
Humboldt County Planning and Building Dept. GIS Portal

Appendix B:
Conditions on Coastal Development Permit No. 9-17-0408
Adopted July 13, 2017

Standard Conditions

1. **Notice of Receipt and Acknowledgment.** The permit is not valid and development shall not commence until a copy of the permit, signed by the Permittee or authorized agent, acknowledging receipt of the permit and acceptance of the terms and conditions, is returned to the Commission office.
2. **Expiration.** If development has not commenced, the permit will expire two years from the date on which the Commission voted on the application. Development shall be pursued in a diligent manner and completed in a reasonable period of time. Application for extension of the permit must be made prior to the expiration date.
3. **Interpretation.** Any questions of intent of interpretation of any condition will be resolved by the Executive Director or the Commission.
4. **Assignment.** The permit may be assigned to any qualified person, provided assignee files with the Commission an affidavit accepting all terms and conditions of the permit.
5. **Terms and Conditions Run with the Land.** These terms and conditions shall be perpetual, and it is the intention of the Commission and the Permittee to bind all future owners and possessors of the subject property to the terms and conditions.

Special Conditions

1. **Other Permits and Approvals.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall provide to the Executive Director copies of all other local, state, and federal permits required to perform project-related work, or evidence that no permits are required. These permits and approvals include:
 - (1) City of Arcata Encroachment and Tree Removal Permits;
 - (2) County of Humboldt Encroachment and Tree Removal Permits;
 - (3) California Department of Transportation Encroachment Permits.

Any changes to the approved project required by these agencies shall be reported to the Executive Director. No changes to the approved project shall occur without a Commission amendment to this CDP unless the Executive Director determines that no amendment is legally required.
2. **Project Biologist – Qualifications and Responsibilities.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall appoint one or more Biologists to implement mitigation measures of the approved project. The appointments shall be submitted to the Executive Director for review and approval; the Executive

Director shall conduct this review of qualification within 30-days of submittal. The Biologist(s) must meet the following minimum qualifications:

- (1) At least a bachelor's degree in biological sciences, zoology, botany, ecology, or a closely related field;
- (2) At least three years of experience in field biology or current certification through a nationally recognized biological society, such as the Ecological Society of America or The Wildlife Society; and,
- (3) At least one year of field experience with biological resources found in or near the project area.

The Biologist(s) shall be responsible for conducting pre-project surveys and on-site monitoring and overseeing the implementation of all mitigation measures as described in **Special Conditions 3, 4, 5 and 6.**

3. **Sensitive Habitat Protection.** The Permittee shall ensure that the approved Biologist(s) conducts and implements the following before and during any project activities involving mobilization, ground disturbance, vegetation clearing, or any other repair and maintenance activities that could adversely affect environmentally sensitive habitat areas, wetlands, or their associated biological resources:
 - (1) *Project Limits.* Project activities and equipment shall be limited to existing access roads and trails, pads, disturbed areas, and unvegetated areas to the maximum extent feasible. Project limit boundaries shall be shown on all project maps and drawings and clearly marked in the field prior to project activities, and work outside these limits shall be avoided during project activities. All personnel shall be instructed not to perform any activities beyond the project limit boundaries.
 - (2) Sensitive habitats to be avoided on and near the site of planned project activities shall be clearly identified prior to the start of those activities. These resources include:
 - Areas containing riparian vegetation
 - Wetlands and areas containing wetland vegetation
 - Streams and watercourses
 - Native vegetationThese habitats shall be avoided to the maximum extent possible. At all sites, vegetation removal shall be limited to the amounts, locations, and individual trees identified in the Permittee's submitted CDP application.
 - (3) Conduct worker training to identify the location and types of sensitive biological resources on and near the project sites and the measures to be taken to avoid and reduce adverse effects on those resources.
4. **Pre-Project Biological Surveys & Sensitive Species Protection.**
 - A. NO MORE THAN 30 DAYS PRIOR TO COMMENCEMENT OF VEGETATION REMOVAL ACTIVITIES at a given project site, the Project Biologist(s) shall conduct focused surveys of all proposed vegetation removal, staging and access areas, and within a 300-foot buffer around these areas, for the presence of sensitive plant and

wildlife species that might reasonably be expected to occur based on known habitat requirements or previous sightings. Sensitive species are defined as (i) state and federally-listed endangered, threatened, and candidate species; (ii) California species of special concern; (iii) fully protected or “special animal” species in California, and (iv) plants that are considered rare, endangered or of limited distribution by the California Department of Fish and Wildlife and California Native Plant Society (CRPR Ranks 1 and 2).

- B. PRIOR TO THE COMMENCEMENT OF THE SURVEYS, the Permittee shall submit, for the Executive Director’s review and approval, a Survey Plan identifying the species with potential to occur and describing the proposed survey methodology for each project site. Survey methodologies shall reflect the best available science and expert agency (e.g., CDFW, USFWS) protocols or recommendations for relevant species, and shall be sufficient to determine the presence/absence of the species at a given site. The Executive Director shall complete the required review within 30 days.
- C. If sensitive species are determined to be present at a site, the Permittee shall implement the following requirements:
- (1) Adjust or limit project work areas, access routes and project timing to avoid impacts to individuals or colonies of sensitive species to the maximum extent feasible;
 - (2) If sensitive plant species are identified during the surveys, the locations of individual plants shall be marked/flagged on project plans and in the field, and a 25-foot buffer shall be established around the plants. If the required vegetation removal does not allow for a 25-foot buffer, the maximum possible buffer shall be used, along with the implementation of additional protective measures, such as the placement of fencing, barriers or stakes between the sensitive plant species and project work areas, as necessary to protect the sensitive plant(s). In addition, a qualified biological monitor shall be present on-site during all vegetation removal activities to ensure that these species are not harmed during the project (see [Special Condition 5](#)).
 - (3) Where impacts to sensitive plant species are unavoidable, the Permittee shall develop and implement a sensitive plant species restoration program, using seeds and/or salvaged plants from the affected individuals or colonies to the extent feasible, to restore the affected species to the project area. The sensitive species restoration program shall be submitted to the Executive Director for review and approval, and incorporated into the Habitat Mitigation Plan required under [Special Condition 7](#).
 - (4) At work project sites where sensitive wildlife species are identified as present in the project area, the Permittee shall use appropriate barriers to movement (e.g., construction fencing or barricades) or setbacks to minimize wildlife movement into active project areas.
5. **On-Site Biological Monitoring.** The Project Biologist(s) shall be present at active project work sites during all project activities involving vegetation clearing and the use of trucks or heavy equipment. The Biologist shall perform daily surveys of the project site(s) prior to the start of work to check for the presence of sensitive wildlife species. If a sensitive

species is detected during one of these daily surveys, project activities shall not commence until the individual or group has left the area. During project activities, the biological observer shall monitor for the presence of sensitive wildlife in or near the project area. At project sites or in situations where a single observer cannot reasonably provide coverage of the entire active work area, additional observers shall be provided. The observer(s) shall have the appropriate safety and monitoring equipment adequate to conduct their activities. For monitoring purposes, the observer(s) shall establish an avoidance zone that encompasses the entire active work site and no less than a 25-foot buffer around the work site. The observer(s) shall have the authority to temporarily halt any project activity that could result in harm to a sensitive species entering within the avoidance zone, and to suspend those activities until the animal has left the area.

6. Final Nesting Bird Protection Program.

A. PRIOR TO COMMENCEMENT OF ANY VEGETATION MAINTENANCE ACTIVITIES BETWEEN FEBRUARY 15 AND AUGUST 31, the Permittee shall submit, for the 30-day review and approval of the Executive Director, a final Nesting Bird Protection Program (Program), prepared by a qualified biologist, for conducting seasonal surveys for bird nesting at project sites, and protecting such habitat from project impacts. The Program shall provide, at a minimum, for the following:

- (1) Surveys for the presence of active nesting at all sites where vegetation maintenance would occur during the nesting season (February 15 through August 31), and within the surrounding area out to a distance corresponding to the largest species-specific buffer identified under (3), below. Surveys shall be conducted by the qualified Biologist(s) identified under [Special Condition 2](#) (above), and completed within two weeks of the commencement of vegetation maintenance activities at a given site.
- (2) Avoidance (no removal) of any tree or shrub supporting active bird nesting until after the end of the breeding season, or fledging has occurred.
- (3) Establishment of species-specific buffers around active nests or breeding areas, within which no project activities or other disturbance shall occur until any young birds have fledged and left the area. The size of the buffer(s) shall be provided for in the Program, and determined based on the best available information (i.e., scientific literature, CDFW and/or USFWS guidance, and expert opinion) on the needs and sensitivity of each species with potential to occur in the project areas. If pre-project surveys identify a nesting bird species for which no buffer has been provided for in the Program, a default exclusion area of 300 feet (500 feet for raptors) from the active nest or breeding area shall be established.

The Project Biologist(s) shall be present on site during all vegetation maintenance activities to (a) enforce the protective buffers, and (b) monitor active nests and breeding birds for signs of distress or abnormal behavior. If signs of distress or disturbance are observed, the Biologist(s) shall have discretion to enlarge the buffers, halt project activities, or implement other measures necessary to protect active nests and breeding.

B. The Permittee shall undertake development in accordance with the approved final Nesting Bird Protection Program. Any proposed changes to the approved Program shall be reported to the Executive Director. No changes to the approved final Program shall occur without an amendment to Coastal Development Permit No. 9-17-0408, unless the Executive Director determines that no amendment is legally required.

7. **Habitat Mitigation Plan.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall submit to the Executive Director for review and approval a Habitat Mitigation Plan that describes a compensatory mitigation program addressing the losses of riparian and wetland habitat, riparian woodland trees, and large conifer trees associated with the proposed project. The Executive Director shall complete the required review within 30 days. The Mitigation Plan may be directly implemented by the Permittee or by a separate entity receiving funding from the Permittee, or a combination of the two. In all cases, the Plan shall fulfill the requirements detailed below, and the Permittee shall be responsible for ensuring that the requirements of the condition are met.

A. Restoration Requirements: The Mitigation Plan shall provide for the following:

- (1) Restoration of at least 3.7 acres of riparian woodland or scrub habitat, including a minimum of 249 native riparian trees, to compensate for the clearing of 1.24 acres of these habitats and removal of 83 trees under the proposed project;
- (2) Restoration of 0.22 acres of freshwater or estuarine wetland habitat to compensate for the clearing of 0.055 acres of these habitats;
- (3) Planting of at least 385 native conifer trees to compensate for the removal of large trees under the proposed project.

Wherever possible, habitat restoration and tree planting shall occur at or adjacent to the project sites undergoing vegetation removal, consistent with pipeline maintenance and safety considerations and subject to landowner approval. If these or other factors preclude on-site habitat restoration, off-site mitigation locations within the coastal zone may be used. Any off-site locations for restoration and tree planting shall be identified, and a description of the existing conditions warranting restoration provided.

For the purposes of the Plan, “restoration” shall consist of the removal of invasive or non-native vegetation from an existing, degraded riparian or wetland habitat area, to be followed by the planting of native trees, shrubs and herbaceous plants appropriate to the respective habitat type. The Plan shall provide a description of restoration activities including specific methodologies for invasive species removal and native species re-establishment, and shall identify the native species to be planted. Where feasible, invasive or non-native species shall be removed by hand, and any herbicide use will be minimized and limited to invasive/non-native species. Planting of native species shall take place in the fall to enable root establishment during the rainy season. Invasive species removal activities shall occur at least once annually following the initial treatment until performance criteria for native species cover have been achieved (see below).

- B. **Reporting and Monitoring:** The Plan shall include and describe a five-year, annual monitoring program, including annual reporting to the Executive Director, to assure the long-term success of the habitat restoration and tree-planting program. Documentation for all years subsequent to the first year shall identify the success rate of the restored habitat area(s) and tree plantings, as measured by percent cover and percent of native vegetation within the area(s) (restored habitat) and percent survival (for trees). If after five years the restored habitat area(s) do not provide at least 80% cover of native vegetation and at least 80% total native vegetation, the Permittee shall either propose retreating and/or replanting the area(s) to achieve those levels or propose additional restoration areas. Similarly, if the five-year survival rate of the planted trees does not exceed 80%, the Permittee shall undertake additional tree-planting until this threshold is achieved.
8. **Stream and Water Quality Protection Measures.** This permit incorporates those applicant-proposed avoidance and minimization measures (AMMs) included in the CDP application concerning the protection of streams, waterways, and anadromous fish species that are attached to this report as **Appendix B**.
9. **Spill Prevention and Response Plan.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall submit a project-specific Spill Prevention and Response Plan to the Executive Director for review and approval. The Executive Director shall complete the required review within 30 days. The Plan shall identify the worst-case spill scenario and demonstrate that adequate spill response equipment will be available. The Plan shall also include a detailed description of all preventative measures (including the proposed three-tiered containment system) the Permittee will implement to avoid spills and clearly identify responsibilities of Permittee personnel and any contractors employed, and shall list and identify the location of oil spill response equipment and appropriate protocols and response times for deployment. Vehicles and heavy equipment left at laydown area during non-work hours shall have drip pans or other means of collecting dripped fuel, lubricants or other hazardous materials, which shall be collected and disposed of off-site. Response drills shall be in accordance with Federal and State requirements. Contracts with off-site spill response companies shall be in-place and shall provide additional containment and clean-up resources as needed.
10. **Protection of Archeological Resources.** The Permittee shall conduct a pre-project training program to educate field personnel about the potential for the inadvertent discovery of cultural and archaeological resources at the project sites, and to familiarize workers with the proposed protection measures summarized in **Exhibit 3**. If an area of cultural deposits or human remains is discovered during the course of the project, all project activities shall cease and shall not recommence until a qualified cultural resource specialist, in consultation with the Tribal Historic Preservation Officers of the Wiyot Tribe, the Bear River Band of Rohnerville Rancheria, and the Blue Lake Rancheria, analyzes the significance of the find and prepares a supplementary archaeological plan for the review and approval of the Executive Director, and either: (a) the Executive Director approves the Supplementary Archaeological Plan and determines that the Supplementary Archaeological Plan's recommended changes to the proposed development or mitigation measures are *de*

minimis in nature and scope, or (b) the Executive Director reviews the Supplementary Archaeological Plan, determines that the changes proposed therein are not *de minimis*, and the permittee has thereafter obtained an amendment to CDP 9-17-0408.

11. **Restriction on Future Vegetation Management.** This permit authorizes only the vegetation removal activities specifically described and quantified in the Permittee's CDP application materials, and as summarized in **Table 1** of this staff report. Accordingly, any future vegetation management at the project sites shall require an amendment to this permit from the Commission, unless the Executive Director determines that no amendment is legally necessary.