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# Th10a

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## STAFF REPORT: REGULAR CALENDAR

**Application No.:** 9-21-0083

**Applicant:** Pacific Gas & Electric Co.

**Location:** Unincorporated Humboldt County, six sites in the Coastal Zone south of the City of Eureka ([Exhibit 1](#)).

**Project Description:** Repair and maintenance activities for existing natural gas pipelines, including excavation and horizontal directional drilling to remove and replace obsolete pipeline segments.

**Staff Recommendation:** Approval with conditions.

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## SUMMARY OF STAFF RECOMENDATION

Pacific Gas and Electric Co. (PG&E) proposes to conduct repair and maintenance work on existing natural gas pipelines at six sites south of the City of Eureka in unincorporated Humboldt County ([Exhibit 1](#)). Proposed activities at these sites include removing high pressure regulators (HPRs) and inserting new pipeline segments through horizontal directional drilling and excavation.

The proposed project involves repair and maintenance activities that involve a risk of substantial adverse environmental impact and thus requires a coastal development permit. In considering a permit application for a repair or maintenance project, the

Commission's review is limited to analyzing the proposed methods of repair and maintenance and does not include evaluating the underlying, existing development's conformity with the Coastal Act. In addition, a consolidated permit is being sought, as the proposed work sites are on parcels within the Commission's retained permit jurisdiction and Humboldt County's certified LCP jurisdiction. The applicant, Commission staff and Humboldt County planning department staff support the consolidated permit approach.

The primary Coastal Act issue raised by the proposed project is its potential to adversely affect sensitive plant and animal species and habitats. To help ensure such impacts are avoided and minimized, [Special Condition 1](#) requires mitigation measures that include employee awareness training, biological surveys and monitoring, and avoidance of sensitive species observed near the worksite locations. [Special Condition 1](#) additionally requires that any encounters with special status species immediately trigger notification of a qualified biologist and PG&E's application for all necessary state and federal permits that authorize take for the species. [Special Condition 3](#) expands this by requiring pre-construction surveys for sensitive plant species, specifically the western lily (protected under both state and federal endangered species acts), within the proposed work and disturbance areas. If such species are observed, PG&E would need to prepare and submit a permit amendment application that includes a plan for avoiding, minimizing and mitigating adverse impacts to individual plants and their habitats. To address the potential loss or disturbance of vegetation used for bird nesting, [Special Condition 2](#) requires that a qualified biologist perform pre-construction surveys for avian species during the avian nesting/foraging season if work cannot be completed outside of this timeframe. These conditions also require the results of all pre-construction surveys to be submitted to the Executive Director for review and approval prior to the start of construction activities.

Commission staff finds the proposed project, as conditioned, consistent with the resource protection policies of the Coastal Act. Therefore, staff recommends **approval** of coastal development permit application 9-21-0083, as conditioned. The motion is on page 4.

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## I. MOTION AND RESOLUTION

### 1. Coastal Development Permit

#### Motion:

*I move that the Commission **approve** Coastal Development Permit No. 9-21-0083 pursuant to the staff recommendation.*

#### Staff Recommendation:

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

#### Resolution:

*The Commission hereby approves Coastal Development Permit 9-21-0083 and adopts the findings set forth below on grounds that the development, as conditioned, will be in conformity with the policies of Chapter 3 of the Coastal Act. Approval of the 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 development on the environment.*

## II. STANDARD CONDITIONS

Coastal Development Permit (CDP) No. 9-21-0083 is granted subject to the following 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.

### III. SPECIAL CONDITIONS

CDP No. 9-21-0083 is subject to the following special conditions:

**1. Avoidance and Mitigation Measures.** All mitigation measures identified in the December 2020 document titled “Application for the Coastal Development Permit for the PG&E R-1224-L-126B Downrate Project” concerning biological, cultural, geological, and paleontological resources (attached to this report as [Exhibit 2](#)) shall be fully implemented.

**2. Avoidance and Minimization of Impacts to Breeding and Nesting Birds.** Project activities shall be conducted outside of the breeding and nesting season (February 1 to August 31) of any year, unless regulatory compliance requirements do not allow the Permittee to avoid activities during this time period. If project activities must occur during this period, they shall be subject to the following:

- a) The Permittee shall employ a qualified avian biologist, approved by the Executive Director, who has demonstrable experience conducting surveying for active bird nests and monitoring for breeding birds protected by the Migratory Bird Treaty Act and Fish and Game Code.
- b) Surveys shall be conducted no more than 72 hours prior to any project activities proposed to be carried out during the breeding season and shall encompass all potential nesting habitat within 500 feet of project activities. The 500-foot survey area may be reduced if topography and/or buildings screen the project’s visual and noise effects.
- c) If active nests are detected, the Permittee shall implement the following measures:
  - Prior to staging equipment, the Permittee shall install a sound/visual barrier as close to the work area as feasible to reduce the project’s sound and visual effects on nearby nests.
  - Project equipment shall be located as far from the active nests as feasible.
  - The qualified biologist shall be present during all project activities to monitor bird activity. If the biologist detects any disturbance to the birds that may be due to project activities, the biologist shall direct the activities to stop, to the extent they may be safely paused, until the activities are modified to remove or reduce the activity believed to be causing the disturbance.

- The biologist shall, at the end of each workday, ensure that the work area is clear of debris, food items, or trash that could attract animals to the area.
- The biologist shall be responsible for documenting the results of the surveys and the ongoing monitoring and shall provide a copy of the survey and monitoring reports at least once each week during project activities to the Executive Director.

**3. Protection of Rare Plants.** NO MORE THAN 60 DAYS PRIOR TO COMMENCEMENT OF CONSTRUCTION, (a) a qualified botanist shall complete pre-construction surveys for western lily (*Lilium occidentale*) within 15 feet of all areas to be disturbed by construction and adjacent to the construction locations; and (b) the survey results shall be submitted to the Executive Director for review. Submitted results shall include details on surveyor qualifications, date(s) of survey(s), and a map with the survey locations and project work and disturbance limits.

If western lily is detected and cannot be marked and completely avoided, the permittee shall submit an application to amend this coastal development permit (CDP). The CDP amendment application shall include a plan for avoiding, minimizing and mitigating all potential loss and disturbance of western lily plants and associated habitat and copies of any permits or authorizations issued by the U.S. Fish and Wildlife Service and/or California Department of Fish and Wildlife for disturbance or loss of western lily plants. No project activities at sites with western lily plants shall occur unless the CDP amendment is approved and issued by the Coastal Commission.

**4. Liability for Costs and Attorneys' Fees.** By acceptance of this coastal development permit (CDP), the Applicant/Permittee agrees to reimburse the California Coastal Commission in full for all Coastal Commission costs and attorneys' fees (including (1) those charged by the Office of the Attorney General, and (2) any court costs and attorneys' fees that the Coastal Commission may be required by a court to pay) that the Coastal Commission incurs in connection with the defense of any action brought by a party other than the Applicant/Permittee against the Coastal Commission, its officers, employees, agents, successors and assigns challenging the approval or issuance of this CDP. The Coastal Commission retains complete authority to conduct and direct the defense of any such action against the Coastal Commission.

## **IV. FINDINGS AND DECLARATIONS**

### **A. PROJECT DESCRIPTION**

Pacific Gas & Electric Co. (PG&E) proposes repair and maintenance activities at six sites (referred to as M, N, Q, P, V and W) along its existing gas pipeline system south of the City of Eureka in unincorporated Humboldt County ([Exhibit 1](#)).

The following work is proposed at each location:

- Location M: Excavation and deactivation of farm tap and connection of new service plastic pipeline. Located along developed roadway in roadside ruderal vegetation.
- Location N: Excavation and deactivation of existing high-pressure regulator (HPR) tap and installation of new service plastic pipeline. Located along a semi-developed access road in grassland with a coniferous overstory.
- Location Q: Excavation and installation of new service line. Located in pastureland.
- Location P: Excavation and installation of new crosstie along the existing regulator station pipe. Located in a developed parking lot at College of the Redwoods.
- Location V: Excavation and removal of valves and piping with subsequent cleaning of retired pipe segments to remain in place. Located in roadside ruderal vegetation along a dirt road.
- Location W: Excavation and deactivation of existing HPR farm tap. Located in pasture grassland along developed roadside.

As an overall project objective, PG&E proposes to remove several HPRs from an existing natural gas transmission line. HPRs were originally put in place on this line to reduce the transmission pressure from 170 pounds per square inch gauge down to 50 pounds per square inch gauge. HPRs are used to reduce the pressure of the gas prior to delivery as the gas in a transmission line is at a higher pressure than gas in a distribution line servicing a customer. To complete this removal work, a straight piece of plastic pipe would be installed from the piping upstream of the HPR to piping downstream of the HPR after it is removed. Where feasible, the pipe would be installed using horizontal directional drilling (HDD) and placed directly over the existing line. Where this method is not feasible (such as “bell-hole” locations with 90-degree elbow bends), PG&E proposes to excavate the line segment using a backhoe or excavator, salvaging the soil to be re-seeded and replaced on top of the exposed work areas once the replacement is complete.

Based on the results of two field surveys, carried out in August 2020 and April 2021, PG&E and Commission staff determined that the proposed work would not occur within or affect wetland habitat. PG&E estimates that approximately .038 acres (334 cubic yards) of temporary disturbance would occur to non-sensitive habitat due to the proposed excavation. One special status plant species, western lily, has been documented near several of the proposed project sites, which also contain suitable habitat for the species. PG&E plans to avoid the species, if feasible, and if not feasible, pursue appropriate permitting through applicable state and federal agencies. PG&E proposes to commence work on this project in August 2022 and complete work by mid-October 2022.

## **B. OTHER AGENCY APPROVALS AND TRIBAL CONSULTATIONS**

### **Humboldt County**

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.

The proposed gas pipeline repair and maintenance project includes locations within the jurisdiction of Humboldt County, which has a certified LCP, and the retained jurisdiction of the Commission. In a letter dated July 21, 2021, Humboldt County, with the consent of the applicant and Executive Director, agreed to consolidate the permit action under 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.

### **Tribal Outreach and Consultations**

During the review of this project, Commission staff reached out to representatives from Native American Tribes understood to have current and historic connections to the project area: the Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, Cher-Ae Heights Indian Community of the Trinidad Rancheria, and the Wiyot Tribe. Contact information for these Tribal Representatives was provided by the Native American Heritage Commission. At the time of publication of this staff report, the Blue Lake Rancheria had provided comment indicating their agreement with the monitoring requirements and discovery protocols incorporated into the project mitigation measures (included as [Exhibit 2](#)). No other Tribal questions or concerns had been brought to the attention of Commission staff. Any concerns raised subsequent to the publication of this report will be included in an addendum to this staff report.

### **Multiple Region Operations and Maintenance Habitat Conservation Plan (MRHCP)**

PG&E prepared an MRHCP, a multiple species conservation plan for routine operation and maintenance activities in portions of its service areas not already covered by a conservation plan. The MRHCP provides a method for PG&E to comply with the Endangered Species Act by applying for a Section 10(a)(1)(B) permit. The purpose of the MRHCP is to enable PG&E to continue to conduct current and future operation and maintenance activities within 34 California counties while avoiding, minimizing, and mitigating temporary and permanent impacts to threatened and endangered species habitat that could result from PG&E's ongoing operation and maintenance activities. The MRHCP provides an analysis of impacts and potential for incidental take over a 30-year period. USFWS issued the final plan approval and associated permit on July 14, 2020.

## **C. PERMIT AUTHORITY, EXTRAORDINARY METHODS OF REPAIR AND MAINTENANCE**

The proposed project qualifies as a repair and maintenance project, as it consists of maintenance of an existing gas pipeline and associated structures. The footprint of the existing pipeline will not be altered. Furthermore, while the reliability of the line will improve, the service provided will not be expanded. 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 object of the repair and maintenance activities. This proposed project would not result in any enhanced capacity or expansion of the existing gas pipeline.

However, even if a project qualifies as a repair and maintenance project under Section 30610(d), 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 described in Section 13252 of the Commission regulations.

Section 30610 of the Coastal Act provides, in relevant part:

*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:

*(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....*

In considering a permit application 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. 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.

This project has the potential to have adverse impacts to western lily, a state and federally endangered plant species, as further described in Section D. Suitable habitat for the species was identified within 50 feet of five of the six work locations and proposed project activities include use of mechanized equipment such as a small horizontal directional drilling rig, backhoe, excavator, generators, and other similar equipment.

#### **D. BIOLOGICAL RESOURCES**

Coastal Act Section 30240 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.*

### **Western Lily**

Although no western lily plants were identified during reconnaissance surveys, suitable habitat for the western lily, a state and federally endangered plant species, has been identified within 50 feet of five of the six proposed work locations. Proposed work in these areas, including excavation, horizontal directional drilling, and use of other construction equipment, may result in disruption of this habitat.

The proposed project locations span several different habitat types:

- Location M: Roadside ruderal vegetation, developed roadway
- Location N: Grassland, coniferous overstory along access road, semi-developed driveway
- Location Q: Pastureland, upland grassland
- Location P: Developed parking lot of College of the Redwoods
- Location V: Roadside ruderal vegetation, dirt road
- Location W: Pasture grassland, developed roadside

Primary vegetation types observed near the proposed project area include bent grass (*Agrostis stolonifera*) habitat, perennial ryegrass fields which include white clover (*Trifolium repens*), bird's-foot trefoil (*Lotus corniculatus*), bristly ox-tongue (*Helminthotheca echioides*) and bull thistle (*Cirsium vulgare*), Coastal Brambles (*Rubus pedatus*), and common velvet grass (*Holcus lanatus L.*).

These habitats, while not considered sensitive in and of themselves, do have the potential to support special status species, and thus the proposed project must be designed and executed to minimize adverse impacts consistent with section 30240(b). To determine the types of habitat, vegetation and special status species in the proposed project area, PG&E conducted a search of CNDDDB records, field reconnaissance surveys and a literature review.

These efforts indicated that western lily, a state and federally listed special status plant species, has the potential to occur at locations M, N, Q, V, and W. The species has been known to grow off roadsides in coastal scrub habitat and along the margins of open cattle fields. There are five CNDDDB occurrences within five miles of the proposed project sites, four of which are kept confidential and one of which has been determined to be extirpated ([Exhibit 3](#)). Although western lily was not observed during surveys at the project sites, these habitats' ability to support the species, and its presence in the wider area, means that it may occur at one or more project sites. The applicant has proposed to minimize any potential impacts to western lily habitat through topsoil salvaging, which entails salvaging the top 6-12 inches of topsoil for use during post construction restoration and restores the habitat to its pre-construction conditions along with native seed-mixing and application. Discovery of western lily will be further

addressed through [Special Condition 1](#), which memorializes a variety of PG&E's proposed mitigation measures, including a requirement for PG&E to acquire any necessary federal or state take authorization permits for loss or disturbance to western lily. Additionally, [Special Condition 3](#) requires a qualified botanist to conduct pre-construction surveys of the sites no more than 60 days prior to the start of construction to identify the presence of western lily. If western lily plants are found at any project sites during these surveys, [Special Condition 3](#) further requires PG&E to seek an amendment to this permit prior to working at those sites and to develop and include in its amendment application, a plan for the avoidance, minimization and mitigation of adverse impacts to western lily.

### **Nesting Birds**

Although no special status birds were observed within the project area during avian species and nesting surveys carried out in August 2020, several species with protective designations have the potential to occur in one or more of the proposed project sites, including:

- Tricolored blackbird (*Agelaius tricolor*): listed as Threatened under the California Endangered Species Act
- Grasshopper sparrow (*Ammodramus savannarum*): designated as a State Species of Special Concern
- Northern Harrier (*Circus hudsonius*): designated as State Species of Special Concern
- Western yellow-billed cuckoo (*Coccyzus americanus*): listed as Threatened under the Endangered Species Act, and as Endangered under the California Endangered Species Act
- White-tailed kite (*Elanus leucurus*): listed as Fully Protected under the California Endangered Species Act
- Bald eagle (*Haliaeetus leucocephalus*): listed as Endangered and Fully Protected under the California Endangered Species Act
- Bank swallow (*Riparia riparia*): listed as Threatened under the California Endangered Species Act

Due to the potential presence of special status avian species within one or more of the proposed project sites, PG&E is proposing for a qualified biologist to conduct pre-construction surveys for nesting birds during the nesting season (February 1 through August 31). This measure is included in PG&E's proposed mitigation measures ([Exhibit 2](#)), which are required to be implemented through [Special Condition 1](#). [Special Condition 2](#) expands upon this requirement by providing instruction on the timing of construction and surveys, reporting requirements, and actions to be taken if nests are detected.

## **Conclusion**

With the incorporation of measures in [Special Conditions 1, 2, and 3](#), existing terrestrial habitat and potential special status plant and avian species will be protected and not significantly disrupted. Project-related activities have been sited and designed to avoid significant degradation of terrestrial habitats. Therefore, as conditioned, the proposed project is consistent with section 30240 of the Coastal Act.

## **E. CALIFORNIA ENVIRONMENTAL QUALITY ACT**

Section 13096 of the Commission's Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing that the permit, as conditioned, is 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 project is exempt from CEQA as the replacement of existing pipeline facilities falls under a Class 1 Categorical Exemption under CEQA (see CEQA guidelines Section 15301 et seq., paragraph (b)).

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 special status species 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, and there are no remaining significant impacts 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 CEQA.

9-21-0083 (Pacific Gas & Electric Co.)

**APPENDIX A: SUBSTANTIVE FILE DOCUMENTS**

Application for Coastal Development Permit 9-21-0083 and supporting documents, dated February 5, 2021.

Supplemental wetlands survey results, dated April 21, 2021.