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STAFF REPORT: REGULAR CALENDAR

Application No.: 9-20-0092

Consistency Certification No.: CC-0001-21

Applicant: Pacific Gas and Electric Company

Location: Unincorporated Humboldt County and City of Eureka:
extending from the east of Spruce Point and
terminating to east of Eureka near Myrtle Ave.

Project Description: Maintenance, modification, construction and/or
replacement of existing powerlines, and wood and
steel poles on 7.8 miles of PG&E's existing Humboldt
Bay-Humboldt #1 60kV Power line.

Staff Recommendation: Approval with conditions (CDP); Concurrence with
Conditions (Consistency Certification)

SUMMARY OF STAFF RECOMMENDATION

Pacific Gas and Electric (PG&E) proposes to reconnector approximately 7.8 miles of single circuit power lines to maintain electric transmission system reliability in the City of Eureka and serve as critical back tie between the Humboldt Bay Power Plant and the Humboldt Substation. As part of the Project (which will commence in spring 2022 and includes work outside of the Coastal Zone), PG&E will be installing, removing and/or replacing wood poles, wood stub pole light duty steel poles (LDS), tubular steel poles (TSP) and lattice steel towers (LST), with an overall net loss of 14 poles for this proposed project. The reconnectoring component of this project will replace 7.8 miles of bare single-circuit 60 kV conductors and insulators with a larger diameter aluminum, specular conductor; (re) co-locate the 0.6 HB-E line with the HB-H #1 line on its four new LSTs, and replace the existing conductor; and move the HB #2 line onto the new tubular steel pole on the HB-E line. The proposed project qualifies as repair and maintenance under section 30610(d) of the Coastal Act; however, because of its location and potential impacts, the project is not exempt from permitting requirements. In considering a permit application for this type of non-exempt repair or maintenance project, the Commission evaluates the proposed method of repair and maintenance and does not review the underlying existing development's conformity with the Coastal Act. This proposed work traverses the coastal zone and adjacent lands and is being reviewed under a consolidated permit following a request from Humboldt County.

The most significant Coastal Act concerns raised by the proposed project are potential impacts to wetlands, ESHA and cultural resources. The proposed repair and maintenance project will result in 0.01 acres (492 ft²) of permanent impacts to wetlands. To mitigate this impact, PG&E proposes 4:1 mitigation through application of 0.04 acres of mitigation credits at the formerly-established Palco Marsh site, a wetlands mitigation area approved by the Coastal Commission that exceeded acreage required under another CDP. To mitigate for the removal of 17 trees, PG&E will provide 2:1 mitigation at the Cock Robin Island mitigation site, which was also previously approved. To ensure that the proposed mitigation is adequate, [Special Condition 5](#) requires the applicant to provide mitigation at the proposed ratios as described above, and to submit annual monitoring reports for the project area as well as the mitigation sites at Palco Marsh and Cock Robin Island.

Additionally, there are 15.1 acres of temporary wetland impacts resulting from the proposed project, which PG&E proposes to allow to passively recover with reseeding as necessary. PG&E will apply measures described in [Exhibit 5](#), such as surveys and photo-monitoring, to ensure the recovery of the wetlands. Special Condition 1 incorporates these restoration measures into this CDP, and Special Condition 5 further requires that PG&E demonstrate that temporary impacts to wetlands are fully restored within one year. To further minimize impacts to biological resources, PG&E will employ a qualified biologist to assess and avoid sensitive species where possible. Of primary concern are impacts to Lyngbye's sedge, a special status plant species, and raptor species that have the potential to be impacted by construction equipment and helicopter use in the proposed project. To address these impacts, [Special Condition 1](#) requires implementation of best management practices pertaining to species avoidance and monitoring. [Special Condition 4](#) requires the implementation of a helicopter use plan,

and [Special Condition 5](#) requires mitigation for permanent and temporary impacts to habitat in the project area through the use of mitigation credits at Palco Marsh and Cock Robin Island Sites as well as pre- and post-construction surveys, monitoring and quantitative performance standards.

Finally, a cultural resources inventory identified several potential cultural resources in the area, but this project is not anticipated to result in negative impacts to such resources. The applicant has committed to inadvertent discovery protocol in the event that human remains or tribal artifacts are discovered.

Staff recommends the Commission find the proposed project, as conditioned, consistent with the wetland, marine resources, cultural resources, and other resource protection policies of the Coastal Act. Staff recommends that the Commission **approve** coastal development permit application 9-20-009 & Consistency Certification CC-0001-21 as conditioned. The motions are on page 5.

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[Exhibit 1 – Project location, Coastal Zone boundary, and wetlands location](#)

[Exhibit 2 – Project construction elements and relative location of mapped one and three parameter wetlands](#)

[Exhibit 3 – Map of Lyngbye’s Sedge Locations](#)

[Exhibit 4 – Table 5-1 Mitigation Monitoring, Reporting, and Compliance Program for the PG&E Humboldt Bay – Humboldt #1 60 KV Project](#)

[Exhibit 5 – PG&E Humboldt 60 KV Habitat Restoration Plan](#)

[Exhibit 6 – CCC letter authorizing Palco Marsh excess wetland mitigation acreage for credit towards future project.](#)

[Exhibit 7 – Wetland Mitigation Proposal from PG&E](#)

I. MOTION AND RESOLUTION

1. Coastal Development Permit

Motion:

*I move that the Commission **approve** Coastal Development Permit No. 9-20-0092 pursuant to the staff recommendation.*

Staff Recommendation of Approval:

Staff recommends a **YES** vote. 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 9-20-0092 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.

2. Consistency Certification

Motion:

*I move that the Commission **conditionally concur** with Consistency Certification CC-0001-21 on the grounds that, if modified in accordance with the conditions listed in the staff report, the project described therein would be consistent with the enforceable policies of the California Coastal Management Program (CCMP).*

Staff Recommendation:

Staff recommends a **YES** vote on the motion. Passage of this motion will result in a conditional concurrence in the certification and adoption of the following resolution and findings. An affirmative vote of a majority of the Commissioners present is required to pass the motion.

Resolution to Conditionally Concur with Consistency Certification:

The Commission hereby conditionally concurs with Consistency Certification CC-0001-21 on the grounds that, if modified in accordance with the conditions listed in the staff report, the project described therein would be consistent with the enforceable policies of the CCMP.

II. STANDARD CONDITIONS

This permit 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

Both CDP No. 9-20-0092 and Consistency Certification No. CC-0001-21 are subject to the following special conditions:

- 1. CEQA Initial Study Checklist Mitigation Measures.** This permit incorporates those mitigation measures identified in Table 5-1 of the February 2020 Initial Study/MND Checklist concerning biological resources, cultural resources, and paleontological resources that are attached to this report as **Exhibit 4**. Copies of monitoring reports for biological surveys, cultural resources, and paleontological resources shall be provided to the Executive Director.
- 2. 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 and authorizations required to perform project-

related work, or evidence that no permits are required. These permits and approvals include:

- a. CPUC: GO-131-D Permit to construct and CEQA review/approval (granted 11/19/2020)
- b. U.S. Army Corps of Engineers: Section 402 NPDES General Construction Stormwater Permit, Section 404 Nationwide Permit (NWP) 12 and Section 10 Rivers and Harbors Act Permit
- c. North Coast Regional Water Quality Control Board: section 401 Water Quality Certification.

- 3. 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 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 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. Contracts with off-site spill response companies shall be in-place and shall provide additional containment and clean-up resources as needed.
- 4. Helicopter Use Plan.** PRIOR TO THE COMMENCEMENT OF PROJECT ACTIVITIES, the Permittee shall submit a project specific Helicopter Use Plan to the Executive Director for review and approval. The plan shall comply with applicable FAA regulations, and include time of day limitations, duration, approved take-off and landing locations, type of helicopter, notification of sensitive receptors to helicopter use, include appropriate raptor buffers and decision-making criteria, and include information about coordination with local airports before and during construction.
- 5. Mitigation for Impacts to Wetlands and Biological Resources.** The Permittee shall mitigate the project's permanent wetland impacts through application of credits from the existing Palco Marsh wetland enhancement site, as described in the April 2020 correspondence from PG&E ([Exhibit 7](#)). The Permittee shall mitigate impacts from permanent removal of 17 trees at a 2:1 mitigation to impact ratio by applying 34 tree mitigation credits at the Cock Robin Island site. The Permittee shall provide annual reports for both sites for a minimum of five years that includes monitoring results for absolute vegetation cover, native plant cover, non-native plant cover and species richness and assesses whether the mitigation site is meeting applicable performance criteria. If monitoring result show performance criteria are not being met, the Permittee shall identify and implement remedial measures. If monitoring results show that performance criteria have not been met for two consecutive years,

the Permittee shall submit an application to amend this permit with alternative mitigation, unless the Executive Director determines that a permit amendment is not necessary.

To address temporary impacts to wetlands and vegetation communities including the Lyngbye's Sedge, the Permittee shall implement the pre-construction and performance monitoring measures that are described in [Exhibits 4, 5, and 7](#). After one year of monitoring, the Permittee shall provide the Executive Director with a monitoring report, identifying areas of wetland, Lyngbye's Sedge or vegetation communities habitat that have and have not met the following performance standards:

- a. Total vegetative cover and species richness have returned to preconstruction conditions.
- b. Relative cover must return to 90% of baseline for non-woody vegetation, and 85% of baseline for woody vegetation. If monitoring of the adjacent sensitive habitats that were not impacted by construction documents an overall change to the sensitive habitat has occurred due to non-Project related factors (e.g., drought), then performance standards may be modified accordingly. For example, if total vegetative cover in adjacent plots has decreased by 10% from the baseline conditions (i.e., from 60% pre-construction to 50% cover during the monitoring period), then the performance standard for total vegetative cover in the monitoring site[s] may be similarly reduced.
- c. Invasive plant cover does not exceed the invasive plant cover documented pre-construction

If monitoring results show that temporary impacts have not been fully restored within one year, the Permittee shall submit an application for an amendment to this permit that proposes mitigation for remaining wetland impacts at a 4:1 mitigation to impact ratio and impacts to Lyngbye's sedge at a 3:1 mitigation to impact ratio.

IV. FINDINGS AND DECLARATIONS

A. PROJECT DESCRIPTION

PG&E proposes to reconnector approximately 7.8 miles of single circuit power lines to maintain electric transmission system reliability in the City of Eureka and serve as critical back tie between the Humboldt Bay Power Plant and the Humboldt Substation (see [Exhibit 1](#)). The proposed project area is located in unincorporated Humboldt County and the City of Eureka. The proposed reconnectoring would begin at the Humboldt Bay Substation located south of Eureka, near the existing power plant, and west of Spruce Point in an industrial area west of Highway 101. From Humboldt Bay Substation, the subject power line travels northeast through unincorporated Humboldt County, then back through Eureka, terminating at Humboldt Substation located east of Eureka near Myrtle Avenue. Maps of the project location are included as [Exhibits 1 and 2](#).

The proposed project includes three main components. The first component involves replacing 7.8 miles of bare single-circuit 60 kV conductors and insulators with a larger diameter aluminum, specular conductor. It also includes replacement of 90 existing wood poles with 52 wood poles and 38 light duty steel poles, one tubular steel pole, and four lattice steel towers and replacement of eight light duty steel poles with five wood poles and three light duty steel poles. This portion of the project will also remove six wood poles and shorten four additional wood poles and reframe or replace insulators on approximately 10 existing poles (Exhibit 2).

The second component of this project includes relocating 0.6-mile of HB-E line to a new tubular steel pole, co-locating the HB-E line with the HB-H #1 line on its four new lattice steel towers, and replacing the existing conductor. This portion of the proposed project will remove seven wood poles, shorten three additional wood poles, and reduce the footprint of the transmission system in wetland areas. Approximately 14 existing wood poles currently located within a wetland associated with Buhne Slough would be permanently removed ([Exhibit 1](#)).

The third project component would remove a single wood pole and move the line onto the new tubular steel pole on the HB-E line.

Construction activities are scheduled to begin in the spring of 2022 and be completed in the fall of 2022. Types of equipment that may be used include vehicles, micropiling equipment, concrete trucks, and helicopters (used for pole removal and placement in sensitive biological resource areas), and other construction equipment. Structure and pole installation, line reconductoring, and pole removal are expected to be performed over approximately six to eight months. Reconductoring, pole and tower installation activities in wetland areas will generally occur in the dry season beginning in June.

B. OTHER AGENCY APPROVALS AND TRIBAL CONSULTATIONS

Jurisdiction and Standard of Review: The proposed project is planned for areas within the Commission's retained jurisdiction and in areas that are within the jurisdiction of Humboldt County. In response to the request for a consolidated permit from the County, the Commission is conducting a consolidated permit review for the project pursuant to Coastal Act Section 30601.3, and the standard of review is Chapter 3 of the Coastal Act.

Caltrans: PG&E will obtain an encroachment permit from Caltrans to replace the conductor over Highway 101, in addition to encroachment permits from Humboldt County and the City of Eureka for pole replacements adjacent to roads requiring temporary lane closures.

United States Army Corps of Engineers:

- **Section 402 NPDES General Construction Stormwater Permit:** PG&E will prepare a Stormwater Prevention Pollution Plan (SWPPP) and submit a Notice of Intent closer to the start of construction.
- **Section 404 Nationwide Permit (NWP) 12 and Section 10 Rivers and Harbors Act Permit:** PG&E will be submitting a preconstruction notification under NWP 12, and a Section 10 application for transmission line spans above navigable waters of Buhne Slough and Ryan Slough.

North Coast Regional Water Quality Control Board

- **Section 401 Water Quality Certification/Waste Discharge Requirements:** PG&E is submitting an application to the North Coast RWQCB for a 401/WDR Permit in conjunction with US Army Corps Nationwide Permit and the California Porter-Cologne Act.

Tribal Outreach and Consultations: Commission staff reached out to representatives from Native American Tribes understood to have current and historic connections to the project area: Bear River Band of Rohnerville Rancheria, Blue Lake Rancheria, Wiyot Tribe, and Cher-Ae Heights Indian Community of the Trinidad Rancheria. Contact information for these Tribal Representatives was provided by the Native American Heritage Commission.

Tribal liaisons from Blue Lake Rancheria and the Wiyot tribe indicated that they were satisfied with the applicants' inclusion of inadvertent discovery protocol. At the time of publication of this staff report, 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.

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 utility line and structures. The footprint of the proposed project will not be increased, and in fact will be reduced by removing some poles. 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 do 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 power line.

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.

D. WETLANDS

Section 30233 of the Coastal Act states:

(a) The diking, filling, or dredging of open coastal waters, wetlands, estuaries, and lakes shall be permitted in accordance with other applicable provisions of this division, where there is no feasible less environmentally damaging alternative, and where feasible mitigation measures have been provided to minimize adverse environmental effects, and shall be limited to the following:

(1) New or expanded port, energy, and coastal-dependent industrial facilities, including commercial fishing facilities.

(2) Maintaining existing, or restoring previously dredged, depths in existing navigational channels, turning basins, vessel berthing and mooring areas, and boat launching ramps.

(3) In open coastal waters, other than wetlands, including streams, estuaries, and lakes, new or expanded boating facilities and the placement of structural pilings for public recreational piers that provide public access and recreational opportunities.

(4) Incidental public service purposes, including but not limited to, burying cables and pipes or inspection of piers and maintenance of existing intake and outfall lines.

(5) Mineral extraction, including sand for restoring beaches, except in environmentally sensitive areas.

(6) Restoration purposes.

(7) Nature study, aquaculture, or similar resource dependent activities.

Description of the site

Humboldt Bay is a large wetland and estuarine ecosystem along the California coast containing approximately 23% of the coastal wetlands in California. Its waters hold and support a diverse array of fish fauna, invertebrate groups, waterfowl, and rare plants that grow in brackish and saltwater marshes.

Wetlands in this project area include: estuarine emergent wetlands; semi-permanently flooded emergent wetlands; partly drained/ditched seasonally flooded emergent wetlands; seasonally flooded emergent wetlands; and seasonally flooded forested and scrub/shrub wetlands. Collectively referred to as "coastal wetlands," these areas are dominated by vegetation including: red alder (*Alnus rubra*), Pacific willow (*Salix lasiandra*), arroyo willow (*Salix lasioides*), coastal willow (*Salix hookeriana*), cascara (*Frangula purshiana*), Sitka spruce (*Picea sitchensis*), slough sedge (*Carex obnupta*),

perennial rye grass (*Festuca perennis*), common velvet grass (*Holcus lanatus*), Sitka willow (*Salix sitchensis*), soft rush (*Juncus effusus*), and common horsetail (*Equisetum arvense*).

In total, the project area contains approximately 102 acres of wetlands, only a small portion of which will be impacted by proposed project activities ([Exhibit 2](#)). Impacts from proposed project activities will be caused by removal and placement of poles, and the presence of construction-related equipment within sensitive habitats. These activities will result in temporary direct impacts to approximately 15.1 acres of wetlands within the coastal zone and an additional 0.46 acres outside the coastal zone and would permanently impact .01 acres (492 ft²) of wetland area and cause the removal of 17 trees in the coastal zone.

Because of its potential effect on wetlands, the proposed project is subject to the requirements of Coastal Act Section 30233(a). The first requirement is that the proposed activity must fit into one of the seven listed categories (i.e.; in the “allowable use” test). However, because the project is considered repair and maintenance, as described previously, only the methods of proposed construction activity are being reviewed; therefore, this “allowable use” test of Section 30233(a) is not applicable.

The second test of Section 30233(a) requires that there be no feasible less environmentally damaging alternative, and the third test requires that feasible mitigation measures be provided to minimize the project’s adverse environmental effects. These two tests are applicable to the proposed project and are assessed in the sections below.

Alternatives and Mitigation

For the second test of Section 30233(a), the Commission must find that there are no feasible, less environmentally damaging alternatives to the proposed.

PG&E designed the proposed project to minimize permanent and temporary impacts to wetlands. The proposed work consists of repair and maintenance to existing infrastructure, and thus, selecting an alternative project location is not feasible. As part of the design process, PG&E did consider alternative realignments, but determined these alternatives would likely result in similar or greater impacts to wetlands due to installation of additional poles, which would require more equipment and impacts to sensitive habitat. Ultimately, project construction activities will result in approximately 492 square feet (0.01 acre) of permanent direct impacts to wetlands within the coastal zone, depending on the final design for the four concrete tower foundation footings for each new lattice steel tower. PG&E has designed this project component to minimize impacts to wetlands by reducing the size of the tower footings to the extent possible, while maintaining required safety standards as well as incorporating the use of helicopters in sensitive, less accessible areas. In addition, wetland impacts would be reduced over the long term with the permanent removal of approximately 14 wood poles from wetland areas, which would, in turn, reduce the number of structures requiring future maintenance in these wetland areas and the resulting effects. Further, PG&E

proposes to limit utility operation and maintenance practices within the wetlands, thus minimizing continuing impacts in the vicinity of existing infrastructure and allowing these areas to provide habitat value after project implementation. As a result, impacts associated with habitat fragmentation, local loss of breeding habitat, or hydrologic disruption would be avoided or minimized.

Thus, for the reasons described above, the Commission finds that the project is the least environmentally damaging alternative as required by the second test of section 30233(a).

The third test of Section 30233(a) of the Coastal Act is that feasible mitigation measures be provided to minimize the project's adverse environmental effects on wetlands.

In addition to the project elements described above, PG&E considered various approaches to minimize impacts to wetlands, which have been incorporated into the proposed project as mitigation measures. For example, reconductoring and pole and tower installation activities in wetland areas would generally occur in the dry season to minimize impacts to aquatic habitats from direct disturbance and from stormwater runoff or erosion associated with rain events. If wet season construction is required because of line clearance or safety requirements, PG&E would use temporary matting or other protection measures (e.g., rig mats, timber roads, plating, or tracked vehicles [preferably rubber tracked]) to minimize temporary impacts and ground disturbance. Temporary impacts to wetlands typically would not involve grading but would result from surface disturbance associated with staging and transport of equipment. However, staging locations have been selected to minimize the footprint in wetlands. Potential staging areas were selected at eleven locations based on the existing footprints (i.e., using existing empty lots), locations away from downgrade aquatic habitat (at least 100 yards), and distance from sensitive receptors. Most staging areas would be between 0.5 and 1.5 acres, with the exception of a staging area off Golden West Road that would be up to 4.1 acres, and the Fields Landing staging area that would be between 1.0 to 2.5 acres. The proposed staging areas are relatively flat and are accessible by existing access routes or overland routes.

Construction activities would occur for a relatively short duration at individual locations (from a few days to approximately one month at each location) and be limited to defined workspaces. PG&E would restore temporarily disturbed wetland areas after construction is complete. In addition, the following construction techniques have been incorporated into the project description to reduce impacts on wetlands:

- Helicopters would be used to perform pole installation and removal in the most sensitive biological resource areas, where feasible and safe, to minimize wetland impacts.
- Lattice steel towers would be installed in certain areas using the micropiling technique to minimize the area of wetland disturbance. Micropiling is a technique that uses smaller equipment than needed for traditional piling. Micropiling uses lightweight, low-cost materials that can support large loads. As opposed to boring

methods, micropiling installation takes less time, and does not need additional support, even in weak soil.

- Where travel across seasonal wetlands, seasonal drainages, or other areas with wet surface conditions is necessary to access construction work areas, temporary matting (e.g. rig mats or timber roads) would be used to limit soil compaction and mixing.
- Use existing roads for access where possible

During construction, a qualified biologist would routinely document and update the actual acreages of permanent and temporary wetland impacts caused by the Project. Impacts on wetlands would be reduced through the implementation of the following measures:

- Worker environmental awareness;
- Site protection and restoration of temporary impacts;
- Preconstruction surveys;
- Avoidance of sensitive areas;
- Biological monitors
- Implementation of a stormwater pollution prevention plan, hazardous substance control and emergency response procedures, and other measures to protect water quality during construction

Despite incorporation of these measures, PG&E anticipates that the proposed project will result in 15.1 acres of temporary and .01 acres of permanent impacts to wetlands.

To mitigate for temporary impacts, PG&E proposes the following process outlined in its final habitat restoration plan ([Exhibit 5](#)) and required by Special Condition 5. PG&E will establish a baseline condition of sensitive habitats through pre-construction surveys, establish construction plots in adjacent areas that will not be impacted from construction, and employ photo-monitoring points for each sensitive habitat that will be mapped with submeter GPS during construction activities. This map will determine areas in need of restoration. PG&E anticipates that any impacted areas will recover within a year; however, impacted areas will be monitored for a minimum of five years following construction activities. Special Condition 5 requires that PG&E submit a report after one year of monitoring documenting whether all wetland areas that were temporarily affected have been fully restored. Should performance standards (total vegetative cover, species richness, relative native cover, and maximum percent of invasive plants cover) not be met, Special Condition 5 requires PG&E to submit an application for a permit amendment to the Executive Director proposing mitigation for remaining wetland impacts at a 4:1 ratio.

To address permanent impacts to wetlands, PG&E proposes the following mitigation strategy: Compensatory mitigation for impacts to wetlands is proposed to be fulfilled by using excess credit generated from a wetland enhancement project in Humboldt marsh (formerly Palco Marsh, located in Eureka, CA) that was previously approved by the Coastal Commission. In 2018, PG&E proposed and initiated a wetland restoration and enhancement and construction project within the marsh in connection with another

PG&E project (CDP 9-17-0408) and took advantage of an opportunity to expand the site. In exchange, the CCC provided a letter memorializing that excess credit generated from the project could be applied to future projects in the coastal zone ([Exhibit 6](#)). The original project (CDP 9-17-0408) included restoration of 0.22 acres of freshwater or estuarine wetland habitat to compensate for the clearing of 0.055 acres of these habitats (a 4:1) ratio. Overall, 1.86 acres of habitat was restored, leaving a restored area of 1.66 acres serving as a mitigation bank for PG&E to use for future projects. Applying the same 4:1 ratio to mitigate permanent impacts from the proposed reductoring, .04 acres (0.01 acre impact x 4) will be deducted from the Palco Marsh site for this proposed project, leaving 1.62 acres of remaining credit. To memorialize this mitigation arrangement, [Special Condition 5](#) requires that PG&E mitigate 0.01 acres of permanent wetland impacts by applying 0.04 acres of wetland credit from Palco Marsh. To ensure that the mitigation wetland is successful, [Special Condition 5](#) also requires that PG&E submit annual monitoring reports for five years for Palco Marsh that demonstrate that the mitigation site is providing adequate habitat value. If monitoring reports indicate the site is not meeting performance criteria, PG&E would be required to submit a CDP amendment application to address the mitigation shortfall.

Monitoring reports submitted for the Palco Marsh and Cock Robin Island (CRI) show that the restoration efforts by PG&E have been successful. Although the project is still ongoing, staff reviewed the year one and year two reports for Palco Marsh/CRI, which indicate that the project is currently meeting or exceeding requirements to achieve success at the end of five years. To measure success at the Palco Marsh/CRI Site, three mitigation requirements have been clearly defined in CDP 9-17-0408:

1. Restoration of at least 4.15 acres of riparian woodland or scrub habitat, including a minimum of 3721 native riparian trees, to compensate for the clearing of 1.37 acres of these habitats and removal of 134 trees under the proposed project.
2. Restoration of 0.53 acres of freshwater or estuarine wetland habitat to compensate for the clearing of 0.13 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. The success of the mitigation requirements is measured in percent cover of native vegetation in restored habitat and percent survival for tree plantings. They must meet or exceed 80% survival/cover under each requirement at the end of five years.

Thus, the proposed use of credits related to the wetland restoration project in Palco Marsh and tree mitigation at the Cock Robin Island site satisfactorily meet the mitigation requirements of Section 30233(a) for permanent wetland impacts.

In summary, for the above discussed reasons, the Commission finds that each of the applicable requirements of section 30233 have been met.

E. ENVIRONMENTALLY SENSITIVE HABITAT, MARINE AND 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.

Coastal Act Section 30230 states:

Marine resources shall be maintained, enhanced, and where feasible, restored. Special protection shall be given to areas and species of special biological or economic significance. Uses of the marine environment shall be carried out in a manner that will sustain the biological productivity of coastal waters and that will maintain healthy populations of all species of marine organisms adequate for long-term commercial, recreational, scientific, and educational purposes.

Habitat and Species Impacts/Mitigation

The proposed Project area encompasses a variety of habitats including redwood forests, annual and perennial grasslands, montane riparian forest, freshwater emergent wetlands, saline emergent wetlands, and coastal scrub. The Project area also includes numerous riverine features, namely Buhne Slough, Elk River, Martin Slough, Ryan Slough, Ryan Creek, and associated unnamed tributaries. Saline and freshwater wetlands are the dominant habitat type in the first mile of the Project area (immediately west of the Humboldt Bay Substation), after which it changes to annual/perennial grasslands and riparian habitat associated with the Elk River floodplain. The Project area then passes through suburban Eureka and small tracts of second- and third-growth redwood forest fragments at the southeastern edge of the City, until the terminus at Humboldt Substation.

Botanical field surveys conducted in 2016 documented 11 special status natural communities in the Project area: redwood forest, red fescue grassland, bigleaf maple forest, coastal dune and Sitka willow thickets, shining willow groves, Pacific silverweed marshes, slough sedge swards, small-fruited bulrush marsh, salt rush swales, coastal brambles, and pickleweed mats. Approximately 36% of the Project is in urban areas, about 30% in redwood forests, 20% in annual/perennial grasslands, with the remaining communities accounting for less than 10% (each) of the Project area. Sitka spruce forest was documented within the Project area in conjunction with redwood forests. The stands within the Project area are not considered old-growth and therefore not defined as sensitive by CDFW.

Wildlife

The habitats that will be impacted by this Project do not support any federally or state listed wildlife species, and this Project is not within federally designated critical habitat for any listed wildlife species. The Project is adjacent to some habitats, however, no in-water work is occurring, and the Project has been designed to minimize impacts such as runoff and spills. There are four special-status wildlife species that may use habitats in the Project area:

- Northern red-legged frog (*Rana aurora*); state species of special concern
- White-tailed kite (*Elanus leucurus*); state fully protected
- Northern harrier (*Circus cyaneus*); state species of special concern
- American peregrine falcon (*Falco peregrinus anatum*); state fully protected

Northern red-legged frog have been documented in a variety of habitats in the Project area including near Buhne Slough, near Marin and Ryan Slough, and have the potential to occur in nearly all other habitats, particularly aquatic habitats, which are critical breeding habitats.

White-tailed kites, northern harrier and peregrine falcons have been previously documented within the Project areas. They use the habitat for forage, breeding, nesting, perching. Wetlands, meadows, and agricultural fields support a variety of their small mammal prey. However, no peregrine falcon nests have been observed in the proposed Project area.

Other wildlife species that may occur in or near the Project area include:

- Bald Eagle (*Haliaeetus leucocephalus*); federally delisted, state-listed endangered and state fully protected, and protected by the federal Bald Eagle and Golden Eagle Protection Act
- Southern torrent salamander (*Rhyacotriton variegatus*); California species of special concern
- Northern Spotted Owl (*Strix occidentalis caurina*); federally and state listed as threatened
- Vaux's Swift (*Chaetura vauxi*); California Species of special concern
- Olive Sided Flycatcher (*Contopus cooperi*); California Species of special concern
- Willow flycatcher (*Empidonax traillii*); state listed as endangered
- Yellow Warbler (*Setophaga petechia*); California species of special concern
- Marbled murrelet (*Brachyramphus marmoratus*); federally threatened and state endangered
- Fisher (*Pekania pennanti*); California species of special concern and federally proposed as threatened
- Townsend's big-eared bat (*Corynorhinus townsendi*); California species of special concern
- Pallid Bat (*Antrozous pallidus*); California species of special concern
- Western Pond Turtle (*Actinemys marmorata*); California species of special concern

Northern spotted owl may forage in the proposed Project area but are unlikely to nest there. Suitable foraging habitat for northern spotted owl in the Project area is present in

contiguous areas of redwood forest, and known activity centers (i.e., places that they forage, nest, roost) are located in the immediate vicinity.

The closest critical habitat for marbled murrelets to the proposed Project area is in the Headwaters Forest Reserve, approximately five miles to the southeast. Marbled murrelets forage along the Pacific Coast and breed in old-growth and mature coastal forests from central California north beyond the Oregon border. Although there is not suitable nesting habitat for this species in the Project area, they commonly feed pre-dawn and just after dusk in the Project area.

To address potential impacts to avian species, construction will not occur during peak feeding hours for marbled murrelets. A qualified biologist will survey the vicinity for active nests and assess the potential for impacts to any nests that may be found. Per the applicant-proposed measures referenced in [Special Condition 2](#) and included as [Exhibit 4](#), if nests are discovered, the biologist will have the authority to establish buffer areas around such nests, which vary based on the species. To further minimize impacts to avian species, [Special Condition 4](#) requires PG&E to develop and implement a helicopter use plan, which will comply with applicable FAA regulations and include time of day limitations, duration, approved take-off and landing locations, type of helicopter, notification of sensitive receptors to helicopter use, include appropriate raptor buffers and decision-making criteria, and include information about coordination with local airports before and during construction.

Finally, to address potential impact to raptors, PG&E will conduct pre-construction surveys with a qualified biologist for nests and species presence, establish species-specific buffers for helicopter use ([Special Condition 4](#)), and prohibit work during peak feeding times for marbled murrelets.

Fish

The Project area is within federally designated critical habitat for five listed fish species:

- North American green sturgeon, southern Distinct Population Segment (DPS) (*Acipenser medirostris*); federally threatened and state species of special concern (critical habitat in Elk River)
- Southern Oregon/Northern California Coast coho salmon Evolutionarily Significant Unit (ESU) (*Oncorhynchus kisutch*); federally and state-listed as threatened (critical habitat in Ryan Slough, Martin Slough, Elk River, and any accessible tributaries)
- California coastal Chinook salmon ESU (*Oncorhynchus tshawytscha*); federally threatened (critical habitat in Elk River and Ryan Slough)
- Northern California Coast steelhead DPS (*Oncorhynchus mykiss*); federally threatened (critical habitat in Elk River, Martin Slough, and Ryan Slough)
- Tidewater goby (*Eucyclogobius newberryi*); federally endangered (critical habitat in lower Elk River and Martin Slough)

Green sturgeon, coho and chinook salmon, and steelhead are known to occur in waters adjacent to the Project area. Green sturgeon generally occur in Humboldt Bay's deeper channels, while salmon and steelhead inhabit Ryan Slough, Martin Slough, and Elk River during their upstream migration. These locations and any accessible tributaries are considered critical habitat. Coho salmon adults typically migrate upstream from October through December, and spawn from November through January. Coho and chinook, specifically, are known to use sloughs and streams in the Project area. Adult migration and juvenile rearing occurs in the Project area in Elk River and Ryan Slough, and Martin Slough is an important rearing area for juvenile salmon. It is unlikely that juvenile coho salmon would move from non-natal watercourses to occupy Buhne Slough because Buhne Slough is relatively isolated from known spawning streams. Salmon are most likely to be present in the Project area during upstream migration in October through December, and juveniles may be present year-round. However, spawning of both coho and chinook is unlikely within the Project area due to the lack of suitable spawning substrate in these sloughs.

The distribution of the tidewater goby around Humboldt Bay includes tributaries to Arcata Bay and Humboldt Bay. In the Project area, tidewater goby likely occurs in areas near Elk River, Martin Slough, and Ryan Slough: there are several documented occurrences of tidewater gobies in these waterways. Tidewater goby has limited potential to occur in the lower portions of Buhne Slough. However, 2017 surveys did not document presence of tidewater goby: habitat assessment conducted in 2017 showed poor habitat suitability for tidewater goby based on the documented salinity levels outside of the preferred range due to the permanently open tide gate resulting in full tidal action into Buhne Slough.

Other fish species that may be found in or near the Project area:

- Longfin smelt (*Spirinchus thaleichthy*); state threatened
- Coastal Cutthroat trout (*Oncorhynchus clarkii clarkii*); California species of concern

Longfin smelt, also a federal candidate for listing, may occur in Elk River, Martin Slough, and Ryan Slough. There is no designated critical habitat for longfin smelt. Additionally, coastal cutthroat trout (a state designated species of special concern) have been documented in most of the tributaries to Humboldt Bay, including Elk River, Martin Slough, and Ryan Slough. Coastal Cutthroat can potentially be in the Project area year-round.

Overall, the proposed Project has the potential to impact several of the sensitive wildlife and fish species described above. Amphibians such as the northern red-legged frog live in nearby aquatic habitat, and special status fish species breed and migrate through the adjacent waterways and are sensitive to potential aquatic disturbances such as runoff from spills or sediment disturbances. However, there are no anticipated direct impacts to these waterways, or to sensitive biological resources that may occur in these waterways (and associated tributaries) because the Project has been designed to avoid any in-water work within any stream, river, or slough channel.

Construction activities will occur in tidal coastal wetlands abutting Buhne Slough, and thus indirect impacts (e.g., from introduction of soil, sediment, or runoff accidentally released into waterways) are possible. To minimize impacts to aquatic species, PG&E will implement several mitigation measures including: worker environmental awareness training, site protection and restoration of temporary impacts, biological monitoring and pre-construction surveys, as well as avoidance of wetlands to the maximum extent possible. In addition, PG&E is required to develop a stormwater pollution prevention plan as part of the required Project approval by the Regional Water Quality Control Board. Indirect impacts could also occur from an accidental release of fuel or other hazardous material from construction vehicles or activities. To ensure that the potential for an accidental release is minimized, [Special Condition 3](#) requires PG&E to submit a Spill Prevention and Response Plan to the Executive Director prior to the commencement of Project activities. With these measures in place, incidental sediment runoff and accidental releases would be avoided, minimized and treated, reducing potential indirect impacts on special-status fish species and maintaining the biological productivity of marine and freshwater habitats.

Plants

The only special status plant species identified within the bounds of this Project is Lyngbye's sedge (*Carex lyngbei*). This species is located along the banks of Martin Slough, Elk River, and Ryan Slough, all tidally influenced waterways. Lyngbye's sedge is a perennial rhizomatous herb that has a California Rare Plant Rank listing of 2B.2 (plants rare, threatened, or endangered in California, but more common elsewhere; moderately threatened in California). It is limited to the North and Central Coast from 0 to 33 feet in elevation. Lyngbye's sedge occurs in brackish and freshwater marshes and swamps and blooms from April through August. Lyngbye's sedge was previously documented in the Project area along the banks of Martin Slough, Elk River, and Ryan Slough. Elk River had the largest occurrence of sedge with approximately 700 plants. A map of CNDDDB plant occurrences is included as [Exhibit 3](#).

The proposed Project would occur within and adjacent to Lyngbye's sedge which, as described above, is a rare and sensitive species that could be harmed by the proposed Project. Therefore, the Commission finds that this vegetation community constitutes environmentally sensitive habitat areas (ESHA) under the Coastal Act. As discussed previously, however, because the proposed Project consists of repair and maintenance activities associated with the existing utility line, 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. Thus, impacts within identified ESHA associated with the repair and maintenance of existing development are allowable if avoided where feasible, minimized and fully mitigated.

To ensure that Lyngbye's sedge plants are protected against any significant disruption of habitat values, PG&E will avoid disturbing existing plants to the extent feasible. Prior to beginning construction, a qualified botanist will re-survey mapped populations of

Lyngbye's sedge and flag or otherwise mark them. PG&E will limit driving across special-status plant populations to the greatest extent feasible. Where direct disturbance to topsoil (except excavation) is unavoidable, matting and other protection measures (e.g., rig mats, timber roads, plating, or tracked vehicles) will be used to minimize soil compaction or destruction of underground plant structures. Matting and other protection measures will be approved by a qualified biologist before work begins at that location. If complete avoidance from Project activities is not possible, the applicant proposes to restock the upper 6 inches of topsoil containing stockpiled plant rhizomes after construction is completed. To ensure that all impacts to Lyngbye's sedge are temporary and thus restored to initial pre-project conditions within one year, [Special Condition 5](#) requires PG&E to document the pre-construction status of any impacted Lyngbye's sedge and then submit a report demonstrating that all affected areas have been fully restored within one year of the completion of construction. Although there is not a high likelihood of impacts based on the applicant's proposed avoidance measures, if impacted Lyngbye's sedge plants are not fully recovered within one year, Special Condition 5 requires that PG&E submit a permit amendment application proposing compensatory mitigation at a 3:1 mitigation ratio.

Finally, this proposed Project will remove approximately 17 trees (less than 4 dbh) in the Project area and several willow thickets (stems ranging from 1"-8" dbh). To mitigate habitat impacts from removal of trees, PG&E proposes to expand an existing riparian mitigation site at Cock Robin Island (9 miles south of the Project area) with a 2:1 ratio. PG&E currently has planted an area of 4.1 acres of native riparian species. The tree species include Black cottonwood, Red alder and Wax myrtle. The shrub species include Coyote brush, Red elderberry, Twinberry, Salmonberry, Red-flowering currant, Thimbleberry and Blue Blossom. This planting palette was developed to mimic the riparian forest that is present on the fringe of the planting area, with the goal of the replanting effort to fill in overtime and restore a previously cleared hayfield with locally grown and sourced materials. To ensure the mitigation site is successful and thus adequate mitigation is provided, Special Condition 5 requires PG&E to use a 4:1 credit ratio at the Palco Marsh/CRI sites and to provide annual reports to the Executive Director. Special Condition 5 further requires PG&E to provide mitigation for any impacted Lyngbye's Sedge or other sensitive habitat within one year and make report to the Executive Director.[FILL IN].

Summary of Potential Impacts and Mitigation Measures

Section IV.D. of these Findings describe and assesses potential impacts to wetland habitat ([Exhibit 1](#)), and the previous section describes potential impacts to wildlife, fish, Lyngbye's Sedge, and certain avian species. These impacts will be mitigated through implementation of [Special Conditions 3, 4, and 5](#).

More specific measures to address and mitigate impacts to area vegetation communities pre-, during, and post construction are included in the habitat restoration plan ([Exhibit 5](#)) and include: pre-construction surveys with photo monitoring points, and annual monitoring reports which are required to be submitted to the Executive Director

through [Special Condition 5](#). The habitat restoration plan outlines the use of submeter GPS for vegetative mapping during construction activities, and a performance monitoring program with accompanying performance standards will take place. The applicant has identified four quantitative performance standards for monitoring conditions of impacted sensitive habitat including total vegetative cover, species richness, relative native cover, and maximum percent of invasive plants cover. If annual monitoring indicates that performance standards are unlikely to be met, an assessment of factors that may be contributing to poor performance will be included in the annual report and remedial actions may need to be implemented. If necessary, PG&E will consult with the Coastal Commission staff prior to completing remedial actions outside the scope of this habitat restoration plan. [Special Condition 5](#) incorporates these annual monitoring and performance standards to measure success of habitat restoration.

For the reasons described above, the Commission finds that the method of repair and maintenance proposed for this Project, as conditioned by [Special Conditions 3, 4, and 5](#), will be carried out in a manner that protects environmentally sensitive habitat areas against any significant disruption of habitat values and sustains the biological productivity of coastal waters. The Project is therefore consistent with Coastal Act Sections 30230 and 30240.

F. VISUAL RESOURCES

Coastal Act Section 30251 states:

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas, to minimize the alteration of natural land forms, to be visually compatible with the character of surrounding areas, and, where feasible, to restore and enhance visual quality in visually degraded areas.

Pole work included in the proposed Project will take place on the existing utility line corridor in close proximity (generally within 5-10 feet) to existing poles, and will result in a net loss of 14 wood poles from the line. Existing poles range in height from 44 to 73 feet above the ground, and replacement poles would range from 43 to 90 feet above ground. The four Lattice Steel Towers (LSTs) would be 85 to 115 feet tall and would be set within an existing utility corridor with structures of comparable height and form. The proposed lattice steel towers and corresponding longer span length between the towers would allow for the removal of 14 existing wood poles and topping (or structural shortening) of seven poles along Highway 101. No new permanent lighting is proposed as part of the Project. On light duty steel poles (LDSs), tubular steel poles (TSPs) and LSTs, use of a galvanized finish that will weather to a dull, non-reflective patina on new steel poles and lattice towers will reduce potential for a new source of glare resulting from introduction of Project elements.

The proposed Project would include the use of construction-related equipment which may be noticeable to motorists, residents, and/or recreational users. This effect would be temporary and of short duration, as the proposed Project is anticipated to take approximately eight months, with vehicles at individual pole work sites for up to a week at a time. Construction staging and helicopter landing zones are proposed primarily in locations that are already developed. Thus, the presence of construction-related equipment and staging would not result in a significant or long-term effect to the visual character of the area.

In the unlikely event of nighttime construction activities, measures such as non-glare or hooded fixtures and directional lighting will be used to reduce spillover into areas outside the construction site and minimize the visibility of lighting from off-site locations wherever feasible.

For these reasons, the Commission finds that the proposed Project is designed to protect coastal views and is compatible with the character of this portion of Humboldt County and is consistent with Section 30251 of the Coastal Act.

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.

Coastal Act Section 30604(h) states:

When acting on a coastal development permit, the issuing agency, or the commission on appeal, may consider environmental justice, or the equitable distribution of environmental benefits throughout the state.

A cultural resource record search for the Project area limits (PAL) identified nine cultural resources. A total of six historic-period, built cultural resources were identified during the intensive-level surveys of the PAL, and three previously recorded cultural resources were also identified in the PAL as a result of records search results. Eight of the nine cultural resources are within the coastal zone, and all will be avoided during the construction. The archaeological components of the Spiegelberg Homestead, the ninth cultural resource, are located adjacent to, but not within the Project area. A paleontological resource investigation did not record any fossil localities within the PAL. However, Pleistocene-aged vertebrate and invertebrate fossils have been found within the immediate vicinity (500 ft) and similar fossils may be encountered. Project activities are unlikely to result in the recovery of scientifically significant fossils regardless of the sensitivity of the impacted sediments because fossil recovery is most likely to occur during grading or drilling with augers that are 3-feet or greater in diameter that take place in paleontologically sensitive sediments, neither of which will occur on this Project. One exception is the installation of the easternmost lattice steel tower approximately

0.6-mile east of Humboldt Bay Substation, which will have a 6-foot diameter drilled foundation. However, this structure is located in an area mapped as containing low paleontological potential sediments at the surface.

Commission staff engaged Native American Tribes pursuant to the Commission's Tribal Consultation Policy and, as described in Section IV.B, received feedback that the applicant's inclusion of inadvertent discovery protocol satisfactorily met concerns for any potential discovery of artifacts or remains.

As described in the IS/MND for the proposed Project, the Project has been designed to avoid negative effects to identified cultural resource sites by avoiding and verifying (through subsurface investigations) the boundaries of these cultural resource sites. PG&E will conduct worker awareness training, flag and avoid resources adjacent to the PAL, enact the measures for inadvertent discoveries of historic indigenous or archaeological resources, follow provisions of California Health & Safety Code Section 7050.5 and Public Resources Code Section 5097.98 in the event that human remains are discovered, and contact a paleontologist if such resources are discovered to determine appropriate next steps ([Exhibit 4](#))

For these reasons, the Commission finds that the proposed Project contains measures to mitigate the potential for negative effects to cultural, archeological, and paleontological resources, and is consistent with Section 30244 of the Coastal Act as well as environmental justice principles as articulated in the Commission's Tribal Consultation Policy.

H. 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 the permit amendment, 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 California Public Utilities Commission (CPUC), acting as lead CEQA agency, adopted an Initial Study/Mitigated Negative Declaration in February 2020.

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 marine resources, dredge and fill of coastal wetlands, water quality, ESHA, and cultural resources 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 the Project has no 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 requirement of the Coastal Act to conform to CEQA.

I. FEDERAL CONSISTENCY

The Commission's action in this case authorizes both a CDP for the proposed Project and results in a conditional concurrence with PG&E's federal consistency certification. In the case of a conditional concurrence with a consistency certification, the following procedures are triggered under the federal consistency regulations (15 CFR Part 930): 930.4 Conditional Concurrences.

(a) Federal agencies, applicants, persons and applicant agencies should cooperate with State agencies to develop conditions that, if agreed to during the State agency's consistency review period and included in a Federal agency's ...approval under subparts D ... of this part, would allow the State agency to concur with the federal action. If instead a State agency issues a conditional concurrence:

(1) The State agency shall include in its concurrence letter the conditions which must be satisfied, an explanation of why the conditions are necessary to ensure consistency with specific enforceable policies of the management program, and an identification of the specific enforceable policies. The State agency's concurrence letter shall also inform the parties that if the requirements of paragraphs (a)(1) through (3) of the section are not met, then all parties shall treat the State agency's conditional concurrence letter as an objection pursuant to the applicable Subpart and notify, pursuant to §930.63(e), applicants, persons and applicant agencies of the opportunity to appeal the State agency's objection to the Secretary of Commerce within 30 days after receipt of the State agency's conditional concurrence/objection or 30 days after receiving notice from the Federal agency that the application will not be approved as amended by the State agency's conditions; and

(2) The ... applicant (for Subpart... D...), ... shall modify the applicable plan, project proposal, or application to the Federal agency pursuant to the State agency's conditions. The Federal agency, applicant, person or applicant agency shall immediately notify the State agency if the State agency's conditions are not acceptable; and

(3) The Federal agency (for Subpart... D...) shall approve the amended application (with the State agency's conditions). The Federal agency shall immediately notify the State agency and applicant or applicant agency if the Federal agency will not approve the application as amended by the State agency's conditions.

(b) If the requirements of paragraphs (a) (1) through (3) of this section are not met, then all parties shall treat the State agency's conditional concurrence as an objection pursuant to the applicable Subpart.

If the applicant were not to agree to the conditions, the federal consistency regulations require the Commission to notify the applicant as follows:

Right of Appeal

Pursuant to subsection (a)(1) quoted in the prior section and Subpart H of the federal consistency regulations, within 30 days from receipt of notice of a Commission conditional concurrence to which PG&E does not agree, PG&E may request that the Secretary of Commerce override this objection. 15 CFR §§ 930.4(a)(1) & 930.125(a). In order to grant an override request, the Secretary must find that the proposed activity for which PG&E submitted a consistency certification is consistent with the objectives or purposes of the Coastal Zone Management Act, or is necessary in the interest of national security. A copy of the request and supporting information must be sent to the Commission and the U.S. Army Corps of Engineers. The Secretary may collect fees from PG&E for administering and processing its request. [Note: This right of appeal does not apply to the CDP, but only to the activity authorized under the consistency certification.]

APPENDIX A: SUBSTANTIVE FILE DOCUMENTS

Coastal Development Permit Application Materials:

Application for Coastal Development Permit 9-20-0092 and Consistency Certification CC-0001-21, dated February 5, 2020.

First Notice of Incompleteness, dated March 9, 2020, and response dated April 17, 2020.

Second Notice of Incompleteness, dated May 8, 2020, and response dated June 12, 2020.

Third Notice of Incompleteness, dated July 10, 2020.

Other Documents:

Staff report for CDP Application (JS-SF): PG&E Vegetation Removal project along 24 segments of existing natural gas transmission pipeline in the City of Arcata and unincorporated Humboldt County (9-17-0408).

PG&E Humboldt Bay-Humboldt #1 60 kV Reconductoring Project (A.19-02-004) Initial Study/Mitigated Negative Declaration, dated February 2020. Stillwater Sciences. 2020. Habitat Restoration Plan for the PG&E Humboldt Bay-Humboldt #1 60kV Reconductoring Project, Humboldt County, California. Final. Prepared by Stillwater Sciences, Berkeley, California for Pacific Gas and Electric Company, Sacramento, California.