CALIFORNIA PUBLIC UTILITIES COMMISSION

LS POWER GRID CALIFORNIA's POWER THE SOUTH BAY PROJECT

Final Environmental Impact Report
Volume III – Comments and Responses to Comments on the Draft Environmental Impact Report

November 2025, Revised December 2025



A.24-05-014

State Clearinghouse No. 2024071095

Prepared for:
California Public Utilities Commission

Prepared by:
Environmental Science Associates

ESA

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Acronyms and Abbreviation

°	degrees
°F	degrees Fahrenheit
2017 Scoping Plan Update	2017 *Climate Change Scoping Plan Update*
2022 Scoping Plan	2022 *Scoping Plan for Achieving Carbon Neutrality*
AB	Assembly Bill
ABAG	Association of Bay Area Governments
AC	alternating current
AC Transit	Alameda–Contra Costa County Transit
ACP	asbestos concrete pipelines
ACWD	Alameda County Water District
AERMOD	American Meteorological Society/Environmental Protection Agency Regulatory Model Improvement Committee regulatory air dispersion model
AF	acre-feet
AIA	Airport Influence Area
APLIC	Avian Power Line Interaction Committee
APM	Applicant-proposed measure
ASG	Advanced Specialty Gas
ATCM	air toxics control measure
BAAQMD	Bay Area Air Quality Management District
BART	Bay Area Rapid Transit
Basin Plan	San Francisco Bay Basin Water Quality Control Plan
Bay Area O&M HCP	San Francisco Bay Area Operations and Maintenance Habitat Conservation Plan
BCDC	San Francisco Bay Conservation and Development Commission
bhp	brake horsepower
bgs	below ground surface
BMP	best management practice
BRTR	Biological Resources Technical Report
C	Celsius
C&D	construction and demolition
CAA	Clean Air Act
CAAQS	California ambient air quality standards
CAFÉ	Corporate Average Fuel Economy

CAISO	California Independent System Operator
CAL FIRE	California Department of Forestry and Fire Protection
CalEEMod	California Emissions Estimator Model
CALGreen Code	California Green Building Standards Code
California Register	California Register of Historical Resources
Cal/OSHA	California Division of Occupational Safety and Health
CalRecycle	California Department of Resources Recycling and Recovery
Caltrans	California Department of Transportation
CAP	climate action plan
CARB	California Air Resources Board
CBC	California Building Code
CBD	Center for Biological Diversity
CCP	comprehensive conservation plan
CCR	California Code of Regulations
CCCR	Citizens Committee to Complete the Refuge
CDFW	California Department of Fish and Wildlife
CEC	California Energy Commission
CEQA	California Environmental Quality Act
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CESA	California Endangered Species Act
CFC	chlorofluorocarbon compounds
CFR	Code of Federal Regulations
CGP	Construction Stormwater General Permit
CHSC	California Health and Safety Code
CNDDB	California Natural Diversity Database
CNRA	California Natural Resources Agency
CO	carbon monoxide
CO_2	carbon dioxide
CPCN	certificate of public convenience and necessity
CPUC	California Public Utilities Commission
CRHR	California Register of Historic Resources
CRLF	California red-legged frog
CRPR	California Rare Plant Rank
CRS	cultural resources specialist
CTS	California tiger salamander
CWA	Clean Water Act

CY	cubic yards
dB	decibels
dBA	A-weighted decibels
DNL	day-night average noise level
Don Edwards NWR	Don Edwards San Francisco Bay National Wildlife Refuge
DOT	U.S. Department of Transportation
DPM	diesel particulate matter
DPR	California Department of Parks and Recreation
DPS	Distinct Population Segment
DTSC	California Department of Toxic Substances Control
DWR	California Department of Water Resources
EFS	environmental field specialist
EIR	environmental impact report
EMF	electric and magnetic fields
EPA	U.S. Environmental Protection Agency
ESA	Environmental Science Associates
FAA	Federal Aviation Administration
FEMA	Federal Emergency Management Agency
FESA	Federal Endangered Species Act
FFD	Fremont Fire Department
FHSZ	fire hazard severity zone
FMMP	Farmland Mapping and Monitoring Program
FP	field protocol
FPD	Fremont Police Department
FR	*Federal Register*
ft.	feet
FTA	Federal Transit Administration
GHG	greenhouse gas
GO	General Order
Greater Bay Area	Greater San Francisco Bay Area
GSP	Groundwater Sustainability Plan
GWh	gigawatt-hours
GWMP	Groundwater Management Plan
GWP	global warming potential
HAZCOM	hazardous materials communication
HCP	habitat conservation plan
HDD	horizontal directional drilling

HFTD	High Fire Threat District
HMBP	hazardous materials business plan
HMMP	hazardous materials management plan
hp	horsepower
HRA	health risk assessment
HSC	Health and Safety Code
HVDC	high-voltage direct current
I-680	Interstate 680
I-880	Interstate 880
in/sec	inches per second
ITP	incidental take permit
KOP	key observation points
kV	kilovolt
kW	kilowatt
kWh	kilowatt-hours
lbs	pounds
LOS	level of service
LSAA	Lake or Streambed Alteration Agreement
LSPGC	LS Power Grid California
m	meters
MBTA	Migratory Bird Treaty Act
MEIR	Maximally Exposed Individual Receptor
MFD	Milpitas Fire Department
mm^2	square millimeters
MM	Mitigation Measure
MMCRP	Mitigation Monitoring, Compliance, and Reporting Program
MMRP	Mitigation Monitoring and Reporting Program
MOT	materials of trade
MPD	Milpitas Police Department
mpg	miles per gallon
mph	miles per hour
MRR	Mandatory Reporting Rule for GHGs
MSDS	Material Safety Data Sheet
MTC	Metropolitan Transportation Commission
$MTCO_2e$	metric tons of carbon dioxide equivalent
Muni Water	San José Municipal Water System
MW	megawatts

MWh	megawatt-hours
MUTCD	Manual on Uniform Traffic Control Devices
NAAQS	national ambient air quality standards
NAGPRA	Native American Graves Protection and Repatriation Act
NAHC	Native American Heritage Commission
NEC	National Electrical Code
NEHRP	National Earthquake Hazards Reduction Program
NERC	North American Electric Reliability Corporation
Newark to NRS 230 kV AC transmission line	new 230 kV AC transmission line that would connect the existing PG&E Newark 230 kV Substation and the existing Silicon Valley Power Northern Receiving Station 230 kV Substation
NHTSA	National Highway Traffic Safety Administration
NN	Newark-NRS
NO_2	nitrogen dioxide
NO_X	oxides of nitrogen
NMFS	National Marine Fisheries Service
NPDES	National Pollutant Discharge Elimination System
NPS	National Park Service
NRS	Northern Receiving Station
NWPT	northwestern pond turtle
NWR	National Wildlife Refuge
O&M	operation and maintenance
OEHHA	Office of Environmental Health Hazard
OFEE	oil-filled electrical equipment
OPGW	optical ground wire
OSHA	Occupational Safety and Health Administration
PCB	polychlorinated biphenyl
PEA	Proponent's Environmental Assessment
PERP	Statewide Portable Equipment Registration Program
PG&E	Pacific Gas and Electric Company
PG&E Bay Area O&M HCP	PG&E San Francisco Bay Area Operations and Maintenance Habitat Conservation Plan
PM	particulate matter
PMP	Plant Master Plan
$PM_{2.5}$	particulate matter less than or equal to 2.5 microns in diameter
PM_{10}	particulate matter less than or equal to 10 microns in diameter

PPV	peak particle velocity
PRC	California Public Resources Code
PRMMP	Paleontological Resources Mitigation Monitoring Plan
Project	Power the South Bay Project
PVC	polyvinyl chloride
R.	Rulemaking
RHNA	Regional Housing Needs Allocation
ROD	Record of Decision
ROW	right-of-way
RPS	Renewables Portfolio Standard
RSM	Residual Solids Management
RWF	San José–Santa Clara Regional Wastewater Facility
RWQCB	regional water quality control board
SAFE	Safer Affordable Fuel-Efficient
San Francisco Bay RWQCB	San Francisco Bay Regional Water Quality Control Board
Santa Clara Valley HCP	Santa Clara Valley Habitat Conservation Plan
SB	Senate Bill
SCPAL	Santa Clara Police Activities League
SCPD	Santa Clara Police Department
SCVBA	Santa Clara Valley Bird Alliance
SCVHCP	Santa Clara Valley Habitat Conservation Plan
SCVHP	Santa Clara Valley Habitat Plan
SCVURPPP	Santa Clara Valley Urban Runoff Pollution Prevention Program
SDS	Safety Data Sheet
SDNHM	San Diego Natural History Museum
SF_6	sulfur hexafluoride
SFBAAB	San Francisco Bay Area Air Basin
SFPUC	San Francisco Public Utilities Commission
SGMA	Sustainable Groundwater Management Act
SHPO	California State Historic Preservation Office
SJCE	San José Clean Energy
SJFD	San José Fire Department
SJW	San José Water Company
SLF	Sacred Lands File
SME	Subject Matter Expert
SMHM	salt marsh harvest mouse
SMP	soil management plan

SPCCP	Spill Prevention, Control, and Countermeasure Plan
SRA	State Responsibility Area
SR	State Route
State Lands Commission	California State Lands Commission
State Water Board	State Water Resources Control Board
SVP	Silicon Valley Power
SWPPP	stormwater pollution prevention plan
SWRCB	California State Water Resources Control Board
TAC	toxic air contaminant
TCP	traffic control plan
TCR	tribal cultural resource
TIA	Transmission Interconnection Agreement
TMP	Trail Management Plan
TMP	transmission maintenance plan
transmission line	Newark to NRS 230 kV AC transmission line
TSDF	treatment, storage, and disposal facility
TSP	tubular steel pole
UCMP	University of California Museum of Paleontology
USA	Underground Service Alert
USACE	U.S. Army Corps of Engineers
USD	Union Sanitary District
USDOT	U.S. Department of Transportation
USEPA	U.S. Environmental Protection Agency
USFWS	U.S. Fish and Wildlife Service
UWMP	urban water management plan
Valley Water	Santa Clara Valley Water District
VdB	vibration decibels
VMT	vehicle miles traveled
VOC	volatile organic compound
VTA	Santa Clara Valley Transportation Authority
VTP	Valley Transportation Plan
WEAP	Worker Environmental Awareness Program
WMP	Wildfire Mitigation Plan
WSCP	Water Shortage Contingency Plan
WUI	wildland urban interface
XLPE	cross-linked polyethylene
ZEV	zero-emissions vehicle

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CHAPTER 7
Comments and Responses to Comments on the Draft Environmental Impact Report

7.1 Introduction

The Draft Environmental Impact Report (EIR) for the LS Power Grid California, LLC (LSPGC) Power the South Bay Project (Project), prepared in response to California Public Utilities Commission (CPUC) certificate of public convenience and necessity (CPCN) application A.24-05-014, was available for a 45-day public and agency comment period which began on June 9, 2025, and ended at 5:00 p.m. on July 24, 2025. In total, the CPUC received 12 comment letters on the Draft EIR. A public information meeting was also held on July 8, 2025; no comments were received during the public information meeting. All written communications received, and a transcript of the public comment meeting, are included in the CPUC's administrative record for its review of this Project, as required by the California Environmental Quality Act (CEQA).

Under CEQA, the lead agency "shall evaluate any comments on environmental issues" received from people or entities that have reviewed a draft EIR and shall prepare written responses that "describe the disposition of significant environmental issues raised" (Public Resources Code Section 21091[d]; CEQA Guidelines Section 15088[c]). Responses to comments provided in this chapter address significant environmental issues raised during the 45-day public and agency review period. These responses to comments provide refinement and clarification of information presented in the Draft EIR and, where noted in this Chapter 7 of this Final EIR, update or correct information previously provided.

7.2 Limitations on Responses to Comments

CEQA does not require that substantive responses be provided for comments that do not address the adequacy or accuracy of the environmental analysis or that do not identify an environmental issue (Public Resources Code Section 21091[d]; CEQA Guidelines Section 15088[c]). Additionally, the CEQA Guidelines specify that the level of detail contained in a lead agency's response to a comment "may correspond to the level of detail provided in the comment (i.e., responses to general comments may be general)" (CEQA Guidelines Section 15088[c]).

Comments that do not warrant detailed agency responses in this Final EIR include, for example, those that merely express favor or disfavor for the project or an aspect of the project, that address

topics that do not fall under the purview of CEQA, or that are not specific to the Project. In general, CEQA does not require a detailed response to the following types of comments:

1. Those that merely acknowledge the opportunity to review the Draft EIR or express support for the project, without providing further input.
2. Summaries of Project components or quotations from the Draft EIR's analysis or conclusions, including those that acknowledge that the Project would, if implemented, result in significant and in some cases significant and unavoidable impacts. Such comments do not meet CEQA's threshold for receipt of a detailed response unless they explain whether, how, or why the Draft EIR is believed to be inaccurate or inadequate and provide supporting evidence.
3. Input that is beyond the scope of CEQA, which is concerned with the potential significance of impacts on the physical environment.

Nonetheless, such comments are addressed within Section 7.3.1, *Agency, Organization, and Utility Comments* commensurate with the level of detail in the comment. Regardless of whether a detailed response is provided, the CPUC acknowledges receipt of all comments received and has included them as part of the record of information that will be considered during its decision-making process.

7.3 Responses to Comments

For purposes of responding to all comments received, each comment letter was assigned a letter and number identifying the source as either a local agency (e.g., LA1), a state agency (e.g., SA1), a utility (e.g., UT1), or an organization (e.g., O1). No individuals provided any comments on the Draft EIR. Each comment was assigned a comment number (e.g., O2-1, O2-2, etc.). On the following pages, each comment letter is reproduced in its entirety followed by the responses to each comment within the letter. In some instances, a brief summary or paraphrase is provided within the response to provide context and/or clarification based on the input received. Some comments received during the public and agency review period resulted in minor revisions to the Draft EIR, as summarized here and shown in underline and ~~strikeout~~ in Chapter 3.

As indicated in the responses to comments below, the text from the Draft EIR has been revised based on certain specific comments received. Although the changes are shown in Volumes I and II of this Final EIR, the revisions are reproduced here for reference. The page numbers listed have been adjusted to refer to the numbering or pagination in the Final EIR, unless the comment or response to comment makes a direct reference to the original Draft EIR. In that case, the original Draft EIR page reference is retained for context.

7.3.1 Agency, Organization, and Utility Comments

This section presents the comments received from agencies or other organizations on the Project, as well as the CPUC's coded responses to those comments. The public agencies and officials, utilities, and interest groups who provided the 212 comment letters are listed below in **Table 7-1**.

TABLE 7-1
LIST OF AGENCY/ORGANIZATION COMMENT LETTERS

Letter	Commenter	Date
LA1	San Francisco Public Utilities Commission, Margaret A. Hannaford	July 23, 2025
LA2	City of San José, Planning, Building and Code Enforcement Department, David Keyon	July 24, 2025
LA3	Silicon Valley Power, Nicholas Procos	July 24, 2025
LA4	Union Sanitary District, Andrew Baile	July 24, 2025
LA5	Alameda County Water District, Michelle Walden	October 3, 2025[a]
LA6	Santa Clara Valley Water District (Valley Water), Matthew Sasaki	July 24, 2025
SA1	California Department of Fish and Wildlife, Erin Chappell	July 23, 2025
SA2	California State Lands Commission, Nicole Dobroski	July 24, 2025
UT1	LS Power Grid California, LLC, Dustin Joseph	July 24, 2025
UT2	Pacific Gas and Electric Company (PG&E), David Thomas	July 31, 2025[b]
O1	Citizens Committee to Complete the Refuge, Carin High, Eileen McLaughlin	July 24, 2025
O2	Center for Biological Diversity, Meredith Stevenson Santa Clara Valley Bird Alliance, Matthew Dodder	July 24, 2025

NOTES:

a. The Alameda County Water District is a local public agency responsible for managing water system infrastructure in the Project vicinity and for managing and protecting groundwater in the Project vicinity within Alameda County. Although this comment letter was received after the close of the official public comment period, the comments contained therein have been addressed here.
b. The input received from PG&E confirmed their commitment to implementing the Project's best management practices and field protocols.

Hetch Hetchy
Regional Water System
Services of the San Francisco Public Utilities Commission

Hetch Hetchy Water and Power Project
Post Office Box 160
Moccasin, CA 95347
T 209.989.2063

July 23, 2025

Tommy Alexander, CPUC Project Manager
Power the South Bay Project; Attn. D. Davis
c/o Environmental Science Associates
575 Market Street, Suite 3700, San Francisco, CA 94105
Via email: PowertheSouthBay@esassoc.com

Re: Power the South Bay Project - Draft Environmental Impact Report

Dear Mr. Alexander:

Thank you for the opportunity to comment on the Draft Environmental Impact Report. The City and County of San Francisco owns right of way property for power transmission lines that traverse Alameda and Santa Clara County. These power lines are operated and maintained by the San Francisco Public Utilities Commission (SFPUC) through its Hetch Hetchy Water and Power Project (HHWP). A section of the HHWP Right of Way (ROW) is located in the proposed project site in Fremont at Boyce Road north of Auto Mall Pkwy near the Newark substation.

LA1-1

Background

For over 100 years, HHWP has generated clean, 100% greenhouse gas-free electricity for San Francisco, including power for municipal services. These services include Muni and San Francisco General Hospital, redeveloped neighborhoods like The Shipyard, and some large developments such as the Salesforce Transit Center. HHWP provides nearly 20% of the City's electricity with clean Hetch Hetchy power.

Comments Regarding the Draft Environmental Impact Report (DEIR)

HHWP requires review of Project Sponsor's application and engineer-drafted plans in order to provide comments as to Power the South Bay's project compatibility with HHWP High Voltage Power Transmission Lines

Daniel Lurie
Mayor

Kate H. Stacy
President

Joshua Arce
Vice President

Avni Jamdar
Commissioner

Stephen E. Leveroni
Commissioner

Meghan Thurlow
Commissioner

Dennis J. Herrera
General Manager

on the SFPUC Right of Way. HHWP Power Operations, Line, and Engineering departments will review and provide comments once application materials are submitted by Project Sponsor. At this time, HHWP cannot confirm whether the proposed Power the South Bay project will interfere with the operation, maintenance, use, and safety of the HHWP High Voltage Transmission Lines and the SFPUC Right of Way. Future planned use of the Right of Way by HHWP and powerline safe operations must be considered.

Maintaining the safety and security of the power lines underneath the HHWP Right of Way is a high priority for the SFPUC. The SFPUC maintains policies to help inform how and in which instances its right of way can be used for secondary uses (i.e., projects) proposed by public agencies, private parties, nonprofit organizations, and developers without damaging power utility infrastructure or interfering with SFPUC operations and maintenance activities. SFPUC policies pertain to land use and structures, recreational use, utilities, and vegetation. As the project progresses, SFPUC retains the right to disallow any use that, at the SFPUC's sole discretion, may interfere with, endanger or damage existing or future SFPUC operations, security, or facilities.

LA1-1 cont.

The SFPUC prohibits any use on its right of way property that:

1. Cannot be removed promptly, to allow SFPUC construction, maintenance, or emergency repairs of its facilities.

2. Would conflict with SFPUC legal obligations to adjoining property owners or tenants. Some SFPUC parcels in Alameda and Santa Clara Counties could be subject to easements or other agreements held by adjoining landowners or third parties which may present conflicts with the proposed project.

3. Would conflict with the resolution of unauthorized third-party encroachments that currently exist on some SFPUC right of way parcels.

4. Would create an unreasonable burden for the SFPUC (or its ratepayers) in the use of its property for utility purposes. The SFPUC reasonably anticipates that its property in Alameda and Santa Clara counties will be available for future utility infrastructure and capital projects. Revocable licenses and leases issued by the SFPUC contain standard language requiring any lessee or licensee of SFPUC lands to mitigate the effects for the disruption of its secondary use on SFPUC lands, even if the SFPUC is causing the disruption of the secondary use. This includes required mitigation under the California Environmental Quality Act (CEQA).

5. Is otherwise inconsistent with SFPUC plans and policies.

6. The SFPUC has a long-standing policy prohibiting the use of SFPUC property to fulfill another jurisdiction's open space, setback, parking, or third-party development requirements.

SFPUC Project Review Process

Proposed projects and other activities on any SFPUC property or easement must undergo the Project Review Process if the project will include construction; digging or earth moving; clearing; installation; the use of hazardous materials; other disturbance to right of way resources; or the issuance of new or revised leases, licenses and permits. This review is done by the SFPUC's Project Review Committee (Committee).

The Committee is a multidisciplinary team with expertise in natural resources management, environmental regulatory compliance, engineering, water quality and real estate. Projects and activities are vetted by the Committee for consistency with SFPUC plans and policies.

In reviewing a proposed project, the Committee may conclude that modifications or avoidance and minimization measures are necessary. Large and/or complex projects may require several project review sessions to review the project at significant planning and design stages.

To initiate the Project Review process, please download and fill out a Project Review application at Project Review and Land Use - Bay Area (sfpuc.gov). Please submit the completed application to projectreview@sfwater.org and it will be scheduled for the next available Project Review meeting.

LA1-1 cont.

If you have any questions or need more information, please contact my staff, Elton Wu, Environmental Compliance Planner, at ewu@sfwater.org.

Sincerely,

Margaret A. Hannaford

Digitally signed by Margaret A. Hannaford
Date: 2025.07.25 12:50:05 -07'00'

Margaret A. Hannaford
HHWP Division Manager

cc: Casey J. Rando, Joanne Wilson, Ellen Natesan, Jonathan Mendoza, Mia Ottieri, Mae LaFrantz, Elton Wu

Letter LA1: San Francisco Public Utilities Commission

LA1-1 The CPUC acknowledges the San Francisco Public Utilities Commission's (SFPUC) letter regarding a section of the Hetch Water and Power Project right-of-way (ROW) that is located within the Project site in the city of Fremont at Boyce Road, north of Auto Mall Parkway, near the proposed Pacific Gas and Electric Company (PG&E) Newark 230 kV Substation. Further, the CPUC understands that proposed projects and other activities on any SFPUC property or easement must undergo the Project Review Process by SFPUC's Project Review Committee (Committee), and that the Committee may suggest, if necessary, modifications or avoidance and minimization measures.

The CPUC understands that LSPGC initiated the Project Review Process on August 2, 2025, and that LSPGC continues to coordinate with SFPUC and other area utilities to assess the Project's potential areas of conflict. Additionally, the Project would implement **Applicant Proposed Measure (APM) UTIL-1: Coordination with Utilities** and **Mitigation Measure 3.19-5: Utility Coordination and Induction Study**, which would require LSPGC to notify all municipalities, companies, and other public and private entities owning and maintaining utilities within or crossing the ROW of the Project.

Although the SFPUC's input related to LSPGC's procurement of required permits, reviews, and/or approvals for construction of the Project do not relate to environmental issues, it is included in the formal record for the Project, where the CPUC may consider them as part of the decision-making process. Further, acknowledgement of this process is reflected in Final EIR Table 2-10, *Anticipated Permits and Approvals*, as follows:

TABLE 2-10
ANTICIPATED PERMITS AND APPROVALS

San Francisco Public Utilities Commission	Project Review and Encroachment Permit	Construction of transmission facilities on SFPUC property or easement.	Submit Project Review application.	Before the start of construction.

July 24, 2025

VIA E-MAIL

Tommy Alexander, CPUC Project Manager
Power the South Bay Project; Attn. D. Davis
c/o Environmental Science Associates
575 Market Street, Suite 3700, San Francisco, CA 94105
email: PowertheSouthBay@esassoc.com

Re: City of San José's Comment Letter relating to the Draft Environmental Impact Report for the Power the South Bay Project (A. 24-05-014); State Clearinghouse No. 2024071095.

On behalf of the City of San José (City), we would like to express our appreciation for the opportunity to review and comment on the Draft EIR for the Power the South Bay Project. The City's comments are outlined below.

Chapter 2, Project Description

Section 2.6, Overhead Transmission

Construction of the overhead transmission line on RWF lands will occur in the active operational area of the Residual Solids Management area (RSM). Construction activities in this area, particularly within and adjacent to wastewater ponds, will require significant coordination with the RWF and the RWF's ongoing dewatering operation. No work in or use of wastewater ponds will be allowed without significant lead time for preparation and agreement on the sequence and duration of the individual installation efforts in and adjacent to each construction location. Project construction activities have the potential to interfere with RWF operations. The RWF can not afford an excessive amount of process area to be offline during construction. The City requests that CPUC provide a specific, articulate construction schedule for all proposed project activities in the RSM and that the CPUC require the proposed project to grant maximum operational flexibility to the RWF.

LA2-1

Figure 2-6c, Project Disturbance Areas

Construction areas in the RWF ponds, as outlined in Figure 2-6c, that have been designated as waters of the State will be more challenging to complete. The City acknowledges and appreciates that the CPUC will require the project proponent to conduct wetland delineations within proposed project areas and to avoid waters of the State to the extent feasible.

The precise location of the temporary easements and staging areas on or about the RWF-owned lands, including bufferlands, may be changed, subject to restrictions, review and approval by the RWF, the City of San Jose and any other stakeholder agency which may include the Santa Clara Valley Habitat Agency and others, as determined upon precise location of the staging areas.

LA2-2

200 E. Santa Clara Street, 3rd FL San José, CA 95113 *tel* 408-535-7911 www.sanjoseca.gov/pbce

In addition, the City has the following specific comments on staging areas identified in Figure 2-6 of the DEIR:

- Staging Area 7 is located on the former Ninepar Landfill. Any site use including temporary storage will be subject to approval from the State CalRecycle agency. The City is also aware of some potential use conflicts for this site, though details are not yet available.
- Staging areas 8 and 9 are on RWF Plant or buffer lands and may be subject to restrictions from the RWF.
- Staging Area 8 is over 50 acres in size and overlaps with a laydown area already designated to the Microsoft Datacenter Project. The mapped area covers Thomas Foon Chew Way Rad, which is the main access road to the Los Esteros Energy Center, requiring coordination with them. The southeast corner of Staging Area 8 includes a 6.2 acre subject to a City open space easement. Use of this staging area may cause traffic impacts along Zanker Road. The precise location of the temporary easements and staging areas on or about the RWF-owned lands, including bufferlands, may be changed, subject to restrictions, review and approval by the RWF, the City of San Jose and any other stakeholder agency which may include the Santa Clara Valley Habitat Agency and others, as determined upon precise location of the staging areas.

LA2-2 cont.

Section 2.8.3.1, Overhead Segments

Section 2.8.3.1 (page 2-31) refers to construction of a work pad next to each tower location. This activity has potential to damage the RSM drying beds, requiring them to be fully restored. The City requires specific information about the nature of this work, including its proposed schedule and duration and assurances that the facilities will be restored to pre-project conditions.

LA2-3

Section 2.8.3.1, Underground Construction

The DEIR states that full road closures for underground transmission line installation may be required (e.g. Section 2.8.3.1, Transmission Lines (p. 2-32); Section 2.9.3, *Construction Traffic* (pages 2-62 to 63)). Closure of both lanes of Los Esteros for construction would prohibit access to the main entrance of the RWF and to the two landfills, would require rerouting traffic at the RWF, and would affect established facility emergency response plans for the RWF, RSM, and the two landfills. Even with multiple crews working simultaneously, Los Esteros cannot be completely closed without serious detriment to City and landfill operations.

LA2-4

Traffic control on Los Esteros will be required potentially for months, considering that the roads cannot be closed, and would potentially result in multiple idling trucks lining up and potential adverse impacts to air quality impacts. The CPUC must consider how the proposed construction will align with traffic from construction of the Shoreline Levee Project, Microsoft Data Center Project, the RWF Capital Improvement Program (CIP), and routine RWF and land fill traffic.

Section 2.8.4.2, Utilities

Section 2.8.4.2, *Utilities* (page 2-34) states: "*Utilities that could require relocation may include sanitary sewer, stormwater, gas, water, electric, and telecommunication facilities*." Detailed engineering isn't provided in the DEIR. Owing to its proximity to the RWF, numerous City owned underground utilities would be collocated with the proposed transmission line in Los Esteros Road, including but not limited to:

LA2-5

- 16” recycled water pipeline owned by the RWF
- 12” exported digested sludge pipeline owned by the RWF
- 18” potable water pipeline owned by the San Jose Municipal Water System
- 8” raw sewage line owned by the City of San Jose Department of Transportation

In addition, numerous City owned pipelines and conduit traverse Los Esteros Road within the proposed alignment, including but not limited to:

- Two RWF owned pipes (77 x 121” and 84”) that carry the facility’s effluent from the RWF to the final outfall into the South Bay
- 4” polyvinylchloride (PVC) sodium bisulfate pipeline
- 1-1/2” PVC sodium bisulfate pipeline
- Numerous direct bury conduits for control and monitoring of RWF effluent treatment and discharge systems

This sections states that LS Power will contact Underground Service Alert (USA) and conduct potholing to identify underground utilities in the immediate area. Owing to the large number and critical usages of City owned utilities in Los Esteros Road and the RSM, the City request that LS Power contact RWF before initiating potholing or construction for verification of existing utility facilities in the right of way (ROW) within and adjacent to the RWF and RSM.

LA2-5 cont.

The City would also like to request additional information regarding the construction of the underground section of the line within and adjacent to the RWF to better understand its potential impacts to existing active and inactive buried utilities:

1. Section 2.8.6.1, *Underground Conductor Cables and Structures*, Figure 2-8, Typical Duct Bank Configuration, shows that the project will utilize fluidized thermal backfill over the buried electric transmission conductor in order to discharge heat to the surface. How will this affect the other utilities in Los Esteros? Are there feasible construction alternatives to the use of fluidized thermal backfill?
2. What are the minimum horizontal and vertical clearance between electric conductor and foreign utilities?
3. How will the CPUC ensure that City utilities are not affected by electromagnetic effects of the proposed AC high voltage circuit?
4. If utilities require relocation, how would this be coordinated and conducted without affecting critical City wastewater treatment services?

Relocation of City utilities would be costly. The CPUC must ensure that the cost to relocate utilities is borne by the project rather than the City.

Section 2.8.1.3, Helicopter Access

Section 2.8.1.3, Helicopter Access (page 2-28) states that a light-duty helicopter would be used to string transmission line. The City of San Jose Police Department operates an active explosive detonation area adjacent to the overhead line construction area that will require coordination when the competing use of helicopters and demolition activity is planned. The proposed project must be absolutely sure that no use of the "bomb squad" area is active at the same time as helicopter use. LA2-6

Section 2.8.5.2, Structure Foundations

Section 2.8.5.2 (page 2-36) states that structure foundations will be either drilled pier or direct-embed construction. Figure 2-2c shows that structure foundations would be installed either within or adjacent to RSM drying beds. The drying beds are used to separate solids from wastewater, reducing the volume of the solids in order to facilitate their disposal. Any transmission tower foundations built into any of the RWFs drying beds need to be constructed in a way that any wastewater process that is pumped to these drying beds once the towers are installed will not seep out of the drying beds into the groundwater table.

The RWF has undertaken studies that demonstrate that there is no hydrological connection between the RSM drying beds and lagoons and groundwater. In January 1989, the San Francisco Bay Regional Water Quality Control Board (RWQCB) issued their National Pollution Discharge Elimination System (NPDES) permit renewal requirements for the RWF, then called the Water Pollution Control Plant. These renewal requirements included a hydrogeologic report of the RSM facilities. The purpose of the report was to evaluate the geology, soils, and groundwater of the site and to determine whether sludge storage had caused any degradation of state waters. The Hydrogeologic Report was completed in July 1992 and consisted of 28 volumes, containing over 130 tables and 320 figures representing more than 80,000 chemical analyses. It contained several exhaustive studies requested by the RWQCB concerning all aspects of the RSM including: LA2-7

- Description of the RSM and its operations, descriptions of the local climate and its effect on the site, identification of water wells within a one mile radius.
- Sampling and analyses of sludge, supernatant, and soils at the RSM, analyses of surface water bodies (streams, creeks, ponds, and sloughs) including sampling and analyses of surface water and sediment.
- Hydrogeologic study of water bearing units and analyses of water flow rates and directions, sampling and analyses of water quality, unsaturated zone identification and analyses, tidal influence study, and identification of buried stream channels and backfill.

The Hydrogeologic Report concluded that after 30 years of operating the RSM, there had been no impact on the waters of the State from RSM operations and supported the conclusion that the RSM operations, as currently practiced, could continue without impairing waters of the State. The CPUC must ensure that transmission tower foundations built in the drying beds are designed to prevent wastewater from entering groundwater during construction and after installation.

Construction Section 2.8.10.2, Dewatering

Section 2.8.10.2 (page 2-56) discusses proposed groundwater dewatering procedures and states that groundwater may be discharged to the stormwater system or to flat, vegetated, upland areas. In accord with the RWF's facility NPDES permit, the stormwater system along Los Esteros in the vicinity of the RWF is collected through a system of ditches and drains and routed to the facility headworks where it is processed as wastewater. The RWF will not accept groundwater from the LA2-8

project to be discharged to the facility. For this reason, construction dewatering in and adjacent to the RWF should be collected for disposal by different means.

LA2-8 cont.

Chapter 3.4, Biological Resources

In Section 3.4.2.1, *Special Status Plants* (page 3.4-15), the second to last paragraph discusses potential for Congdon's tarplant to occur along the alignment. Based on RWF analysis, this species has moderate potential to occur within grasslands and ruderal areas along the alignment and in staging areas located on the RWF. Preconstruction surveys should be conducted for Congdon's tarplant within the appropriate blooming period (May – November). The City requests to be informed if preconstruction surveys identify Congdon's tarplant on RWF lands.

Section 3.4.2.2 (page 3.4-30) discusses the potential for salt marsh harvest mouse in the project area. Based on RWF studies, there is potential for salt marsh harvest mouse and salt marsh wandering shrew on RWF lands along the overhead Newark to NRS 230 kV Transmission Line. Preconstruction surveys for these species should be conducted in these areas.

Impact 3.4-4, (page 3.4-72) discusses the project area's use as wildlife corridors and native wildlife nursery sites. The Legacy Lagoons Biosolids area and Residual Solids Management lagoons provide wildlife corridors and nursery sites for numerous native wildlife, particularly waterfowl and colonial nesting birds.

LA2-9

Chapter 3.9, Hazards and Hazardous Materials

Section 3.9.1.8 (page 3.9-6), Figure 3.4-1D discusses hazards and hazardous materials at the RWF. The alignment will traverse the Legacy Biosolids Lagoons, which is subject to San Francisco Regional Water Quality Control Board Closure Order No. R2-2019-0026 due to the presence of legacy biosolids. The alignment crosses these lagoons between poles NN-13 and NN-15, and the limits of construction are shown to extend into the lagoons. Work within the Legacy Biosolids Lagoons may pose a risk to construction workers and should be addressed in the project's Health and Safety Plan.

Section 3.9.1.8 (page 3.9-6), Impact 3.9-1 (page 3.9-24). The second paragraph on page 3.9-6 and the last paragraph on page 3.9-24 discuss the discovery of PCBs at the RWF. The PCB release from the RWF is over 750 feet from the project area and was localized to the soil and building materials (e.g. concrete) in the area around the Digesters, and is now abated PCBs from this release are not a risk to this project.

LA2-10

Chapter 3.11, Land Use

Section 3.11.2.3 (pages 3.11-13). The DEIR land use regulatory setting and impact analysis should include discussion of the RWF Plant Master Plan (PMP).

The City of San José and the City of Santa Clara co-own the RWF. Between 2007 and 2011, the City undertook extensive outreach to the community, stakeholders, agencies, and experts to develop a Plant Master Plan which provided a comprehensive land use plan for the RWF lands. The PMP is available online at the following City website: https://www.sanjoseca.gov/your-government/departments-offices/environmental-services/water-utilities/regional-wastewater-facility/capital-improvement-program/plant-master-plan. The master planning effort identified both near-term and long-term (to year 2040) land uses. As part of the PMP implementation, the City is in

LA2-11

the midst of changing where and how biosolids are managed, which will free up land in the RSM area for other uses. As part of the PMP, the City proposed the development of various environmental, social, and economic uses on plant lands. The LS Power project will traverse areas in the RSM that have been identified for the RWF plant expansion area, flexible space, and planned recreational trails and will be located within a half mile of a planned nature museum.

In 2013, the cities of San Jose and Santa Clara approved adoption of an Environmental Impact Report (EIR) for the PMP (City File No. PP11-043, SCH # 201105274, available at https://www.sanjoseca.gov/your-government/departments-offices/planning-building-code-enforcement/planning-division/environmental-planning/environmental-review/completed-eirs/regional-wastewater-facility-master-plan).

Pursuant to CEQA Section 21081.6, the City adopted a Mitigation Monitoring and Reporting Program (MMRP, https://records.sanjoseca.gov/Resolutions/RES76858.PDF) for the PMP to address implementation of mitigation measures (MM) adopted with the EIR. The MMRP provides the following mitigation measures that are relevant to the project:

- MM AQ-1: BAAQMD Basic Construction Measures
- MM AQ-2: BAAQMD Additional Construction Measures
- MM BIO-1: Reduce Impacts to Tarplant
- MM BIO-2b: Western Pond Turtle Measures
- MM BIO-2c: Salt Marsh Harvest Mouse and Salt Marsh Wandering Shrew Measures
- MM BIO-2d: Raptor and Migratory Bird Nest Measures
- MM BIO-2e: Burrowing Owl Measures
- MM BIO-3c: Control of Non-Native Invasive Plant Species
- MM BIO-5a: Avoid or Compensate for Removal of Protected Trees
- MM BIO-5b: Minimize Construction Effects on Protected Trees to Be Retained
- MM CUL-3a: Accidental Discovery of Archaeological Resources
- MM CUL-3b: Project-level Cultural Resources Assessment
- MM CUL-4: Accidental Discovery of Paleontological Resources
- MM CUL-5: Accidental Discovery of Human Remains
- MM HAZ-1a: Pre-Construction Hazardous Materials Assessment
- MM HAZ-1b: Health and Safety Plan
- MM HAZ-1c: Soil and Groundwater Management Plan
- MM NOI-1: Develop and Implement Construction Noise and Vibration Logistics Plan
- MM UT-6: Coordination with Utility Service Providers and Develop Utility Avoidance Plan
- MM PS-2: Project-level Evaluation of Economic Development Operational Impacts to Existing Recreational Facilities
- MM TR-4: Implement Project Traffic Control Plan
- MM C-TR: Implement Coordinated Transportation Management Plan

The City requests that the CPUC review the PMP MMRP and align mitigation measures for project segments crossing the RWF with those in the PMP MMRP.

LA2-11 cont.

Chapter 3.13, Noise and Vibration

Impact 3.13-1 (pages 3.13-23, 26). The City would like to note that security employees stationed at the Main Guard Shack will be within 155 feet of Los Esteros Road where construction would occur

LA2-12

for the underground transmission line. Employees in the Main Guard Shack are required to be at their station 24 hours a day, seven days a week, and should be treated as sensitive receptors for the purposes of this analysis.

LA2-12 cont.

Sincerely,

David Keyon, Principal Planner
Planning, Building and Code Enforcement

Letter LA2: City of San José, Planning, Building and Code Enforcement Department

LA2-1 The CPUC acknowledges that the City of San José's Planning, Building and Code Enforcement Department (City) requests a specific, articulate construction schedule for all Project activities in the San José–Santa Clara Regional Wastewater Facility's (RWF) Residual Solids Management (RSM) area and for maximum operational flexibility to the RWF. The Project schedule presented in Draft EIR Table 2-9, *Proposed Construction Schedule*, represents the CPUC's and LSPGC's understanding at the time the Notice of Preparation was issued on July 29, 2024. As LSPGC continues to refine the Project's design and implementation outside the CEQA process, it will continue to coordinate with all affected agencies and landowners on any aspect of Project construction, including schedule refinements. Although the City's input relative to schedule is beyond the scope of CEQA and the EIR for this Project, for the reasons explained in Final EIR Section 2.2, *Introduction*, it is included in the formal record for the Project, where the CPUC may consider it as part of the decision-making process.

LA2-2 The City states that the precise location of temporary easements and staging areas on or near RWF-owned lands may be subject to review and approval by applicable local agencies. Further, the City notes that proposed Staging Areas 7, 8, and 9 may have potential use conflicts, restrictions, and cause traffic impact along Zanker Road, respectively.

Pursuant to General Order (GO) 131-D, local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities subject to the CPUC's jurisdiction. However, this comment will be useful to LSPGC in identifying the final list of staging areas through its ongoing coordination with City and RWF staff. As noted in Draft EIR Section 2.8.2, *Staging Areas,* while 12 potential staging areas were considered part of the Project and evaluated in the CEQA process, it is expected that only three or four of those 12 sites would be used during construction. However, all 12 potential staging areas that have been included as part of the Project environmental evaluation in the Draft EIR will remain under consideration in the Final EIR and in the CPUC's decision-making process. Further, acknowledgement of the potential approval by the Department of Resources Recycling and Recovery for the use of Staging Area 7 is reflected in Final EIR Table 2-10, *Anticipated Permits and Approvals*, as follows:

TABLE 2-10
ANTICIPATED PERMITS AND APPROVALS

Department of Resources Recycling and Recovery	Property Access Authorization	Use of Staging Area 7 as for Project staging	Submit application.	Before the start of construction.

LA2-3 The CPUC understands that the City requires information about the nature of work related to the construction of work pads next to each proposed tower location.

The placement of aboveground structures along RWF property has been determined in coordination with the RWF staff, and most of the aboveground structures would be installed on access roads on RWF property, outside of the drying beds. Aboveground structure NN-8 would be installed within one of the drying beds.

As explained on page 2-32 under Section 2.8.3.1, *Transmission Lines,* of the Final EIR, a work pad would be required at each pole location and would measure approximately 400 feet long by 130 feet wide within the transmission line ROW. Work pads would include space for foundation drilling, which would then allow the use of a drill rig and access for dump and concrete trucks. Additionally, work pads would include space for pole erection sites and for crane and boom trucks necessary to set each aboveground structure.

The Project's construction schedule is provided in Table 2-9, *Proposed Construction Schedule*, of the Draft EIR. While the specific dates for which the Project would conduct work along the City's property are not yet known, LSPGC has stated that the location of all the aboveground structures has been and will continue to be coordinated with the RWF. It is expected that specific information about the nature of work pads, including schedule, duration, and restoration to pre-project conditions, would be determined through the process of acquiring encroachment permits and coordination between the City and LSPGC.

LSPGC would implement **Mitigation Measure 3.17-2b: Infrastructure Repair Reporting**, which entails repair of any damaged roads resulting from Project construction activities and reporting to confirm repairs are consistent with preconstruction conditions, in accordance with applicable requirements associated with permits granted for the Project. **APM BIO-1: Restoration of Disturbed Areas** would also ensure that areas that are temporarily disturbed by grading, augering, or equipment movements be restored to approximate preconstruction conditions.

As described in Draft EIR Section 2.8.10.2, groundwater dewatering may be required for various Project activities during construction. Dewatering from excavations would be conducted in accordance with the provisions of Attachment J to the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order WQ 2022-0057-DWQ). As determined under Draft EIR Section 3.10, *Hydrology and Water Quality*, the Project's dewatering activities would not result in significant impacts related to groundwater contamination.

LA2-4 The City states that closure of both lanes of Los Esteros Road would be detrimental to the City of San José's landfill operations. Further, the City states that the CPUC should consider how construction of the Project would align with construction traffic from the Shoreline Levee project, Microsoft Data Center project, the RWF Capital Improvement Program, and routine RWF and landfill traffic.

As provided in Section 3.17, *Transportation*, of the Draft EIR, the Project would implement **Mitigation Measure 3.17-2a: Implement Coordinated Traffic Control**

Plan, which would require LSPGC to coordinate with Project proponents, contractors, and local agencies for other construction projects in the Project's vicinity that may temporally overlap with Project construction, including but not limited to projects identified as potentially contributing to cumulative effects. As applicable, coordination related to Mitigation Measure 3.17-2a would involve projects like Shoreline Levee project, Microsoft Data Center project, and the RWF Capital Improvement Program, as well as routine RWF and landfill traffic. Prior to the start of Project construction, LSPGC would also submit an application for a traffic control plan and encroachment permit with the City of San José.

Further, as the analysis of cumulative impacts under Impact C.3.17-2 recognizes, City projects occurring at the RWF under the City's Capital Improvement Program would be subject to the Plant Master Plan EIR's Mitigation Measure C-TR: Implement Coordinated Transportation Management Plan, which requires the City of San José's contractors doing work at the RWF to also coordinate their construction activities with contractors of other projects, such as the Project. This collaborative approach would address potential traffic circulation and hazard issues rising from multiple projects that could occur on and around the RWF.

Regarding the potential for adverse air quality impacts to occur associated with multiple idling trucks lining up due to traffic control restrictions on Los Esteros Road, implementation of Mitigation Measure 3.17-2a would require LSPGC to implement a coordinated traffic control plan that would coordinate construction activities along Los Esteros Road with the City of San José before construction to ensure that construction work and associated lane closures comply with the City-approved encroachment permit. A circulation and detour plan would be implemented that would include the use of signage and flagging to guide vehicles through or around the construction zone.

Trenching operations on the road would include a short distance of open trench at any one time as allowed by the City's encroachment permit. Some RWF, landfill, and other project trucks that would be required to pass through the construction zone along Los Esteros Road may be required to idle, but any idling would be limited to short periods of time as trucks would be directed through the construction zone in an efficient manner with implementation of Mitigation Measure 3.17-2a.

Although any truck idling would be expected to be limited to several minutes, pursuant to the *Air Toxic Control Measure to Limit Diesel-Fueled Commercial Motor Vehicle Idling*, diesel-fueled commercial vehicles are prohibited from idling for more than 5 minutes at any given location (see Final EIR page 3.3-8 for details). Any increased RWF, landfill, and other project truck idling would not be expected to increase air pollutant levels in the area to the extent that ambient air quality standards would be exceeded and there are no residences in the immediate vicinity of Los Esteros Road that would experience increased health risks due to truck idling.

Implementation of Mitigation Measure 3.17-2a, combined with LSPGC's coordination with the City of San José and the City contractor(s)'s implementation of Plant Master Plan EIR's Mitigation Measure C-TR, would ensure that potential effects of temporary road closures related to underground transmission line installation along Los Esteros Road would be less than significant.

LA2-5 The City states that there are numerous underground utilities owned by the City of San José that would be collocated with the proposed underground transmission line along Los Esteros Road. The City requests that LSPGC contact the RWF before initiating potholing or construction for verification of existing utility facilities in the ROW within and adjacent to the RWF and RSM area. Furthermore, the City requests additional information regarding the construction of the underground section of the line within and adjacent to the RWF. Lastly, the City requests any costs related to the potential relocation of utilities should be borne by the Project rather than the City of San José.

The CPUC acknowledges that a portion of the Project's proposed underground transmission line is in proximity to utilities managed by the City of San José, including those located within and near Los Esteros Road. As noted in the Final EIR Project Description, LSPGC would submit an application for an encroachment permit prior to the start of construction within City of San José roads or ROWs, among other anticipated permits and approvals for the Project. Further, the Project would implement **APM UTIL-1: Coordination with Utilities** and **Mitigation Measure 3.19-5: Utility Coordination and Induction Study**, which would require LSPGC to notify all municipalities, companies, and other public and private entities owning and maintaining utilities within or crossing the ROW of the Project.

As noted in the Draft EIR Project Description Section 2.8.4.2, *Utilities,* and the discussion under Draft EIR Impact 3.19-1, LSPGC would contact Underground Service Alert and conduct potholing to identify underground utilities in the immediate area. The procurement of an encroachment permit from the City of San José, implementation of APM UTIL-1 and Mitigation Measure 3.19-5, and coordination with Underground Service Alert would ensure that potential impacts to the City of San José's utilities would be less than significant.

The following responses address the City's request for additional information regarding the construction of the underground section of the line within and adjacent to the RWF.

1. The City refers to Draft EIR Figure 2-8, *Typical Duct Bank Configuration*, and notes the Project's use of fluidized thermal backfill over underground portions of the proposed transmission line and requests additional information about how its use would affect the other utilities in Los Esteros and if there are feasible construction alternatives to the use of fluidized thermal backfill.

   The Project's design separation from existing utilities and the use of fluidized thermal backfills above the duct bank help to minimize the accumulation of heat into surrounding soils and existing utilities, instead directing heat from the cables directly to the ground surface. The soil temperatures expected would not be

anticipated to adversely impact existing utilities. Studies may be conducted with owners of certain nearby electric lines to ensure that neither circuit experiences a derating.[1]

A common alternative to fluidized thermal backfills for backfilling a duct bank trench is the soil originally excavated. While this may be used for the Project in certain circumstances, this approach is generally less preferred for several reasons. One, the native soil must be properly compacted to avoid excess settlement that would be especially detrimental within city streets. Compacting backfilled soil properly within the trench lengthens the construction schedule when compared to placing self-compacting materials, which could result in the increase of construction noise from vibratory compaction equipment. This alternative may also be dependent on soil condition, for example, the soil may be too wet to properly compact or may require additional water if conditions are too dry. Another disadvantage with using native soil for backfill is that the specifications required by the California Independent System Operator (CAISO) involve using a substantial electrical rating that the variable thermal properties of native soil may not reliably achieve in all project segments.

2. The City requests information on the minimum horizontal and vertical clearance between electric conductor and foreign utilities. This question is in the context of Project design and would be addressed as LSPGC negotiates the terms of the encroachment permit from the City of San José for Project activities on its facilities and properties. However, it should be noted that the minimum crossing and paralleling clearances are dictated by GO 128. As such, under GO 128, ducts "carrying communication cables and conductors for public use, when independently installed, shall be separated where practicable from gas, water, oil, or other pipe systems, by a clearance of at least 12 inches when paralleling and by at least 6 inches when crossing." Also, while this question is outside the scope of CEQA and the EIR for this Project, it is included in the formal record for the Project, where the CPUC may consider it as part of the decision-making process.

3. The City requests information on how the CPUC will ensure that City utilities are not affected by electromagnetic effects of the proposed alternating current (AC) high-voltage circuit. The City's comment does not provide details or evidence to suggest how City utilities would be affected by electric and magnetic fields (EMF) of the proposed AC high-voltage circuit. Further, there are no applicable federal, state, or local regulations related to EMF levels from power lines or related facilities. However, the CPUC has adopted a decision (D.06-01-042) requiring utilities to incorporate "low-cost" or "no-cost" measures for managing EMF from power lines up to 4.0 percent of total project cost. Four percent of total project budgeted cost is the benchmark in developing EMF mitigation guidelines and project actions and features that would achieve some noticeable reductions. Therefore, LSPGC would implement low- and no-cost measures to reduce EMF levels for the Project.

   The Project would also implement APM UTIL-1 and Mitigation Measure 3.19-5, which requires LSPGC to consider utilities potentially affected by Project-related AC-induced corrosion (e.g., metallic utilities). A detailed induction study would be developed for all identified existing utilities potentially affected by the Project transmission line alignment, which would include, at a minimum: a detailed

[1] "Derating" is the loss of amperage carrying capacity of a conductor due to excess heat.

analysis of the known (metallic) pipelines or other utilities identified during these utility surveys; adequate and implementable measures to avoid corrosion potential; and commitments to the implementation of those actions. A detailed analysis of the Project's potential impacts to corrosion of adjacent utility lines because of AC impacts, as well as the full text of Mitigation Measure 3.19-5, is provided in Section 3.19, *Utilities*, of the Final EIR.

4. The City requests additional information on how relocation would be coordinated and conducted without affecting critical City wastewater treatment services if utilities require relocation. As discussed in Section 3.19, *Utilities and Service Systems*, of the Draft EIR, utilities would be avoided, where practicable. The Project would also implement APM UTIL-1 and Mitigation Measure 3.19-5, which would require LSPGC to notify all municipalities, companies, and other public and private entities owning and maintaining utilities within or crossing the ROW of the Project and to positively identify and confirm the location and type of any utilities present. Should underground utilities be identified during Project construction, LSPGC would be required to work with the owner of those utilities to determine whether design changes could be made or whether utility relocation would be necessary.

   The City states that any costs related to the potential relocation of utilities should be borne by the Project rather than the City of San José. Mitigation Measure 3.19-5 has been revised to state that LSPGC shall bear the cost of the potential relocation of utilities, as follows (see the response to Comment UT1-49 for the full text of the mitigation measure):

   > <u>LSPGC shall bear the cost of implementing and maintaining the AC mitigation system as it is part of the Project.</u>

LA2-6 The City states that its Police Department operates an active explosive detonation area near the proposed alignment of the Project and suggests that coordination will be required relating to the use of helicopters for the Project. As discussed in the Project Description of the Final EIR, the Project would likely require the use of helicopters, and such use would comply with applicable rules and regulations (e.g., 14 Code of Federal Regulations, Part 77), including coordination with the City's departments (e.g., public works, transportation, police department), as part of the Project's anticipated permits and approvals necessary to construct the proposed transmission line. Therefore, prior to the planned the use of helicopters, LSPGC would coordinate with the City to ensure there would be no conflict with the Police Department's use of the explosive detonation area and that the helicopter operations would not increase the safety risk to those persons present in the Project area.

Additionally, LSPGC would develop a helicopter use plan to set forth all safety and operations procedures and would file helicopter flight schedules with the Federal Aviation Administration, as required. The helicopter use plan is part of the proposed Project, and is included as a compliance item in the Final EIR's Mitigation Monitoring, Compliance, and Reporting Program (MMCRP).

LA2-7 The CPUC acknowledges that the City would like to ensure that transmission tower foundations (e.g., work pads) built near the drying beds are designed to prevent

wastewater from entering groundwater during construction and after installation. The majority of the aboveground structures, including the work pads, would be installed adjacent to the access roads along the RWF drying beds. Structure NN-8 (see Final EIR Figure 2-2c) is the only structure that would be installed within a drying bed. Structure NN-8 has been relocated to a drying bed in coordination with the RWF to avoid impacting a U.S. Army Corps of Engineers (USACE) levee that is located at the original location on the road immediately to the north of the relocated structure. The locations of all aboveground structures within the RWF drying beds have been and will continue to be coordinated with the RWF.

LA2-8 The CPUC acknowledges that the RWF will not accept groundwater from the Project to be discharged to the RWF, and that dewatering in and adjacent to the RWF should be collected for disposal by different means. The CPUC acknowledges these clarifications, which have been considered in the development of the Final EIR and as part of the decision-making process. Further, the exact disposal locations have not yet been determined for any water encountered that needs to be disposed of during dewatering. LSPGC would coordinate with local jurisdictions (e.g., the City of San José) to allow discharge into the storm sewers, if possible. If this is not possible, LSPGC would work with the local wastewater facilities, such as the Union Sanitary District, to permit discharges to those facilities. To address this comment, text is added in Final EIR page 2-58 as follows:

> The exact disposal locations have not yet been determined for water that may need to be disposed of during dewatering. LSPGC and its contractor(s) would coordinate with the applicable jurisdictions to allow discharge into storm sewers, if possible. If discharge is not allowed into the storm sewers, LSPGC would coordinate with local wastewater facilities, such as the Union Sanitary District, to permit discharges into their facilities. To accommodate the installation of aboveground structure NN-8, LSPGC would coordinate with RWF for emptying the drying bed of spoils.

LA2-9 The City states that there is potential for Congdon's tarplant, salt marsh harvest mouse, and salt marsh wandering shrew to occur along the Project area, and that preconstruction surveys should be conducted for these species. The City also requests that the City be informed if preconstruction surveys identify Congdon's tarplant on RWF lands.

The Draft EIR recognized Congdon's tarplant as having a moderate potential to occur in the Project area. As discussed in Draft EIR Section 3.4, *Biological Resources*, the Project would implement **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**, which supplements **APM BIO-2: Rare Plant Surveys**. APM BIO-2 would involve protocol-level surveys within suitable habitat areas for special-status plants, including Congdon's tarplant, within the Project area. In the event of the discovery of a rare plant, the area shall be marked as a sensitive area and shall be avoided. In accordance with Mitigation Measure 3.4-1a, the survey(s) shall be conducted between April and July in accordance with California Department of Fish and Wildlife (CDFW) protocol and in

conjunction with the blooming seasons of those rare plants with moderate potential to occur in the survey area.

To address the City's request to be notified if preconstruction surveys identify Congdon's tarplant on RWF lands, Mitigation Measure 3.4-1a has been revised, as follows (please note that revisions from response to Comment LA6-13 are also reflected below):

> **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**
>
> Rare plant surveys conducted under APM BIO-2 shall be floristic in nature and shall be conducted by a qualified botanist according to procedures outlined in the CDFW publication *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 2018b). The survey(s) shall be conducted between April and July in accordance with CDFW protocol and in conjunction with the blooming seasons of those rare plants with moderate potential to occur in the survey area.
>
> If no special-status plants are observed during appropriately timed surveys by a qualified botanist, it shall be assumed that the construction activity will have no impact on special-status plants and no further action is required. If special-status plants are identified within the survey area, the individuals or populations shall be mapped and quantified and reported to the CNDDB and to the City of San José, and the LSPGC project manager shall be notified at least 14 days prior to construction in that area. Impacts on these known occurrences shall be avoided when feasible. LSPGC shall coordinate with CDFW and/or USFWS staff to establish appropriate avoidance and minimization measures, depending on whether the species is federally and/or state listed~~, and shall consult with CDFW and/or USFWS to obtain an ITP as required for any impacts that cannot be avoided~~. Avoidance and minimization measures may include, but need not be limited to:
>
> (1) No-disturbance buffers.
>
> (2) Work windows for low-impact activities that are compatible with the dormant phase of a special-status plant life cycle but that may kill living plants or severely alter their ability to reproduce.
>
> (3) Silt fencing or construction fencing to prevent vehicles, equipment, and personnel from accessing the occupied habitat.
>
> (4) Erosion control BMPs such as straw wattles made of rice straw, erosion control blankets, or hydroseeding with a native plant seed mix to prevent sedimentation from upslope construction activities.
>
> (5) In consultation with and as authorized by CDFW or USFWS, collection and spreading of seeds or relocation of plants to appropriate locations by a qualified botanist.

Although salt marsh wandering shrew is considered to have low potential in the Project area, as noted in the Draft EIR, this species would also be detected during surveys conducted for salt marsh harvest mouse and would be protected by the same measures, because both species are salt marsh habitat specialists of similar size. The Project would implement **Mitigation Measure 3.4-1d: Protection of Special-status Wildlife**, which

would require preconstruction clearance surveys by a qualified biologist within 7 days prior to the start of construction activities within suitable habitat for special-status species that are known to be present or have a moderate to high potential to occur (e.g., salt marsh harvest mouse).

The City states that the Legacy Lagoons Biosolids area and RSM lagoons provide wildlife corridors and nursery sites for numerous native wildlife. To address this comment, text in Final EIR page 3.4-74 has been revised, as follows:

> Sensitive areas, such as the Coyote Creek riparian corridor, would be clearly marked for avoidance to reduce impacts on suitable movement habitats for wildlife (APM BIO-4 and Mitigation Measure 3.4-1d). Night work and nighttime lighting would be limited (APM BIO-10 and Mitigation Measure 3.1-2) to avoid times when wildlife are more active. Vegetation removal would be minimized and all temporary impact areas would be restored (APM BIO-1 and Mitigation Measure 3.4-1b) after construction. <u>The wastewater treatment lagoons (see Figure 3.4-1D) are a movement pathway and nursery site for birds. These functions would be protected by the APMs listed above, and by implementation of APLIC standards to reduce collision risk to birds (see Impact 3.4-7).</u>

LA2-10 The City states that the polychlorinated biphenyls (PCB) release from the RWF is over 750 feet from the Project area, has been localized to the soil and building materials in the area around the RWF's digesters, and is now abated. The City concludes that the PCBs from this release are not a risk to the Project.

The City has confirmed the cleanup of the PCB release (Brown and Caldwell 2019) and confirmed that there is a land use covenant being prepared for the site of the PCB release (Garg, pers. comm. 2025a). The CPUC acknowledges these clarifications, and the text in Final EIR Section 3.9, *Hazards and Hazardous Materials*, has been revised to further characterize the PCB release. Text in Final EIR page 3.9-6 has been revised as follows:

> <u>Polychlorinated biphenyls (PCBs) were found in concrete and caulk in several locations within the RWF during rehabilitation of four digesters (#5 through #8) and the dissolved air flotation thickeners, and some PCBs flaked into the surrounding soil</u>. The presence of ~~polychlorinated biphenyls (~~PCBs~~)~~ is attributed to the use of construction caulk that contains PCBs. This was a common construction practice during the primary years of facility construction from 1954 to 1979. The potential migration pathways that the PCBs could use are leaching into the adjacent concrete substrate, leaching into surface and subsurface soil that is in contact with the caulk, dissolving or entraining as a particulate into groundwater by leaching through a soil column, or from exposed caulked joints eroding over time and migrating with stormwater to adjacent surface soils (Brown and Caldwell 2019).
>
> <u>Between 2017 to 2019, clean-up activities were conducted at the site of the PCB release. For example, the contaminated soil was excavated for off-site</u>

disposal and the remaining areas were sealed to prevent exposure to RWF employees. The ~~Facility~~ site of the PCB release was determined to be a Cleanup Program Site ~~with PCBs as a potential contaminant of concern~~ in early 2022 (SWRCB 2022). As of August 2025, a land use covenant is being prepared for the site of the PCB release (Garg, pers. comm. 2025). The Project's transmission line would not overlap with the site of the PCB release.

Text in Final EIR page 3.9-25 has been revised, as follows:

Construction ~~of the overhead portion~~ of the transmission line would cross the San José-Santa Clara RWF, ~~which could result in the~~ parts of which have experienced accidental release of hazardous materials, ~~because of the potential presence of~~ ~~polychlorinated biphenyls such as~~ namely ~~(~~PCBs~~)~~, as noted in Section 3.9.1.8 ~~that could be release during excavation~~. However, as also noted above, the site of the PCB release has been remediated and the PCB contamination is limited to these areas. Since the Project's transmission line, including construction activities, would not be within this site, impacts would be less-than-significant.

LA2-11 The City recommends that the Final EIR should include a discussion of the RWF Plant Master Plan (PMP). To address this comment, a discussion of the RWF PMP is added in Section 3.11, *Land Use and Planning*, of the Final EIR. Text has been added in Final EIR page 3.11-16 as follows:

Plant Master Plan

The City of San José's Plant Master Plan (PMP) serves as a central planning document to guide improvements to the San José-Santa Clara Regional Wastewater Facility (RWF) facilities, operations, and land use through the year 2040. The PMP provides a roadmap to help determine the projects and funding needed to repair and replace the RWF's aging facilities and processes as well as a land use plan that defines future treatment needs, including zoning designations and guidelines for future development, restoration, and use. The RWF is operated by the City of San José's Environmental Services Department on behalf of the RWF's co-owners, the cities of San José and Santa Clara, and its tributary partners, the City of Milpitas, West Valley Sanitation District, Cupertino Sanitary District, County Sanitation District 2-3, and the Burbank Sanitary District (City of San José, 2013).

Further, text has been added in Final EIR pages 3.11-21 and 3.11-22, as follows:

Plant Master Plan

As discussed above, the Newark to NRS 230 kV transmission line would enter the San José-Santa Clara RWF overhead near its Biosolids Drying Beds, then traverse southwest towards Los Esteros Road. The existing land uses across which the proposed Newark to NRS 230 kV transmission line would traverse

> within the RWF property include: Valley Water Easement, Biosolids Lagoons, Biosolids Drying Beds, and Water Pollution Control Plant Operation Area. According to the PMP (2013), potential future land uses across which the transmission line may traverse within RWF property include: Valley Water Easement Habitat, Fresh Water Wetland, Flexible Space, and Plant Expansion area. Development under the PMP is subject to relevant codes, policies and guidelines, including but not limited to Envision San José 2040 General Plan, Alviso Master Plan, Residential, Commercial and Industrial Design Guidelines, Landscape Design Guidelines, Riparian Corridor Policy, the City of San José's Municipal Code, and various San José City Council policies (City of San José, 2013). Thus, the Project would be subject to applicable codes, policies, and guidelines for development within the RWF. LSPGC would communicate with the RWF as part of the agreement or easement needed for the transmission line, and therefore would comply with land use plans.

Additionally, the City requests that the CPUC review the PMP Mitigation Monitoring and Reporting Program (MMRP) and align mitigation measures for Project segments crossing the RWF with those in the PMP MMRP. In accordance with CEQA, the Project's APMs and mitigation measures shall be specific to the Project's actions (CEQA Guidelines Section 15126.4). As such, the Project's APMs and mitigation measures must be compliant and consistent with the regulatory guidance and requirements of the agency governing a specific CEQA resource area (e.g., CDFW for biological resources or the Bay Area Air Quality Management District [BAAQMD] for emissions). Moreover, the City has not identified any PMP mitigation measures that are inconsistent or that would conflict with mitigation for the Project, and there is no evidence that the mitigation measures for the Project are not aligned with the mitigation measures from the PMP MMRP.

LA2-12 The City notes that there are security employees stationed at the RWF Main Guard Shack, approximately 155 feet from where the proposed transmission line would be constructed in Los Esteros Road, and that these security employees should be treated as sensitive receptors for noise and vibration. To address this comment, text in Final EIR on page 3.13-7 has been revised as follows:

> No receptors are within 1,000 feet of the proposed Newark to NRS 230 kV AC transmission line north of the ~~city of San José's~~ San José-Santa Clara ~~Recycled Water~~ Regional Wastewater Facility (RWF), with the exception of the RWF Main Guard Shack on Los Esteros Road approximately 155 feet from the Project work area. The nearest residential sensitive receptors to the Newark to NRS 230 kV AC transmission line, located west of the ~~Recycled Water Facility~~ RWF, are residential uses approximately 20 feet from the transmission line on Grand Boulevard in the city of San José and on Lafayette Street near the existing SVP NRS 230 kV Substation. The nearest sensitive receptors to the existing SVP NRS 230 kV Substation are residences 82 feet to the south.

Response to Draft EIR

July 24, 2025

Tommy Alexander, CPUC Project Manager
Power the South Bay Project; Attn. D. Davis
c/o Environmental Science Associates
575 Market Street, Suite 3700, San Francisco, CA 94105

Sent via-email: PowertheSouthBay@esassoc.com

Re: Comments on Draft Environmental Impact Report for Power the South Bay Project

Dear Mr. Alexander:

Thank you for the opportunity to review and respond to the Draft Environmental Impact Report (DEIR) for the Power the South Bay Project. While Silicon Valley Power (SVP) is in overall support of the project, the purpose of this letter is to provide SVP's comments on the portions of the DEIR that SVP has reviewed and are specific to the Newark to Northern Receiving Station (NRS) 230kV transmission line interconnection within SVP's NRS substation.

The work by SVP to support the LS Power line is part of SVP's larger effort to upgrade and expand the NRS substation, which received all required approvals (including environmental) and follows all City of Santa Clara processes and procedures. SVP does not agree that the work we are completing within the NRS site as part of our larger project should be analyzed under this DEIR as we view this as a separate project; nevertheless, SVP is providing our comments to demonstrate in any case that the environmental impacts are less than significant.

LA3-1

The work that SVP is doing within the NRS substation for the LS Power interconnection is approximately 0.2% of the temporary work area disturbance of the overall LS Power work (see Table 2-5), the average daily truck miles traveled for SVP's construction activities is approximately 2% of the total average daily truck miles traveled for all construction activities for the Power the South Bay Project (see Table 2-8), and the SVP NRS 230kV substation modifications are anticipated to take only 108 workdays (nonconsecutive), which is less than 25% of the PG&E substation modification workdays and less than 15% of the LS Power transmission line workdays (see Table 2-9). Therefore, implementation of the applicant proposed measures (APMs) for the SVP work would not significantly impact the overall LS Power work to the following resource areas:

- Aesthetics
- Air quality
- Biological Resources
- Cultural Resources
- Hazards and Hazardous Materials
- Hydrology and Water Quality
- Public Services
- Recreation
- Transportation
- Tribal Cultural Resources
- Utilities and Service Systems
- Wildfire

LA3-2

The report states that SVP has proposed/identified no construction measures for its portion of work for the Project. As noted in this letter, SVP's work within the NRS substation to support the LS Power interconnection is already implementing APMs AQ-1, AQ-2, BIO-6, HAZ-1, HAZ-2, and WQ-1, and the other APMs are not applicable as outlined in the response to previously provided LS Power RFI-C-10 and responded herein.

SVP requests that the CPUC review the information provided herein and confirm that, with SVP's implementation of the noted APMs and the minimal impact of SVP's activities on the overall Project, all potentially significant environmental impacts as currently noted in the DEIR would be avoided or reduced to less than significant levels, including those related to air quality. If this determination is confirmed, SVP further requests that the CPUC update the executive summary and relevant sections of the DEIR accordingly. Acknowledgment of SVP's APMs may also eliminate the need for a Statement of Overriding Considerations

After reviewing the DEIR, SVP suggests the CPUC review and update the report sections noted below, in addition to any other report sections that include the information detailed below.

Table ES-3

Per previous responses to LS Power RFI-C-10, the following Project APMs are not applicable to SVP's work within the NRS substation boundary. SVP suggests LS Power adds a column to Table ES-3 noting that there is no measure required for SVP regarding the following inapplicable Project APMs:

- APM BIO-1: Restoration of Disturbed Areas
  - SVP will not disturb any areas requiring restoration; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-2: Rare Plant Surveys
  - SVP will not disturb any areas containing rare plant habitat; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-3: Preconstruction Sweeps
  - SVP will not disturb any areas containing biological resource habitat; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-4: Sensitive Area Demarcation
  - SVP will not disturb any biologically sensitive areas; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-5: Vehicle Cleaning Prior to Entering Natural Areas
  - SVP will not disturb any natural areas; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-7: Salt Marsh Harvest Mouse (SMHM) Surveys
  - SVP will not disturb any areas containing potential SMHM habitat; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-8: Excavation Wildlife Safety BMPs
  - SVP will not disturb any areas containing biological resources; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-9: WEAP Training
  - All SVP work would be conducted in areas without biological resources within the existing active NRS substation.
- APM BIO-10: Outdoor Lighting Measures
  - SVP will not disturb any areas containing biological resources; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-11: Special Status Bird Surveys
  - SVP will not disturb any areas containing biological resources; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-12: Nesting Bird Protection Measures

LA3-2 cont.

    - SVP will not disturb any areas containing biological resources; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-13: Raptor Surveys
    - SVP will not disturb any areas containing biological resources; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-14: Nesting Bird Surveys
    - SVP will not disturb any areas containing nesting bird habitat; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-15: Special-Status Invertebrate Surveys
    - SVP will not disturb any areas containing special-status invertebrate habitat; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-16: Wetland, Vernal Pool, and Waterway Construction Timing Restrictions
    - SVP will not disturb any areas containing wetlands or other water features; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-17: Special-Status Amphibian Surveys
    - SVP will not disturb any areas containing amphibian species habitat; all SVP work will occur within the existing fenced NRS substation facility.
- APM BIO-18: Wetland and Aquatic Resources Delineations
    - SVP will not disturb any areas containing wetlands or other water features; all SVP work will occur within the existing fenced NRS substation facility.
- APM CUL-1: WEAP Training
    - SVP work is restricted to the existing fenced NRS substation area, which has been previously graded and disturbed. Potential for cultural resources is low, and worker training would not be overly beneficial.
- APM CUL-2: Archaeological and Native American Monitoring
    - SVP work is restricted to the existing fenced NRS substation area, which has been previously graded and disturbed. Potential for cultural resources is low, and construction monitoring would not be required based on existing known conditions. Contractor is required to stop work upon discovery of any potential historic or archeological items.
- APM CUL-3: Unanticipated Discovery of Potentially Significant Prehistoric and Historic Resources
    - SVP work is restricted to the existing fenced NRS substation area, which has been previously graded and disturbed. Potential for cultural resources is low. If any unanticipated discoveries occur, work will stop.
- APM CUL-4: Cultural Resources Surveys
    - The SVP work area (existing NRS substation) is an existing facility that has been previously graded and disturbed. There is no value for conducting a pedestrian survey of the area.
- APM CUL-5: Unanticipated Discovery of Human Remains
    - SVP work is restricted to the existing fenced NRS substation area, which has been previously graded and disturbed. Potential for human remains is low. If any unanticipated discoveries occur, work will stop.
- APM PALEO-1: Paleontological Resources Mitigation Monitoring Plan
    - SVP work is restricted to the existing fenced NRS substation area, which has been previously graded and disturbed. Potential for cultural resources is low. If any unanticipated discoveries occur, work will stop.
- APM PALEO-2: Paleontological Resource Findings
    - SVP work is restricted to the existing fenced NRS substation area, which has been previously graded and disturbed. Potential for cultural resources is low. If any unanticipated discoveries occur, work will stop.
- APM GEO-1: Geotechnical Studies and Geologic Hazard Reduction Measures
    - SVP would analyze potential geologic hazards and design the substation modifications accordingly, applicable with building codes and standards.
- APM HAZ-3: Compliance with the Covenant to Restrict Use of Property (Cisco Systems Site

LA3-2 cont.

6/Syntax Court Disposal Site)
    - SVP scope of work is not located on the Cisco Systems site.
- APM HAZ-4: Compliance with the Covenant and Agreement for Environmental Restriction (South Bay Asbestos Area)
    - The SVP work area is not located within the South Bay asbestos area.
- APM HAZ-5: Induction Study and Utility Coordination
    - The SVP scope of work is located within an active substation. Induction within the existing active substation is not an issue for the existing substation.
- APM REC-1: Trail Management Plan
    - SVP scope of work would not affect any existing trails.
- APM TRA-1: Traffic Control Plan
    - The SVP scope of work does not require preparation of a traffic control plan or equivalent document or plan.
- APM TRA-2: Coordinate Bus Stop Closures
    - The SVP scope of work would not impact bus stops, routes, or timing.
- APM TRA-3: Repair Infrastructure
    - The SVP scope of work would not damage public infrastructure. All work would occur on SVP property.

SVP is already implementing the following measures for the work within the NRS substation and suggests LS Power insert the relevant measures in Table ES-3. SVP can provide more information about the following APMs upon request.

- APM AQ-1: Construction Fleet Minimum Requirements and Tracking
    - The Bid Proposal states the following:
        - In-Use Off-Road Diesel-Fueled Fleets. If the Project involves the use of vehicles subject to the California Air Resources Board's In-Use Off-Road Diesel-Fueled Fleets Regulation (13 CCR § 2449 et seq.) ("Off-Road Regulation"), then within three Working Days following a request from City, the apparent low bidder must submit to City valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, in accordance with the Off-Road Regulation, unless exempt under the Off-Road Regulation. A bid that does not fully comply with this requirement may be rejected as nonresponsive.
        - Certificate of Reported Compliance. If the Project involves the use of vehicles subject to the Off-Road Regulation, Bidder will submit to City valid Certificates of Reported Compliance for its fleet and its listed Subcontractors, if applicable, in accordance with the Off-Road Regulation, within three Working Days following a request from City.
- APM AQ-2: Duct Control Best Management Practices
    - SVP's Construction Specifications note the following requirements:
        - Contractor must at all times, on a 24-hour basis and at its sole cost, maintain the Project site and staging and storage areas in clean, neat, and sanitary condition and in compliance with all laws pertaining to safety, air quality, and dust control.
        - Dust and Debris: Contractor must minimize and confine dust and debris resulting from the Work. Contractor must protect buildings and operating facilities from dust and must use suitable dust screens to protect existing and new machinery, motors, instrument panels, or similar equipment from dust. Contractor must include proper ventilation with dust screens. Contractor must abate dust nuisance by cleaning, sweeping, and immediately sprinkling with water excavated areas of dirt or other materials prone to cause dust, and within one hour after the [Construction Manager] notifies Contractor that an airborne nuisance exists. The [Construction Manager] may direct that Contractor provide an approved water-spraying truck for this purpose. If water is used for dust control, Contractor shall only use the minimum necessary. Contractor must take all necessary steps to keep wastewater out of streets, gutters, or storm drains. If City determines that the dust control is not adequate, City may have the work done by others and deduct the cost from the Contract Price. Contractor shall immediately remove any excess excavated material from the Project site and any dirt

LA3-2 cont.

deposited on public streets. (See also Document 01 50 00 of the Specifications.)

- APM BIO-6: Vehicle Speed Limits
  - SVP will implement 15 mph speed limit within NRS boundaries on paved roads.
  - Contractor shall limit traffic speeds on unpaved roads to 5 miles per hour.
- APM HAZ-1: Site-Specific Spill Prevention, Control, and Countermeasure Plan
  - The NRS site is currently an active receiving station and an SPCC plan is in place.
  - SVP is actively updating SPCC to support new work during construction.
- APM HAZ-2: Hazardous Materials Management Plan
  - All SVP construction will comply with existing laws, ordinances and regulations.
  - Section 10.2 of the General Conditions of the NRS Public Works Contract for Hazardous Materials states the following:
    - Unless otherwise specified in the Contract Documents, this Contract does not include the removal, handling, or disturbance of any asbestos or other Hazardous Materials. If Contractor encounters materials on the Project site that Contractor reasonably believes to be asbestos or other Hazardous Materials, and the asbestos or other Hazardous Materials have not been rendered harmless, Contractor may continue Work in unaffected areas reasonably believed to be safe, but must immediately cease work on the area affected and report the condition to City. Contractor's notice to City must indicate whether the material believed to be Hazardous Materials was shown or indicated on the Contract Documents to be within the scope of Work and whether the material was brought to the Project site by Contractor, its Subcontractors, a supplier, or any other individual. No asbestos, asbestos-containing products or other Hazardous Materials may be used in performance of the Work.
- APM WQ-1: Groundwater Discharge Measures
  - Although SVP scope of work is not anticipated to encounter groundwater, Contractor is responsible for groundwater dewatering, testing and disposal of groundwater, and discharge of contaminated groundwater in accordance with the laws, regulations and ordinances.

LA3-2 cont.

Table 2-5

Table 2-5 notes that 13.5 acres is the approximate disturbance area for the SVP NRS 230kV substation modifications portion of the Project, however, as noted in SVP's comments provided to LS Power in March 2025, 13.5 acres is the work area for the overall NRS substation upgrades and expansion. SVP requests that this table be correct to list 0.5 acres as the temporary disturbance area for the SVP NRS 230kV substation modifications portion of the Project.

LA3-3

Table 2-9

SVP requests that the construction end date in Table 2-9 be updated from March 2027 to April 2028.

LA3-4

Sections 2.4 and 2.6

Sections 2.4 and 2.6 detail SVP's scope of work and LSPGC's scope of work for the Project. SVP requests that the scope of work be updated to reflect the following:

"SVP would own and be responsible for installation of an overhead structure within its NRS 230 kV Substation, CAISO metering instruments, group operated disconnect switch, and jumpers between the substation bay, metering and disconnect switch.

LSPGC would own and be responsible for installation of the underground transmission line into the SVP NRS 230 kV Substation, cable riser termination structures, and jumpers from the cable risers to the SVP-owned disconnect switch."

LA3-5

Section 3.3 – Air Quality

Section 3.3.3.3 states "SVP has proposed no construction measures pertaining to air quality within SVP's

LA3-6

portion of the Project." SVP disagrees with this statement; as noted above, SVP is already implementing APMs AQ-1 and AQ-2 into the portion of the Project within the NRS substation. All other APMs pertaining to air quality have been deemed inapplicable for SVP's work. SVP requests that a clarification be added to this section to note that the applicable constructions measures pertaining to air quality within SVP's portion of the Project have been implemented.

Throughout Section 3.3, the CPUC has stated that as a result of SVP's work within the NRS Substation and SVP's unwillingness to propose construction measures pertaining to air quality, the cumulative impacts associated with dust emissions, net increase of exhaust emissions, health risks due to diesel particulate matter (DPM) and fugitive dust emissions, and/or a conflict or obstruction of implementation of the applicable air quality plan would remain significant and unavoidable. SVP disagrees with these statements, as SVP has implemented air quality construction measures that are applicable to the NRS 230kV substation modifications associated with the Project. Additionally, since SVP's work only accounts for 0.2% of the overall work for the Power the South Bay Project, implementation of the air quality APMs for the SVP work would not significantly impact the contributions of the overall LS Power work to air quality. As such, SVP requests CPUC review the changes and information presented herein and modify the determination of "significant and unavoidable" for SVP work within the NRS substation to "less than significant" impacts to air quality associated with construction of the SVP NRS 230kV Substation modifications component of the Project.

Section 3.4 – Biological Resources

Section 3.4.4.3 states "SVP has proposed no construction measures pertaining to biological resources within SVP's portion of the Project." SVP disagrees with this statement; as noted above, SVP is already implementing APM BIO-6 into the portion of the Project within the NRS substation. All other APMs pertaining to biological resources have been deemed inapplicable for SVP's work, however, work will stop if any unanticipated discoveries occur. SVP requests that a clarification be added to this section to note that the applicable constructions measures pertaining to biological resources within SVP's portion of the Project have been implemented.

LA3-6 cont.

Section 3.8 – Greenhouse Gas Emissions

Section 3.8.3.3 states "SVP has proposed no construction measures pertaining to greenhouse gas emissions within SVP's portion of the Project." SVP disagrees with this statement; as noted above, SVP is already implementing APM AQ-1 into the portion of the Project within the NRS substation. SVP requests that a clarification be added to this section to note that the applicable constructions measures pertaining to greenhouse gas emissions within SVP's portion of the Project have been implemented.

Section 3.9 – Hazards and Hazardous Materials

Section 3.9.3.3 states "SVP has proposed no construction measures pertaining to hazards and hazardous materials within SVP's portion of the Project." SVP disagrees with this statement; as noted above, SVP is already implementing APMs HAZ-1 and HAZ-2 into the portion of the Project within the NRS substation. All other APMs pertaining to hazards and hazardous materials have been deemed inapplicable for SVP's work. SVP requests that a clarification be added to this section to note that the applicable constructions measures pertaining to hazards and hazardous materials within SVP's portion of the Project have been implemented.

Section 3.10 – Hydrology and Water Quality

Section 3.10.3.3 states "SVP has proposed no construction measures pertaining to hydrology and water quality within SVP's portion of the Project." SVP disagrees with this statement; as noted above, SVP is already implementing APMs HAZ-1, HAZ-2 and WQ-1 into the portion of the Project within the NRS substation. All other APMs pertaining to hydrology and water quality have been deemed inapplicable for SVP's work. SVP requests that a clarification be added to this section to note that the applicable constructions measures pertaining to hydrology and water quality within SVP's portion of the Project have been implemented.

Section 3.15 – Public Services

Section 3.15.4.4 states "SVP has proposed no construction measures pertaining to mineral resources within SVP's portion of the Project." There appears to be a typo in this section; "mineral resources" should be replaced with "public services." LA3-7

As noted above for the following sections and resource impact areas, all APMs pertaining to the noted resource area have been deemed inapplicable for SVP's work since all SVP work will occur within the existing fenced NRS substation facility. Although all APMs pertaining to the below resource areas have been deemed inapplicable for SVP's work, work will stop if any unanticipated discoveries occur. SVP requests that a clarification be added to these sections to note that there are no applicable construction measures pertaining to the associated resource area within SVP's portion of the Project. LA3-8

- Section 3.1 – Aesthetics
- Section 3.2 – Agriculture and Forestry Resources
- Section 3.5 – Cultural Resources
- Section 3.6 – Energy
- Section 3.7 – Geology, Soils, and Paleontological Resources
- Section 3.11 – Land Use and Planning
- Section 3.12 – Mineral Resources
- Section 3.13 – Noise
- Section 3.14 – Population and Housing
- Section 3.15 – Public Services
- Section 3.16 – Recreation
- Section 3.17 – Transportation
- Section 3.18 – Tribal Cultural Resources
- Section 3.19 – Utilities and Service Systems
- Section 3.20 – Wildfire

SVP has worked with the CPUC and LS Power for quite some time to ensure there was enough information to properly evaluate the environmental impacts of the LS Power project. SVP provided information to the CPUC and LS Power through various communications including, but not limited to, responses to LS Power RFI-C-10 and the Draft PEA. For whatever reason, this information has not been included in the DEIR. LA3-9

Therefore, SVP requests CPUC consider our comments and modify the determination of "significant and unavoidable" for SVP work within the NRS substation to "less than significant" for all resource areas and measures. SVP also requests CPUC correct all inconsistencies in the DEIR per the information provided above. LA3-10

SVP looks forward to continuing the work on this important project with the CPUC and LS Power.

Sincerely,

Nicholas Procos

Nicholas Procos
Director of Silicon Valley Power

cc: Dan Ballin, Silicon Valley Power Senior Counsel
Chris Karwick, Acting Chief Operating Officer
Allie Jackman, Electric Division Manager

Letter LA3: Silicon Valley Power

LA3-1 Under CEQA, a "project" is defined as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment" (CEQA Guidelines Section 15378[a]). Further, "[t]he term 'project' refers to the activity which is being approved and which may be subject to several discretionary approvals by governmental agencies. The term 'project' does not mean each separate governmental approval" (CEQA Guidelines Section 15378[c]). Under this definition, the lead agency must describe the project to encompass the entirety of the activity that has the potential to result in environmental impacts. Here, three independent entities would be working together to construct and operate the Project: LSPGC (the Applicant), PG&E, and Silicon Valley Power (SVP). While each entity would have a distinct and discretely assigned construction and operational scope, each scope would be executed to complete a single overarching action: the whole of the Power the South Bay Project. However, as the Draft EIR acknowledges, SVP is a non-profit municipal electric utility owned and operated by the City of Santa Clara, so its interconnection work, while analyzed as part of the whole of the Project, is not subject to the jurisdiction of the CPUC.

The CPUC understands that the work SVP would perform within the SVP Northern Receiving Station (NRS) 230 kV Substation to interconnect the Project would be part of SVP's larger effort to upgrade and expand the substation. As such, it is difficult to determine the specific elements of the proposed upgrades and expansion that would be solely attributable to the Project for the Project-specific impact analyses, as needed for the EIR. The analysis in the EIR incorporates information related to air quality, greenhouse gas (GHG) emissions, and energy provided by LSPGC, attached to the Final EIR as **Appendix C**.

LA3-2 SVP states that the work that SVP is performing within the SVP NRS 230 kV Substation relative to the Project would be approximately 0.2 percent of the temporary work area disturbance, the average daily truck miles for SVP's work would be approximately 2 percent of the total average daily truck miles, and the proposed modifications within the SVP NRS 230 kV Substation would only take 108 nonconsecutive work days. Further, SVP states that the implementation of APMs for SVP's work would not significantly impact the Project pertaining to a list of 12 resource areas.

The CPUC understands these comments to suggest that the EIR should not attribute significant environmental impacts to SVP's portion of the Project. As discussed in the Draft EIR, the Project is anticipated to have significant and unavoidable health risk impacts related to exposing sensitive receptors (i.e., the single-and multi-family residences adjacent directly south of the SVP NRS 230 kV Substation) to substantial pollutant concentrations and dust emissions. To satisfy CEQA's requirements for disclosure of potential health impacts on sensitive receptors, it is necessary to identify SVP's work area at the SVP NRS 230 kV Substation as a significant source of exposure

due to its proximity to the sensitive receptors, notwithstanding the small percentage of SVP's temporary work area disturbance. The potential air quality impacts would be caused by a site-specific circumstance: the presence of single- and multi-family residences approximately 82 feet south of the active construction area within the SVP NRS 230 kV Substation. This situation does not exist anywhere else within the active Project area as a whole because in many work areas no sensitive receptors would be present, and because the construction of the transmission line (i.e., the majority of the work area disturbance) would occur in linear segments with work only ongoing at a single, temporary location for a few weeks at a time. However, work within the SVP NRS 230 kV Substation would occur in place (i.e., stationary) at the same location, which could expose nearby sensitive receptors for a longer duration of time.

Regarding SVP's comment that implementation of APMs for SVP's portion of the Project would not significantly impact the Project, the APMs were proposed and committed to by LSPGC and are only applicable to LSPGC's portion of the Project. Since SVP is not an applicant in the CPCN application proceeding, there is no formal process for SVP to propose measures, nor would the CPUC have authority to enforce any proposed measures from SVP, since the CPUC only has permitting jurisdiction over investor-owned utilities like LSPGC and not publicly owned municipal utilities like SVP, which is owned and operated by the City of Santa Clara. Accordingly, the Draft EIR assessed the Project's potential impacts without assuming implementation of any APMs for SVP's portion of the Project and found that, with the exception of air quality measures, the impacts associated with SVP's work would be less than significant without the need for any additional measures, so such measures would not be necessary to reduce impacts to a less-than-significant level. Therefore, inclusion of the APMs that SVP lists in this comment would not be necessary to reduce significant impacts for any other affected resource area and would not change the impact conclusions provided in the Draft EIR.

Similarly, the CPUC cannot impose or enforce mitigation requirements on municipal utilities such as SVP. Under CEQA, mitigation measures must be fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Therefore, whereas the EIR proposed **Mitigation Measure 3.3-2a: Construction Fleet Minimum Requirements and Tracking – Tier 4 Final Emissions Controls** and **Mitigation Measure 3.3-2b: Use Best Management Practices for Construction-Related Fugitive Dust Emissions** to supplement LSPGC's APMs to reduce potentially significant impacts related to substantial pollutant concentrations and dust emissions to a less-than-significant level, the CPUC has no means of enforcing similar mitigation measures for SVP's portion of the Project. Because it would be legally infeasible for the CPUC to impose mitigation measures on SVP, it would not be appropriate for the EIR to rely on implementation of such measures to conclude that impacts could be reduced below the level of significance. This is a necessity of the CEQA process. However, the CPUC trusts and acknowledges that SVP would conduct its portion of the Project in good faith and would implement its

portion of the Project (i.e., within the NRS 230 kV Substation) in accordance with all applicable rules and regulations, including those related to air quality.

LA3-3 SVP states that the 13.5 acres listed in the Draft EIR for the Project's approximate temporary disturbance area within the SVP NRS 230 kV Substation is the work area for the "overall NRS substation upgrades and expansion." SVP requests that the approximate temporary disturbance area at the SVP NRS 230 kV Substation be updated to 0.5 acres. Table 2-5 in Final EIR page 2-34 has been revised, as follows:

TABLE 2-5
SUMMARY OF WORK AREA DISTURBANCE

Work Area	Temporary or Permanent Disturbance	Approximate Disturbance Area (acres)
Staging Areas[1]	Temporary	142.7[2]
PG&E Newark 230 kV Substation Modifications	Temporary[3]	0.5
SVP NRS 230 kV Substation Modifications	Temporary[4]	0.5 ~~13.5~~
Underground Transmission Line[5]	Temporary	89.3
Overhead Transmission Line	Temporary	14.3
Overhead Transmission Line[6]	Permanent	0.02
Total Temporary Work Area Disturbance[7]		**247.3 ~~260.3~~**
Total Permanent Work Area Disturbance		**0.02**

Text in Final EIR page 2-34 has been revised, as follows:

> In total, the Project would result in approximately 0.02 acre of permanent disturbance and approximately 247.3 ~~260.3~~ acres of temporary disturbance to mainly previously disturbed land (e.g., PG&E Newark 230 kV and SVP NRS 230 kV substations), roads, and a paved parking lot.

Additionally, Table 3.11-1 in Final EIR page 3.11-3 has been revised, as follows:

TABLE 3.11-1
LAND USE AND ZONING DESIGNATIONS FOR PROJECT COMPONENTS, BY JURISDICTION

SVP NRS 230 kV Substation	Santa Clara	Regional Commercial	Public or Quasi Public (B)	0.5 ~~13.5~~ acres

LA3-4 SVP requests that the construction end date in Table 2-9 within the Draft EIR be updated from March 2027 to April 2028. Table 2-9 in Final EIR page 2-66 has been revised, as follows:

TABLE 2-9
PROPOSED CONSTRUCTION SCHEDULE

SVP NRS 230 kV Substation Modifications	September 2025	April 2028 ~~March 2027~~	108

LA3-5 SVP requests the revision of the characterization of the scope of work for LSPGC and SVP, as detailed in Section 2.4 and Section 2.6 of the Draft EIR. The CPUC acknowledges these clarifications, and where appropriate, they have been incorporated in the Final EIR (see under "Applicant-Proposed Measures and Best Management Practices" section within Final EIR Sections 3-1 through Section 3-20). Additionally, text in Final EIR page 2-11 has been revised, as follows:

> The Project would connect the existing PG&E Newark 230 kV and SVP NRS 230 kV substations via the proposed transmission line. To accommodate the new transmission line, PG&E and SVP would modify existing facilities at each existing substation. PG&E would be responsible for the portion of the Project from pole location NN-3 on its property into an open 230 kV line position within the PG&E Newark 230 kV Substation, as shown in **Figure 2-3b**, *PG&E Scope of Work*. SVP would be responsible for the installation of an overhead structure within its NRS 230 kV Substation, group operated disconnect switch, and jumpers between the substation bay, metering and disconnect switch ~~the Project's transmission line to the overhead structure, CAISO metering, and jumpers between the line terminations and through the CAISO meters~~ (see **Figure 2-3c**, *SVP Scope of Work).*

Text is added above the first full paragraph in Final EIR page 2-16 is added, as follows:

> Most of the aboveground structures would be installed on access roads on RWF property, outside of the drying beds. Aboveground structure NN-8 would be installed within one of the drying beds. The locations of the aboveground structures along RWF property, including NN-8, were coordinated with the RWF.

LA3-6 SVP disagrees with the statements in Section 3.3.3.3 (Air Quality), Section 3.4.4.3 (Biological Resources), Section 3.8.3.3 (Greenhouse Gas Emissions), Section 3.9.3.3 (Hazards and Hazardous Materials), and Section 3.10.3.3 (Hydrology and Water Quality) of the Draft EIR that SVP has proposed no construction measures pertaining to each of these resources, respectively. Additionally, SVP states that it is currently implementing measures related these resources that are applicable to the proposed modifications at the SVP NRS 230 kV Substation.

Please refer to response to Comment LA3-2 for the CPUC's response related to the Draft EIR's air quality analysis, APMs, and discussion of its lack of jurisdiction to impose mitigation measures on SVP. The CPUC trusts and acknowledges that SVP would conduct its portion of the Project in good faith and would implement its portion of the Project (i.e., within the NRS 230 kV Substation) in accordance with all applicable rules and regulations, including those related to air quality.

LA3-7 SVP states that there is a typo in Section 3.15.4.3. The CPUC appreciates this comment, and text in Final EIR page 3.15-9 has been revised, as follows:

> SVP has proposed no construction measures pertaining to ~~mineral resources~~ public services within SVP's portion of the Project.

LA3-8 SVP requests that clarifications be added in the EIR to note that there are no applicable construction measures pertaining to 15 resource areas within SVP's portion of the Project. The Draft EIR stated that no SVP construction measures have been proposed for SVP's portion of the Project for sections referenced in this comment. Within each of these sections, there would be no impact or less-than-significant impacts related to these 15 resources, so the CPUC acknowledges that SVP construction measures are not needed to keep impacts to these resources below the threshold of significance.

LA3-9 SVP states that it has provided information to the CPUC and LSPGC to properly evaluate the environmental impacts of the Project, and that such information has not been included in the Draft EIR.

The CPUC notes that the Proponent's Environmental Assessment (PEA) originally submitted by LSPGC in its CPCN application in May 2024 characterized SVP's scope within the Project and any potential environmental impacts resulting from SVP's work within the NRS 230 kV Substation. The CPUC's independent environmental review as CEQA lead agency incorporated the information provided in LSPGC's CPCN application, including SVP's scope of the Project. As the Draft and Final versions of the EIR were developed, the CPUC, LSPGC, and SVP were in contact through e-mail communications and online meetings to develop a better understanding of SVP's scope of the Project. As reflected in the preceding responses to SVP comments, all available pertinent information regarding SVP's scope of the Project was disclosed and evaluated.

LA3-10 SVP requests that the CPUC modify the determination of significant and unavoidable for SVP work within the SVP NRS 230 kV Substation to less than significant for all resource areas and measures. In addition, SVP requests that the CPUC correct all inconsistencies in the Draft EIR. The CPUC acknowledges this request, and where appropriate, applicable information and revisions have been incorporated in the Final EIR. However, it remains that the CPUC does not have permitting jurisdiction over SVP; therefore, the CPUC cannot impose and enforce any mitigative actions on SVP through the CEQA process to reduce the impact associated with SVP's portion of the Project, including the effects on health risk and dust emissions, which are the significant and unavoidable impacts related to air quality found to be attributable to SVP's role in the Project. Despite this formality, the CPUC trusts and acknowledges that SVP would conduct its portion of the Project in good faith and would implement its portion of the Project in accordance with all applicable rules and regulations, including those related to air quality.

USD TREAT PROTECT PRESERVE est.1918
TRI-CITY WASTEWATER

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July 24, 2025

Tommy Alexander, CPUC Project Manager
Power the South Bay Project; Attn. D. Davis
c/o Environmental Science Associates
575 Market Street, Suite 3700
San Francisco, CA 94105

Subject: Notice of Availability of a Draft Environmental Impact Report (EIR) for the Power the South Bay Project (A. 24-05-014);
State Clearinghouse No. 2024071095

Dear Mr. Alexander,

The Union Sanitary District (USD) wishes to thank you for the opportunity to comment on the draft Environmental Impact Report (EIR) for Power the South Bay Project (Project) dated June 2025. USD has reviewed the EIR and offers the following comments for your consideration:

1. 2.2 Project Location (Figures 2-2a): The label for Stevenson Boulevard is incorrectly placed on Stewart Avenue. Stevenson Boulevard is located north of the Staging Area 1. LA4-1

2. 2.7.4 Temporary Rights-of-Way or Easements (Figures 2-6a): The label for Stevenson Boulevard is incorrectly placed on Stewart Avenue. Stevenson Boulevard is located north of the Staging Area 1. There is an existing USD Easement located on Staging Area 4. LA4-2

3. 2.8.6.3 Trenchless Techniques (Page 2-46 to 2-53) : The draft EIR states that horizontal directional drilling (HDD) trenchless method for pipe installation will be utilized to install one or two casings. A USD Encroachment Permit and Agreement will be required for any HDD crossing USD sanitary sewer mains or HDD installations having less than 5 feet of horizontal clearance from a USD sanitary sewer main. The encroachment permit will require that the affected sewer mains to have a pre-construction and a post-construction television inspection performed to ensure that they were not damaged during the LA4-3

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installation. A separate USD Encroachment Permit and Agreement will be required for any work within existing USD Easements. LA4-3 cont.

4. Section 2.14 Project Permits and Approvals (Pages 2-70 to 2-72): The draft EIR did not list USD as a permitting agency. Encroachment Permit and Agreement with USD will be required for the HDD construction activities mentioned in comment 3. LA4-4

5. 2.8.10.2 Dewatering (Page 2-56): The EIR states that groundwater encountered during the underground construction would be pumped into water trucks for haul-off or directly into containment tanks. The EIR did not list a groundwater discharge option into USD facilities. All reasonable alternatives to sewer disposal, such as legally permissible reuses, must be explored before discharge will be approved to USD sanitary sewer system. When no other alternative for disposal of groundwater exists, USD may issue discharge permits for groundwater encountered during excavation. The permit is a conditional discharge permit and approval of discharge is dependent upon available capacity in the sewer system. Please contact USD's Environmental Compliance Team for specific requirements, limits, and fees for a groundwater permit. LA4-5

6. 3.19.5.2. Impact Assessment (Impact 3.19-1, Pages 3.19-20 to 3.19-21): USD facilities along the proposed pipeline alignment range from 12-inches to 39-inches in diameter. Boyce Road and Cushing Parkway contain a large sanitary sewer trunk main system that ranges from 33-inches to 39-inches in diameter. A smaller trunk main on Fremont Boulevard ranges from 12-inches to 18-inches in diameter. The project alignment also is adjacent to USD's Irvington Pump Station, Boyce Road Lift Station, and Fremont Lift Station. LA4-6

Please feel free to email me at andrewb@unionsanitary.ca.gov or call me at (510) 477-7633 as needed during this process.

Sincerely,

Andrew Baile
Assistant Engineer

By Email
Cc: Richard Thow, USD

Letter LA4: Union Sanitary District

LA4-1 Union Sanitary District (USD) notes that the label for Stevenson Boulevard is incorrectly placed on Stewart Avenue on Figure 2-2a. The CPUC acknowledges this clarification and revisions have been incorporated in the Final EIR.

LA4-2 USD notes that the label for Stevenson Boulevard is incorrectly placed on Stewart Avenue on Figure 2-6a. Further, USD states that there is an existing USD easement on Staging Area 4. The CPUC acknowledges these clarifications and Figure 2-6a has been revised accordingly in the Final EIR. USD's easement at Staging Area 4 will be considered as part of the decision-making process.

LA4-3 USD notes that an encroachment permit and agreement will be needed for crossing under USD sanitary sewer mains. The CPUC acknowledges that such authorization from USD would be required. Table 2-10, *Anticipated Permits and Approvals*, has been revised in the Final EIR to identify USD as an agency with permitting or other approval action on the Project, as follows:

TABLE 2-10
ANTICIPATED PERMITS AND APPROVALS

Union Sanitary District	Encroachment permit and agreement	Construction along USD ROWs (within 5 feet of horizontal clearance from a USD main) or easements.	Submit application to USD for review and approval.	Before the start of construction.

LA4-4 USD notes that an encroachment permit and agreement will be needed for crossing under USD sanitary sewer mains. The CPUC acknowledges that such authorization from USD would be required. Table 2-10, *Anticipated Permits and Approvals*, has been revised in the Final EIR to identify USD as an agency with permitting or other approval action on the Project (see revisions to Table 2-10 in response to Comment LA4-3 above).

LA4-5 The CPUC acknowledges that all reasonable alternatives to sewer disposal must be explored before discharge will be approved to USD sanitary sewer system, and if no other alternative exists, USD may issue discharge permit for groundwater encountered during excavation, dependent upon available capacity. This has been considered in the development of the Final EIR and will be considered as part of the CPUC's decision-making process.

LA4-6 The CPUC understands that there are a number of USD facilities along the proposed transmission line alignment. The CPUC acknowledges this input, and has been considered in the development of the Final EIR and will be considered as part of the CPUC's decision-making process. To further address this comment, text has been added under the third full paragraph in Final EIR page 3.19-7, as follows:

> USD facilities along the Project alignment range from 12 inches to 39 inches in diameter. Specifically, Boyce Road and Cushing Parkway contain a large

sanitary sewer trunk main system that ranges from 33 inches to 39 inches in diameter. A smaller trunk main on Fremont Boulevard ranges from 12 inches to 18 inches in diameter. The Project alignment is also adjacent to USD's Irvington Pump Station, Boyce Road Station, and Fremont Lift Station.

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October 3, 2025

VIA ELECTRONIC MAIL
Mr. Tommy Alexander
CPUC Project Manager
Power the South Bay Project; Attn. D. Davis
c/o Environmental Science Associates
575 Market Street, Suite 3700, San Francisco, CA 94105
PowertheSouthBay@esassoc.com

Dear Mr. Alexander:

Subject: Draft Environmental Impact Report (EIR) for the Power the South Bay Project (A/24-05-014)

The Alameda County Water District (ACWD) wishes to thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the Power the South Bay Project (Project) located in Fremont California. ACWD supplies water to a population of over 344,000, primarily in the cities of Fremont, Newark, and Union City. ACWD was formed in 1914 for the purpose of protecting the Niles Cone Groundwater Basin (Niles Cone) and conserving waters of the Alameda Creek watershed. Local runoff along with imported water from the State Water Project is percolated into the Niles Cone Groundwater Basin through recharge in Alameda Creek itself and through recharge ponds within and adjacent to the Quarry Lakes Regional Recreational Area. This water is subsequently recovered through groundwater production wells and provided as potable supply to ACWD's customers. Drinking water from three drinking water production facilities is delivered to customers via a network consisting of over 900 miles of transmission and distribution mains. LA5-1

ACWD staff has reviewed the Draft EIR and offers the following comments for your consideration: LA5-2

1. ACWD's Groundwater Management and Protection: ACWD requests that the following potentially significant impacts to the protection of groundwater be addressed by the Final EIR:

    a. *Sustainable Groundwater Management Act*: ACWD appreciates the Draft EIR acknowledging ACWD as the Groundwater Sustainability Agency and our Alternative to a Groundwater Sustainability Plan on page 3.10-13 for the Niles

Cone. However, Impact 3.10-6 of the Draft EIR, states that construction for the Project, as proposed, "would protect groundwater from contamination, consistent with the goals of the [Groundwater Management Plans] for the Santa Clara and Llagas subbasins. Therefore, there would be no conflicts with the plan or with SGMA, and potential impacts would be mitigated to less than significant." Page 3.10-37 provides a similar statement for the Cumulative Effects Analysis. Neither section discusses potential impacts on the Niles Cone subbasin; therefore, ACWD requests that the EIR evaluate whether the Project is also consistent with ACWD's approved Alternative to a Groundwater Sustainability Plan and that groundwater quality will not be affected by the Project. LA5-2 cont.

b. *Local Groundwater Regulations*: Section 3.10.2.3 of the Draft EIR summarizes the local policies and ordinances pertaining to hydrology and water quality that would be relevant to the Project and alternatives. Please update this section to include ACWD's relevant policies, including ACWD's 2001 Groundwater Management Policy, ACWD Ordinance No. 2010-01, and ACWD's Alternative to a Groundwater Sustainability Plan for the Niles Cone Subbasin. LA5-3

c. *ACWD Well Ordinance:*

   i. Drilling Permit Requirement: As required by ACWD Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling (vertical and horizontal) activities for wells, exploratory holes, and other excavations (including dewatering wells, the installation of sheet piles, certain cathodic protection devices, piers and caissons that interconnect aquifers of water-bearing zones). Application for a permit may be obtained from ACWD's Engineering Department, at 43885 South Grimmer Boulevard, Fremont or online at http://www.acwd.org. Before a permit is issued, a cash or check deposit is required in a sufficient sum to cover the fee for issuance of the permit or charges for field investigation and inspection. All permitted work requires scheduling for inspection; therefore, all drilling activities must be coordinated with ACWD prior to the start of any field work.

   Therefore, ACWD requests that Section ES.4 (Permits and Approvals), Table ES-1 (Anticipated Permits and Approvals), Section 1.4 (Agency Use of This Document) and Table 1-1 (Anticipated Permit and Approvals), be modified to include ACWD's permit requirements and be referenced and described accordingly as the permitting agency for drilling permits for the above-mentioned subsurface drilling activities. LA5-4

   ii. Well Protection/Destruction: It is likely that ACWD has monitoring wells located within the Project area. Groundwater sampling and monitoring of these wells is imperative to ACWD's continued management of the Niles Cone. LA5-5

In addition, there may be other monitoring wells or water wells located within the Project area. In order to protect the groundwater basin, each well located within the Project area must be in compliance with ACWD Ordinance No. 2010-01 and must be either protected or properly destroyed prior to or during construction activities. If the well(s) are to remain, a letter so indicating must be sent to ACWD. If the well(s) are: 1) no longer required by any regulatory agency; 2) no longer monitored on a regular basis; or 3) damaged, lost, or the surface seal is jeopardized in any way during the construction process, the wells must be destroyed in accordance with ACWD requirements. LA5-5 cont.

iii. Piers, Piles and Caissons: In order to protect the groundwater basin, ACWD regulates the construction, repair, and destruction of wells, exploratory holes, and other excavations (including piers, sheet piles and caissons) located within the cities of Fremont, Newark, and Union City under ACWD Ordinance No. 2010-01. The Project includes horizontal drilling and use of jacking and receiving pits where more than one water-bearing zone is expected to be encountered.

These features, which can intersect an aquifer or may impact the integrity of any aquitard located directly above an aquifer, are regulated as other excavations under ACWD's Ordinance No. 2010-01. Support piers, piles and caissons are frequently installed similar to wells and exploratory holes. If the annular space between the excavation or borehole wall and the support pier or pile is not properly sealed, it can act as a vertical conduit and may create preferential pathways that allow pollutants (including saline water) to rapidly infiltrate the subsurface and impact groundwater. The Newark Aquifer, the shallowest regional drinking water Aquifer within the Niles Cone, can be located as shallow as 35 feet within the Project Area. Support piers, piles, and caissons must be constructed in a manner that will prevent the creation of: 1) a preferential pathway that could allow runoff to rapidly infiltrate the subsurface, or 2) an interconnection of aquifers or water-bearing zones. Therefore, ACWD requests that the DEIR include a discussion of protecting the groundwater basin(s) from interconnection of water bearing zones and that the Project proponents coordinate the design of these features within the Niles Cone with ACWD to ensure the protection of groundwater resources. LA5-6

d. *Hazards and Hazardous Materials:*

i. Section 3.9.2 of the Draft EIR (Regulatory Setting) should acknowledge that as part of ACWD's Groundwater Protection Program, ACWD entered into Cooperative Agreements with both the California Regional Water Quality Control Board – San Francisco Bay Region (Regional Board) and the City of Fremont, which allows ACWD to provide technical oversight for the investigation and remediation at Leaking Underground Fuel Tank (LUFT) sites and sites where the pollution is attributed to spills or leaks LA5-7

from structures other than underground fuel tanks now referred to as Site Cleanup Program sites or SCP (formerly known as Spills, Leaks, Investigation, and Cleanup sites or SLIC sites). LA5-7 cont.

In addition, ACWD requests that the following be addressed in the Draft EIR:

1. There are portions of the proposed Project area that intersect areas of known groundwater and soil contamination; for example, subsurface work is planned in the vicinity of the existing PG&E Newark 230 kV Substation, an open SCP site. ACWD requests that the Draft EIR include a provision that Project proponents coordinate with ACWD if there is a proposal to disturb soil in impacted areas within ACWD's jurisdictional service area. LA5-8

2. Page 3.9-27 of the Draft EIR states, "LSPGC shall submit the Soil and Groundwater Management Plan to the CPUC 30 days before the start of construction, or upon the receipt of the results of the Pre-Construction Hazardous Materials Assessment (whichever comes first)." Soil samples collected in the Niles Cone collected for the Pre-Construction Hazardous Materials Assessment likely require an ACWD drilling permit as previously discussed. As the GSA for the Niles Cone, ACWD requests that the EIR include a provision that Project Proponents coordinate and provide a copy of the Soil and Groundwater Management Plan for ACWD's review and comment prior to implementation, specific to the Project in the Niles Cone. LA5-9

ii. Frac-out Plan: Page 3.4-55 of the Draft EIR states, "To avoid potential indirect impacts to aquatic resources and associated habitats during horizontal boring or horizontal directional drilling (i.e., trenchless techniques) using pressurized drilling fluids, LSPGC or its contractors shall prepare and submit a Frac-out Plan to the CPUC for preventing and addressing potential inadvertent frac-outs." ACWD requests the opportunity to receive and review a copy of this plan when it becomes available. Please note that in addition to the biological monitoring described in the Draft EIR, the plan should also include clear protocols for immediate response to a frac-out that could impact surface water or other sources of drinking water (e.g., groundwater). This should include notification requirements for all affected agencies including ACWD. The plan should evaluate the potential for drilling fluids to migrate into groundwater-bearing zones and propose appropriate monitoring and contingency measures. Additionally, the plan should assess potential risks to water supply infrastructure (e.g., pipelines, wells, etc.) and identify mitigation measures to avoid service interruptions and protect water supply reliability. LA5-10

e. *Recycled Water*: Page 2-56 of the Draft EIR states, "In addition to the potential use of potable water, recycled water or groundwater would be used in accordance with applicable regulations and acquired permits to meet the Project's construction needs." Page 3.19-34 of the Draft EIR states, "Recycled water may also be available to offset a portion of this water demand, as most of the water requirements relate to dust suppression (and would not require potable water)." Please note that recycled water is not currently available within the ACWD service area. Therefore, the Draft EIR should be revised to accurately reflect existing supply conditions. LA5-11

   In addition, the use of recycled or other water supplies originating outside ACWD's service area **must be coordinated in advance with ACWD** to ensure that potential impacts on water quality, groundwater recharge, and basin management objectives are fully considered.

f. Section 2.8.10 Water Use and Dewatering:
   i. Page 2-44 of the Draft EIR states, "Should groundwater be encountered, dewatering may be required using a portable pump, and the water would be disposed of in accordance with applicable regulations and acquired permits." ACWD requests the EIR and final Project design and planning efforts fully address the following:

      1. ACWD requests that this section be modified to include coordination and an approval process with ACWD and the San Francisco Bay Regional Water Quality Control Board regarding the management of contaminated groundwater, including within areas of known open or closed cleanup sites, to ensure that the dewatering activities will not result in migration of existing groundwater contamination plumes. LA5-12

      2. Since groundwater is an important component of ACWD's water resources the EIR should estimate the amount of water that may be extracted by dewatering and the potential impact of the Project on the local drinking water supply. Alternative designs should be evaluated to minimize the amount of dewatering required during and after construction. Groundwater losses resulting from dewatering should be measured and may be subject to a replenishment assessment fee. Mitigation measures should be proposed to offset all significant losses of ACWD water supplies. LA5-13

      3. As previously discussed, ACWD regulates the installation and destruction of dewatering wells under ACWD's Ordinance No. 2010-01 such that ACWD permits are required for dewatering well installations and destructions. LA5-14

ii. Page 2-56 of the Draft EIR states, "[Dewatering] discharge may also be applied to flat, vegetated, upland areas, may be used for dust control, or may be used in other suitable construction operations if testing determines that the water is suitable for such use". Any groundwater extracted within ACWD's services area that is used for dust control is considered beneficial use and is subject to the Replenishment Assessment Act as a regional regulation relevant to the proposed Project, and to which the proposed Project will be subject, in the Regulatory Setting section. In addition, ACWD requests that the EIR include a provision that Project Proponents coordinate and provide the groundwater testing results for ACWD's review and approval prior to the application for dust control, specific to the Project area within the Niles Cone. LA5-15

2. Existing ACWD infrastructure within the Project Area: The following potentially significant impacts to ACWD facilities and infrastructure must be addressed by the Final EIR.

   a. ACWD has water system infrastructure, including but not limited to, water pipelines, services, fire hydrant laterals, valves, and associated appurtenances, monitoring stations, etc., located within the limits of the Project alignment. The Final EIR should include mitigation measures to protect this important infrastructure. In addition, this infrastructure should be included on the plans for the Proposed Project and protected and fully accessible during any construction activities. LA5-16

      i. Record drawings of the infrastructure, including pipelines, within the limits of the proposed Project may be requested and obtained from ACWD. Project proponents may request ACWD 200-scale base map drawings and record drawings along the Project alignment via Public Records Request using the ACWD Next Request PRA portal. https://alamedacountywaterdistrict.nextrequest.com/requests/new

   b. ACWD has no plans to relocate existing facilities or infrastructure for this Project. The Project should meet ACWD clearance requirements from other utilities within the public right-of-way consistent with the ACWD Standard Specifications for Water Main Installation and Standard Drawings.

      i. https://www.acwd.org/174/Standard-Specifications-Drawings

      ii. ACWD requires 12-inches of vertical separation (outer diameter to outer diameter) from other utilities. LA5-17

      iii. ACWD requires 5-feet of horizontal separation (outer diameter to outer diameter) from other non-hazardous utilities and conduit. This is to provide room to work around the large diameter pipelines in Cushing

Parkway and Reference ACWD Standard Drawings CL-1 through CL-5. https://www.acwd.org/176/Standard-Drawings

1. 5-feet horizontal separation includes manholes, vaults, handholes, or any other facilities proposed by the Project and near existing ACWD water mains.

iv. Crossings over or under ACWD water mains should be between 45 degrees and 90 degrees. At no point should a crossing be less than 45 degrees to an existing ACWD water main.

LA5-17 cont.

c. Particular attention should be paid to any proposed work underneath existing ACWD asbestos cement pipelines (ACP) water mains fronting the Project alignment. This material is very brittle and can fail when undermined by trenches.

i. No excavations or crossings under the ACP are allowed. If utility installations below the ACP are required for the Project, ACWD may replace a portion of the existing main with PVC or steel pipe. Such replacement must be done by ACWD forces at the Project's expense.

ii. All ACP crossings should be identified by the Project proponent and described on improvement plans made available to ACWD for review. The Project proponents should provide vertical crossing information from potholing and confirmed utility depths / clearances.

iii. Page 2-44 of the Draft EIR states, "Jackhammers may be used to break up sections of concrete that the saw-cutting and pavement-breaking machines could not reach." Extreme caution should be used by the Project proponents whenever operating jackhammers or other vibrating equipment near an existing and in-service ACP water main.

LA5-18

iv. Page 2-45 of the Draft EIR states, "The trenching operation would progress with a maximum of approximately 1,000 feet of trench left open at any one time or as allowed by permit requirements." Trench plates should not cover any existing ACWD valves or facilities. ACWD's water system should be fully accessible (including valves) throughout the construction phases of the Project. Any crossing ACWD facilities in an open trench should be protected, supported, and/or braced while exposed.

v. Page 2-48 of the Draft EIR describes a typical sending and receiving pit for a jack-and-bore to be approximately 50 feet long by 15-feet wide, and 100 feet long by 30 feet wide, respectively. These dimensions may not fit in an existing public street with utilities. The locations for the sending and receiving pits should be carefully researched (including review of ACWD facilities, as-built drawings, potholing data) before the sending and

receiving pit locations are confirmed. ACWD does not plan to relocate any facilities to accommodate large excavations in the public right of way.

1. Page 2-50 of the Draft EIR describes similarly large sending and receiving pits for horizontal directional drilling. The location of the drilling pits should be researched and confirmed to not include any crossing ACWD facilities that are potentially in conflict with the drilling operations.

2. Vibrations caused by jack-and-bore or horizontal drilling may impact nearby ACP water mains. Extreme caution should be used when operating equipment or performing conduit installations near ACWD-owned ACP mains.

LA5-18 cont.

d. For modifications of existing water facilities or to initiate new water service to the property, the Project proponent should contact the ACWD Engineering Department and Development Services Division. Any modifications of water service on existing ACWD water mains, including new or relocated water services or main replacements, are to be performed by ACWD forces at the Project proponent's expense. Any existing water services which will not be used in the new development must be removed by ACWD forces at the Project proponent's expense. Project proponent is encouraged to meet with the ACWD Engineering Department staff to review your Project prior to submitting the application or other materials or if you need assistance in completing the Customer Work Request Application. The application and instruction can be found on the ACWD website at: https://acwd.org/171/Customer-Work-Request-Application

LA5-19

e. ACWD requests an opportunity to review the Project's plan and profile improvement plans, and specifications, to identify utility conflicts and provide comments on the proposed Project improvements. The Project proponent should coordinate plan review cycles with the ACWD Engineering Department.

f. ACWD has many existing pipelines crossing the proposed Project alignment. The Project should reach out to ACWD regarding potential conflicts to the existing water main, services, laterals, and casings.

   The following major crossings, excluding smaller diameter service, lateral, and fire hydrant lateral crossings, have been identified in the table below:

LA5-20

LA5-20 cont.

Table 1. ACWD Water Mains Crossing Proposed Power the South Bay Alignment

#	Street	City	ACWD Facility	Diameter	Material
1	Boyce Rd @ Auto Mall Parkway ~Sta 44+90	Fremont	Potable Water Pipeline	12-inch	C900 PVC Pipe
2	Cushing Parkway ~Sta 49+20	Fremont	Recycled Water Pipeline	12-inch	C900 PVC Pipe
3	Cushing Parkway ~Sta 54+25	Fremont	Potable Water Pipeline	18-inch	Welded Steel Pipe
4	Cushing Parkway ~Sta 54+25	Fremont	Recycled Water Pipeline	12-inch	C900 PVC Pipe
5	Cushing Parkway @ Auto Mall Circle ~ Sta 65+80	Fremont	Potable Water Pipeline	12-inch	C900 PVC Pipe
6	Cushing Parkway @ Auto Mall Circle ~Sta 66+40	Fremont	Recycled Water Pipeline	12-inch	C900 PVC Pipe
7	Cushing Parkway @ Bunche Drive ~Sta 72+70	Fremont	Recycled Water Pipeline	12-inch	Welded Steel Pipe
8	Cushing Parkway @ Bunche Drive ~Sta 73+10	Fremont	Potable Water Pipeline	18-inch	Welded Steel Pipe
9	Cushing Parkway @ Bunche Drive ~Sta 73+50	Fremont	Recycled Water Pipeline	12-inch	Welded Steel Pipe
10	Cushing Parkway @ Pacific Commons Boulevard ~Sta 87+15	Fremont	Potable Water Pipeline	12-inch	Welded Steel Pipe
11	Cushing Parkway @ Pacific Commons Boulevard ~Sta 87+40	Fremont	Recycled Water Pipeline	8-inch	Welded Steel Pipe
12	Cushing Parkway near the Cushing Bridge ~Sta 97-90	Fremont	Recycled Water Pipeline	12-inch	C900 PVC Pipe
13	Cushing Bridge (~Sta 98+00 to ~ Sta 118+00	Fremont	Recycled Water Pipeline	12-inch	Welded Steel Pipe
14	Cushing Parkway ~Sta 125+40	Fremont	Recycled Water Pipeline	12-inch	Welded Steel Pipe
15	Cushing Parkway @ Fremont Boulevard ~Sta. 153+30	Fremont	Potable Water Pipeline	18-inch	Welded Steel Pipe
16	Cushing Parkway @ Fremont Boulevard ~Sta. 155+50	Fremont	Potable Water Pipeline	18-inch	Welded Steel Pipe
17	Fremont Boulevard @ Clipper Court ~Sta. 196+15	Fremont	Potable Water Pipeline	12-inch	Asbestos Cement Pipe
18	Fremont Boulevard @ Lakeview Boulevard ~Sta. 266+30	Fremont	Potable Water Pipeline	16-inch	Asbestos Cement Pipe
19	Fremont Boulevard ~Sta. 283+00	Fremont	Potable Water Pipeline	16-inch	C900 PVC Pipe
20	Fremont Boulevard @ Dixon Landing Road ~Sta. 305+60	Fremont	Potable Water Pipeline	16-inch	C900 PVC Pipe

3. Future Service Lines for New Developments along Cushing Boulevard, Fremont Boulevard: As a result of the Project, ACWD anticipates high installation costs for any new services lines, fire laterals, fire hydrant laterals in support of future development activity along the Cushing Boulevard or Fremont Boulevard corridor. Future ACWD service lines will likely need to cross under the Project's proposed conduit bank, exceeding 8 or 9 feet in depth, to maintain a 12-inch vertical clearance and minimum cover. ACWD suggests that the Project collaborate with the City of Fremont and install deep conduit offsets in areas of high development potential to minimize the costs on future ACWD customers needing new or modified water services. LA5-21

4. Planned ACWD Capital Improvement Program (CIP) Projects within the Project Area: ACWD requests that the Project recognize planned CIP projects within the proposed Project alignment, including potential significant impacts to the following projects:

    a. *Cedar Avenue Main Renewal:* the Main Renewal will improve in place or replace in the same or in a different location, the existing water main, appurtenances, and connections along Cedar Avenue in Newark and Fremont, including between Weber Avenue and Auto Mall Parkway in Fremont where the proposed Project will occur. The proposed water main alignment will be in accordance with the California Code of Regulations for the separation of new water mains from non-potable pipelines. The proposed schedule for ACWD's Main Renewal project may coincide with the timeline of the Project, potentially resulting in overlapping construction or design activities. ACWD requests that any proposed changes to the Project's alignment and profile, should they occur during design or construction, be communicated to ACWD for review, and that overlaps in construction be coordinated. ACWD also requests periodic updates regarding the schedule of the Project. LA5-22

5. Water Supply Background Information: ACWD requests that the Project update water supply background information as follows:

    a. Page 3.19-1 of the Draft EIR describes the breakdown of ACWD's water supplies and should be updated as follows: "During a typical year, about 40 percent of the total water supply is from the State Water Project. Approximately 20 percent of the total supply originates from the San Francisco Regional Water System, which is operated by the San Francisco Public Utilities Commission (SFPUC). The remainder, about 40 percent of the total water supply, originates locally from the Del Valle Reservoir, the Alameda Creek watershed, and the Niles Cone groundwater basin (ACWD 2023)." LA5-23

    b. Page 3.19-2 of the Draft EIR and Impact C.3.19-2 describes ACWD having excess water supply of about 7,800 AF and the excess helping to meet the Project's water demand, respectively. ACWD wants to note that the excess water supply of about 7,800 AF for 2030 (based on ACWD's 2020-2025 UWMP) only represents a projected normal year's water supply and does not represent project single dry and multiple dry years' water supplies. Per the CEQA document, the Project anticipates LA5-24

needing 8 million gallons of water over the 26-month construction duration. Project proponents should not rely on ACWD having "excess water." Project proponents are required to obtain an ACWD hydrant meter if using ACWD hydrants for construction water and will be billed accordingly. For details and to apply for an ACWD hydrant meter, visit this link: https://www.acwd.org/114/Obtaining-Returning-a-Hydrant-Meter

LA5-24 cont.

6. ACWD Contacts: The following ACWD contacts are provided so that the Project proponents can coordinate with ACWD as needed during the Project:

   a. Michelle A. Walden, Groundwater Resources Manager, at (510) 668-4454, or by email at michelle.walden@acwd.com, for coordination regarding ACWD groundwater resources.

   b. Kit Soo, Well Ordinance Supervisor, at (510) 668-4455, or by email at kit.soo@acwd.com, for coordination regarding groundwater wells and drilling permits.

   c. Sean O'Reilly, Development Services Manager, at (510) 668-4472, or by email at sean.oreilly@acwd.com, for coordination regarding public water system requirements, existing ACWD utilities, easements, and new or modified water service.

   d. Chris Delp, Project Engineering Supervisor, at (510) 668-4422, or by email at chris.delp@acwd.com, for coordination regarding ACWD Capital Improvement Projects, including main renewal projects.

   e. Thomas Niesar, Water Supply & Planning Manager, at (510) 668-6549, or by email at thomas.niesar@acwd.com, for coordination regarding ACWD's water supply and the Urban Water Management Plan.

LA5-25

Again, thank you for the opportunity to comment on the Notice of Preparation of a Draft Environmental Impact Report and Notice of Public Scoping Meeting for the "Power the South Bay Project" Project located in Fremont CA.

Sincerely,

Laura J. Hidas

Laura J. Hidas
Director of Water Resources

sro/ml

cc: Girum Awoke, ACWD
Michelle A. Walden, ACWD
Sean O'Reilly, ACWD
Thomas Niesar, ACWD
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Kit Soo, ACWD
Chris Delp, ACWD
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Kayleigh Lim, ACWD
Kelsi Oshiro, ACWD

Letter LA5: Alameda County Water District

LA 5-1 The Alameda County Water District (ACWD) provides its background as a supplier for the cities of Fremont, Newark, and Union City, and states that it protects the Niles Cone Groundwater Basin and conserving waters of the Alameda Creek watershed. ACWD states that it manages three drinking water production facilities and delivers to customers over 900 miles of transmission and distribution mains. The CPUC appreciates this comment.

LA5-2 As noted in the comment, the Draft EIR acknowledges ACWD as a groundwater sustainability agency for the portion of the Project within the Niles Cone Groundwater subbasin. The local regulatory setting has been updated to reflect the jurisdiction of ACWD for groundwater management and sustainability purposes.

As described in Draft EIR Section 2.8.10.2, groundwater dewatering may be required for various Project activities during construction. As noted there and in Draft EIR Section 3.10, *Hydrology and Water Quality*, dewatering from excavations would be conducted in accordance with the provisions of Attachment J to the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order WQ 2022-0057-DWQ). As discussed, the dewatering activities would not result in groundwater contamination. Therefore, the resulting effects would not conflict with the Sustainable Groundwater Management Act or otherwise result in groundwater quality violations. In response to this comment, the Final EIR has been revised to note the applicability of ACWD's Groundwater Management Policy and Alternative to the Groundwater Sustainability Plan (GSP) for the Niles Cone Groundwater Basin. Although no change has been made to the impact conclusions, Impact 3.10-6 (Final EIR page 3.10-33) has been revised, as shown below.

> The implementation of these measures and adherence with the regulatory requirements would protect beneficial uses of the region's waters and not compromise the total maximum daily loads in place for Coyote Creek or the Guadalupe River, as outlined in the Basin Plan. The activities would align with the discharge requirements in the effective municipal regional stormwater NPDES permit (discussed under Impact 3.10-1). As proposed, construction would protect groundwater from contamination, consistent with the objectives in ACWD's Groundwater Management Policy and goals of the Alternative to Groundwater Sustainability Plan for the Niles Cone Subbasin and the GWMP for the Santa Clara and Llagas subbasins. Therefore, there would be no conflicts with the policy, plans, or ~~with~~ SGMA, and potential impacts would be mitigated to **less than significant**.

Moreover, to reflect the applicability of ACWD groundwater protection policies and alternative GSP, and with no change to the impact conclusion, discussion under Impact C.3.10-6 on Final EIR page 3.10-38) has been revised, as follows:

> As discussed above, though temporary soil disturbances would occur with construction activities, with the implementation of a site-specific SWPPP and

APMs, construction would protect groundwater from contamination consistent with the goals of the ACWD Groundwater Management Policy, Alternative to Groundwater Sustainability Plan for the Niles Cone Subbasin, and GWMP for the Santa Clara and Llagas subbasins. Additionally, APM WQ-1 and the other APMs described in Section 3.10.3, would be implemented to reduce potential water quality effects. Further, as discussed in Impact 3.10-1, LSPGC would implement Mitigation Measure 3.4-1c, which would ensure preparation of a frac-out plan to prevent and address potential inadvertent frac-outs. Therefore, there would be no conflicts with applicable plan(s) or with SGMA.

LA5-3 In response to this comment, the following policies and plans have been added to the local regulatory setting:

Alameda County Water District

Groundwater Management Policy

ACWD established the Groundwater Management Policy in 1989 and amended the policy in 2001. The policy is designed to efficiently protect and manage the Niles Cone Groundwater Basin to ensure a reliable supply of high-quality water that satisfies present and future water needs in the ACWD service area (ACWD 2001), which encompasses portions of the cities of Fremont, Newark, Union City, and the southern part of Hayward over approximately 107 square miles.

The purpose of the policy is to protect and improve ACWD's groundwater resources for the benefit of both ACWD's customers and private well owners by taking actions to meet the following objectives:

- Increase groundwater replenishment capability
- Increase the usable storage capacity of the groundwater basin
- Operate the basin to provide: (1) a reliable water supply to meet baseload and peak distribution system demands, (2) an emergency source of supply, and (3) reserve storage to augment dry year supplies
- Protect groundwater quality from degradation from any and all sources including saline water intrusion, wastewater discharges, recycled water use, urban and agricultural runoff, or chemical contamination.
- Improve groundwater quality by (1) removing salts and other contaminants from affected areas of the basin, and (2) improving the water quality of source water used for groundwater recharge.

ACWD Ordinance No. 2010-01

Drilling Permit Requirement: As required by ACWD Ordinance No. 2010-01, drilling permits are required prior to the start of any subsurface drilling (vertical and horizontal) activities for wells, exploratory holes, and other excavations (including dewatering wells, the installation of sheet piles, certain cathodic protection devices, piers, and caissons that interconnect aquifers of water-

bearing zones). All permitted work requires scheduling for inspection and coordination with ACWD prior to the start of construction.

Alternative to Groundwater Sustainability Plan for the Niles Cone Subbasin

As the groundwater sustainability agency for SGMA purposes, the Alameda County Water District (ACWD) carries out a number of groundwater management activities to ensure a reliable and sustainable supply of high quality water to satisfy the present and future water needs associated with ACWD's distribution system customers, as well as owners and operators of private wells pumped from the Niles Cone Groundwater Basin (identified by DWR as Subbasin 2-09.01) (ACWD 2022). ACWD's groundwater statutory service area includes portions of the cities of Fremont, Newark, Union City, and the southern part of Hayward over approximately 107 square miles (in the northern portion of the Project area). The PG&E Newark Substation and the northern (Alameda County) portion of the Newark to NRS 230 kV AC Transmission line would be within this service area.

LA5-4 ACWD notes that a drilling permit would be necessary for any subsurface drilling activities, including exploratory holes and dewatering. Within the Final EIR, Table ES-1 in the Executive Summary, Table ES1-1 in Section 1.4, and Table 2-10 in Section 2.14.2 have been revised to include the drilling permit in compliance with ACWD's Well Ordinance (ACWD Ordinance No. 2010-01).

TABLE ES-1
ANTICIPATED PERMITS AND APPROVALS

Agency	Permit/Approvals
Alameda County Water District	Drilling permit

TABLE 1-1
ANTICIPATED PERMITS AND APPROVALS

Alameda County Water District	Drilling permit	Any subsurface drilling activities within the District's jurisdiction.	Submit application to the District for review and approval.	Before the start of any field work.

TABLE 2-10
ANTICIPATED PERMITS AND APPROVALS

Agency	Permit/Approvals	Permit Trigger	Application Process	Timing
Alameda County Water District	Drilling permit	Any subsurface drilling activities within the District's jurisdiction.	Submit application to the District for review and approval.	Before the start of any field work.

LA5-5 The CPUC understands that there are a number of ACWD facilities, such as monitoring wells, within the Project area. The CPUC is aware that LSPGC has been actively coordinating with ACWD during its project design process and is aware that any

excavations within ACWD's service area, including wells, must be in compliance with ACWD Ordinance No. 2010-10, which includes well development, protection, and destruction. Agency coordination is required by, and is incorporated into, the EIR through **APM UTIL-1: Utility Coordination** and **Mitigation Measure 3.19-5: Utility Coordination and Induction Study**.

LA5-6 The CPUC understands ACWD's concern regarding the protection of its groundwater resources and the potential risk of contamination as a result of the installation of support piers, piles, and caissons. As noted below, coordination between ACWD and LSPGC is occurring as part of the Project design process. This agency coordination is required by, and is incorporated into, the EIR through APM UTIL-1 and Mitigation Measure 3.19-5, which would include describing procedures to prevent preferential runoff pathways or the cross-potential connection of aquifers during the drilling for the tower piers to 60 feet in depth. As LSPGC continues to refine the Project's design and implementation outside the CEQA process, LSPGC is expected to continue to coordinate with ACWD on relevant aspects of Project construction, including excavation activities, dewatering wells, and design features preventing surface drainage infiltration into groundwater.

As for design coordination, the CPUC understands that LSPGC has been coordinating with the City of Fremont since May 2023, including monthly meetings to discuss the Project regarding the Project route, development timelines, and construction schedule. LSPGC submitted encroachment permits to the City of Fremont on June 27, 2025. In addition, it is the CPUC's understanding that LSPGC contacted ACWD in 2024 to obtain the required well drilling permit for the borings in Alameda County. LSPGC reached out to ACWD to begin coordination for the Project alignment on September 12, 2025, and held a kickoff meeting on September 18, 2025. LSPGC provided ACWD with plans following that meeting to begin ACWD's review. The CPUC understands that LSPGC will continue to coordinate with ACWD regarding their utility infrastructure through the City of Fremont encroachment permit process and will apply for a drilling permit for the Project's proposed horizontal directional drilling and structures in Alameda County.

LA5-7 The CPUC acknowledges that the Regional Water Quality Control Board (RWQCB) and the City of Fremont allow ACWD to provide technical oversight for the investigation and remediation at Leaking Underground Fuel Tank sites and sites where the pollution is attributed to spills or leaks from structures other than underground fuel tanks. This acknowledgement has been added to Final EIR Section 3.9.2.3, *Local*, on page 3.9-12:

> ***Alameda County Water District***
>
> As part of ACWD's Groundwater Protection Program, ACWD entered into Cooperative Agreements with both the RWQCB and the City of Fremont which allow ACWD to provide technical oversight for the investigation and remediation at Leaking Underground Fuel Tank (LUFT) sites and sites where the pollution is attributed to spills or leaks from structures other than underground

fuel tanks now referred to as Site Cleanup Program (SCP) sites (formerly known as Spills, Leaks, Investigation, and Cleanup [SLIC] sites).

LA5-8 The CPUC understands ACWD's concern regarding the protection of its groundwater resources and the potential to encounter known groundwater and/or soil contamination. Table 3.9-1, *Open Hazardous Materials Clean-Up Sites in the Project Area's Vicinity*, in Draft EIR Section 3.9, *Hazards and Hazardous Materials*, identifies the site at the PG&E Newark 230 kV Substation. **Mitigation Measure 3.9-1c: Soil and Groundwater Management Plan** has been revised to require this plan to be reviewed by ACWD for activities within its service area (see revision in response to Comment LA5-9).

Further, as noted in response to Comment LA5-6, coordination between ACWD and LSPGC is occurring as part of the Project's design process. This agency coordination is required by, and is incorporated into, the EIR through APM UTIL-1 and Mitigation Measure 3.19-5. As LSPGC continues to refine the Project's design and implementation outside the CEQA process, it would continue to coordinate with ACWD on aspects of Project construction, including excavation and other Project activities that could disturb soil and groundwater.

LA5-9 The CPUC understands ACWD's concern regarding potential disturbance of contaminated soil media and requests that the EIR include a provision that LSPGC coordinate and provide a copy of the Soil and Groundwater Management Plan for ACWD's review and comment prior to implementation. The preconstruction hazardous materials assessment proposed as part of **Mitigation Measure 3.9-1a: Pre-Construction Hazardous Materials Assessment** is specific only to potential disturbance occurring within the Cisco Systems 6/Syntax Court Disposal Site and South Bay Asbestos Superfund Site, which are not located within ACWD's service area (i.e., the cities of Fremont, Newark, and Union City).

Mitigation Measure 3.9-1c has been revised to include ACWD in the review of the Project's Soil and Groundwater Management Plan specific to activities within the Niles Cone subbasin, as follows:

Mitigation Measure 3.9-1c: Soil and Groundwater Management Plan

LSPGC or its contractor(s) shall direct the construction contractor to prepare and implement a Soil and Groundwater Management Plan, subject to review by the CPUC and the San Francisco Bay Regional Water Quality Control Board, as well as the Alameda County Water District (for activities within its service area), that specifies the method for handling and disposal of contaminated soil and groundwater prior to construction. The plan shall include all necessary procedures to ensure that excavated materials and fluids generated during construction are stored, managed, and disposed of in a manner that is protective of human health and in accordance with applicable laws and regulations. The plan shall include the following information.

- Step-by-step procedures for evaluation, handling, stockpiling, storage, testing, and disposal of excavated material, including criteria for reuse and offsite

disposal. All excavated materials shall be inspected prior to initial stockpiling, and spoils that are visibly stained and/or have a noticeable odor shall be stockpiled separately to minimize the amount of material that may require special handling. In addition, excavated materials shall be inspected for buried building materials, debris, and evidence of underground storage tanks; if identified, these materials shall be stockpiled separately and characterized in accordance with landfill disposal requirements. If some of the spoils do not meet the reuse criteria and/or debris is identified, these materials shall be disposed of at a permitted landfill facility.

- Procedures to be implemented if unknown subsurface conditions or contamination are encountered, such as previously unreported tanks, wells, or contaminated soils.
- Procedures for containment, handling, and disposal of groundwater generated from construction dewatering, including the method(s) used to analyze groundwater for hazardous materials likely to be encountered at specific locations (based on the results of Mitigation Measure 3.9-1a), and the appropriate treatment and/or disposal methods. This would include describing procedures to prevent preferential runoff pathways or the cross-connection of aquifers during the drilling for the tower piers.

LSPGC shall submit the Soil and Groundwater Management Plan to the CPUC 30 days before the start of construction, or upon the receipt of the results of the Pre-Construction Hazardous Materials Assessment (whichever comes first).

LA5-10 As is noted in the response to Comment LA5-6, coordination between ACWD and LSPGC is occurring as part of the Project design process. This agency coordination is required by, and is incorporated into, the EIR through APM UTIL-1and Mitigation Measure 3.19-5. As LSPGC continues to refine the Project design and implementation outside the CEQA process, it would continue to coordinate with ACWD on aspects of Project construction, including the review of the frac-out plan described in Mitigation Measure 3.4-1c.

LA5-11 The CPUC understands ACWD's request to provide clarification that recycled water is not an available water source within ACWD's service area. Draft EIR Section 3.19.1.1., *Regional Setting,* has been revised to clarify that ACWD does not provide recycled water within its service area. See response to Comment LA5-23 for revisions reflected in Final EIR Section 3.19.1.1. Otherwise, the text remains unchanged, as the analysis takes into account the various sources of water available to the Project regardless of the provider, which would be determined at the time of construction. In the event that a source of recycled water is identified for use in dust suppression, such water would be required to comply with the recycled water regulations in Title 22, Division 4, Chapter 3, Water Recycling Criteria and California Water Code Section 13050(n), Recycled Water. Compliance with existing regulations would ensure that the use of recycled water would not adversely affect water quality.

LA5-12 ACWD requests that Section 2.8.10 of the Draft EIR be modified to include coordination and an approval process with ACWD and the San Francisco RWQCB regarding the

management of contaminated groundwater, including within areas of known open or closed cleanup sites. As discussed above in the response to Comment LA5-6, coordination between ACWD and LSPGC is occurring as part of the Project's design process. LSPGC is expected to be aware of Project activities that may interact with contaminated groundwater, including measures to ensure that dewatering activities would not result in migration of existing groundwater contamination plumes. Additionally, it is expected that LSPGC would also coordinate with the RWQCB as part of the Project permitting process for potential impacts on Clean Water Act Section 401 jurisdictional waters.

LA5-13 ACWD requests to evaluate alternative designs to minimize the amount of dewatering required during and after construction and recommends that groundwater losses resulting from dewatering should be measured, subject to a replenishment assessment fee. ACWD states that mitigation measures should be proposed to offset all significant losses of ACWD water supplies.

The volume of water that would be generated from dewatering activities is unknown. The actual volumes would vary depending on the depth of excavations that encounter groundwater and the volume of groundwater that seeps into the excavation. Consequently, the volume of water that may be generated cannot be quantified, and any estimates would be speculative and would not yield a meaning environmental analysis (CEQA Guidelines Section 15384). In any case, dewatering would be conducted in compliance with the General Permit for Stormwater Discharges Associated with Construction and Land Disturbance Activities (Order WQ 2022-0057-DWQ).

LA5-14 ACWD notes that it regulates the installation and destruction of dewatering wells under ACWD's Ordinance No. 2010-01 such that ACWD permits are required for dewatering wells. Please refer to response to comments LA5-4 through LA5-6 above for the CPUC's response regarding ACWD permits and coordination for the Project.

LA5-15 The CPUC understands ACWD's request to comply with the Replenishment Assessment Act when groundwater is used for dust control (California Water Code Section 60317). The CPUC is aware that LSPGC has been actively coordinating with ACWD during its project design (see response to Comment LA5-6). This agency coordination is required by, and is incorporated into, the EIR through APM UTIL-1 and Mitigation Measure 3.19-5, as discussed above.

LA5-16 The CPUC understands ACWD's concern for ensuring its infrastructure would not be damaged or otherwise impaired as part of Project construction. APM UTIL-1, supplemented in part by Mitigation Measure 3.19-5, requires LSPGC to conduct utility surveys and coordinate Project activities with all utility services, including water service, prior to commencement of construction activities. This would include the coordination requested by ACWD. As noted in the response to Comment LA5-6, the CPUC understands that this coordination is underway.

Although ACWD's input relative to infrastructure coordination is beyond the scope of CEQA and the EIR for this Project, it is included in the formal record for the Project, where the CPUC may consider this input as part of the decision-making process.

LA5-17 The CPUC understands ACWD's need for the Project to comply with its clearance requirements within its rights-of-way. APM UTIL-1 and Mitigation Measure 3.19-5 require LSPGC to coordinate with utility agencies, like ACWD, regarding utilities (e.g., water lines, monitoring wells, etc.) present within the Project work area to avoid utility conflicts and meet utility clearance requirements. As noted in the response to Comment LA5-6, the CPUC understands that this coordination is underway. Although ACWD's input relative to infrastructure coordination is beyond the scope of CEQA and the EIR for this Project, it is included in the formal record for the Project, where the CPUC may consider this input as part of the decision-making process.

LA5-18 The CPUC understands ACWD's concern for Project work occurring underneath its existing asbestos concrete pipelines (ACPs). Please see response to Comment LA5-6 regarding implementation of APM UTIL-1 and Mitigation Measure 3.19-5. As part of coordination with utilities, including ACWD, Project construction activities in the vicinity of ACPs would be addressed. Although ACWD's input relative to infrastructure coordination is beyond the scope of CEQA and the EIR for this Project, it is included in the formal record for the Project, where the CPUC may consider this input as part of the decision-making process.

LA5-19 The CPUC acknowledges ACWD's contact information for modified or new services requests. Although ACWD's input relative to interagency coordination is beyond the scope of CEQA and the EIR for this Project, it is included in the formal record for the Project, where the CPUC may consider this input as part of the decision-making process R.

LA5-20 The CPUC acknowledges receipt of Table 1, *ACWD Water Mains Crossing the Proposed Power the South Bay Alignment.* See the response to Comment LA5-6 regarding utility coordination through APM UTIL-1 and Mitigation Measure 3.19-5.

LA5-21 The CPUC acknowledges ACWD's suggestion of coordinating the Project design with the City of Fremont to accommodate future development. The CPUC is aware that LSPGC has been actively coordinating with the City of Fremont during its project design process (see response to Comment LA5-6). Although ACWD's input relative to interagency coordination is beyond the scope of CEQA and the EIR for this Project, it is included in the formal record for the Project, where the CPUC may consider this input as part of the decision-making process.

LA5-22 The CPUC acknowledges this ACWD cumulative project. The Cedar Avenue Main Renewal project has been added to Final EIR Table 3.0-1 and Final EIR Figure 3.0-1a. It has been considered as appropriate in the analysis of cumulative impacts in each resource section. See the response to Comment LA5-6 with regard to utility coordination.

TABLE 3.0-1
CUMULATIVE PROJECTS LIST

79	ACWD Cedar Avenue Main Renewal	The main renewal would improve in place, or replace in the same or in a different location, the existing water main, appurtenances, and connections along Cedar Avenue in Newark and Fremont, including between Weber Avenue and Auto Mall Parkway in Fremont. The proposed water main alignment would be designed and constructed in accordance with the California Code of Regulations for the separation of new water mains from non-potable pipelines.	Cities of Newark and Fremont, CA	0 mile	Planned 2026-2028

LA5-23 The CPUC acknowledges this revision reflecting ACWD's current breakdown of its water supplies. Page 3.19-1 in Final EIR Section 3.19.1.1, *Regional Setting,* has been revised to reflect the adjusted percentages of water source, as follows:

> **City of Fremont**
>
> The city of Fremont receives its water supply from Alameda County Water District (ACWD). During a typical year, ~~A~~ about 40 ~~27~~ percent of the total water supply is ~~purchased~~ from the State Water Project. Approximately ~~19~~ 20 percent of the total supply originates from the San Francisco Regional Water System, which is operated by the San Francisco Public Utilities Commission (SFPUC). The remainder, about ~~54~~ 40 percent of the total water supply, originates locally from the Del Valle Reservoir, the Alameda Creek watershed, and the Niles Cone groundwater basin (ACWD 2023). ACWD treats its water to meet and surpass all federal and state drinking water standards (City of Fremont 2011). ACWD does not produce or otherwise provide recycled water within its service area.

LA5-24 The CPUC acknowledges this revision reflecting ACWD's current characterization of its water supplies. Page 3.19-2 in Final EIR Section 3.19.1.1 has been revised to reflect the normal year's water supply.

> ACWD currently projects that its water supply will be adequate to meet projected future water demands, as adjusted for estimated savings from improved future water use efficiency. By 2030, when Project construction is anticipated to be completed, ACWD's total projected water supply of 68,200 AF would be sufficient to meet the projected demand of 60,400 AF, with an excess of 7,800 AF per year based on a normal year's water supply[1] (ACWD 2021a).

In addition, a new Footnote 1 has been added, as follows:

> The 7,800 AF excess water supply is based on a projected normal year's supply in 2030, as noted in ACWD's 2020-2025 UWMP. This figure does not represent projected single dry year and multiple dry years' water supplies. In 2030, this UWMP estimates ACWD would experience a 5,000 AFY supply shortage in a single dry year scenario and a 1,100 AF excess supply for the first year in a multiple dry years scenario (see Table 9-5 in the UWMP).

Further, the analysis on page 3.19-36 under Final EIR Impact C.3.19-2 has been revised to reflect ACWD's excess water supply in normal years, as follows:

> To determine whether the Project's anticipated cumulative water requirements could be met during normal, single dry, and multiple dry years, the UWMPs in the Project region were reviewed. The review determined that ~~the ACWD and~~ Valley Water would have adequate water supplies available during normal, single dry, and multiple dry years and ACWD would have adequate water supplies in normal years to serve the Project in addition to the area's existing and planned future uses. And as discussed under Impact 3.19-2, the Project's construction-related water consumption would be temporary, limited to the anticipated 26 months of construction. This demand could be met using a combination of ACWD and Valley Water supplies. Recycled water may also be available to offset a portion of this water demand, as most of the water requirements relate to dust suppression (and would not require potable water).

LA5-25 The CPUC acknowledges the provision of contact information for the ACWD team members paired with the coordination responsibility of each person relative to the Project.

Outlook

LS Power Grid California Power the South Bay Project - Draft Environmental Impact Report - Valley Water Comments

From Matthew Sasaki <MSasaki@valleywater.org>
Date Thu 7/24/2025 4:53 PM
To PowerTheSouthBay <PowerTheSouthBay@esassoc.com>
Cc Colleen Haggerty <CHaggerty@valleywater.org>

Hi,

The Santa Clara Valley Water District (Valley Water) has reviewed the Draft Environmental Impact Report (DEIR) for LS Power Grid California's Power the South Bay project, received on June 9, 2025. As identified in the DEIR, Valley Water will be a Responsible Agency under the California Environmental Quality Act for approval of work requiring a Valley Water encroachment permit. LA6-1

Based on our review, we have the following comments:

Draft Environmental Impact Report

1. Pages 2-74 to 2-83: Table 2-11 :
    a. Comments regarding the Applicant-Proposed Measures (APMs) APM Bio-2: Rare Plant Surveys, APM BIO-4: Sensitive Areas Demarcation, APM BIO-5: Vehicle Cleaning Prior to Entering Natural Areas, APM BIO-7 : Salt Marsh Harvest Moust Surveys, APM BIO-7: Worker Environmental Awareness Program (WEAP) Training, and APM BIO-19: Wetland and Aquatic Resources Delineations are detailed in the comments below on Appendix B. LA6-2
2. Table 2-11 does not include an APM that specifically addresses avoidance of impacts or mitigation of impacts to sensitive natural communities as identified by the California Department of Fish and Wildlife (CDFW). APM BIO-4 states "All sensitive biological areas .. shall be clearly marked prior to construction commencement to restrict construction activities and equipment from entering these areas, except as necessary for construction activities." This APM does not discuss restoration of these areas following construction activities. It also does not discuss the impact to these sensitive areas and sensitive natural communities when these areas cannot be avoided. APM BIO-4 needs to be revised to address this. LA6-3
3. Page 3.4-2, Vegetation Communities section: The DEIR does not describe field methods or dates that vegetation communities were field-verified. A desk audit process of vegetation mapping is rarely accurate and should always be field-verified. There are also more current and detailed mapping efforts that would provide more accurate mapping data for the Project area (such as the Santa Cruz Mountains Stewardship Network's Countywide Fine Scale Vegetation Map; see https://www.scmsn.net/news/ierlc4q5poow5qwq11u32j58kb1ihe). LA6-4
4. Page 3.4-6: Figure 3.4-1D shows Poles NN-5, NN-6, and NN-7 and the associated overhead transmission lines intersecting Valley Water's Salt marsh harvest mouse (SMHM) mitigation site, Lower Coyote Reach 1A. In Figure 3.4-1D, the pond and associated march, which are immediately west of the proposed alignment, are mapped as "Wetland (Potential Wetland/Floodplain)." This wetland community is not described in the DEIR so it is difficult to evaluate if that designation is appropriate. Valley Water recommends these areas be classified as "Wetland (Salt-brackish Tidal Marsh)." The vegetation community within these areas is salt marsh. LA6-5

5. Page 3.4-11: The discussion on Wetland Communities omits the “Wetland (Potential Wetland/Floodplain)” community, which is mapped and depicted in Figure 3.4-1. Please update the text to include discussion on all communities depicted in Figure 3.4-1. LA6-6
6. Page 3.4-12: Section 3.4.2.1 only discusses special-status plant species with a moderate potential to occur. Please specify if there are any plants that have a high potential to occur. LA6-7
7. Page 3.4-18 and Page 3.4-21 and Table 3.4-3: Special Status Fish and Wildlife:
    a. Western bumble bee: The DEIR concludes this species has a moderate potential to occur. The project area is within this species’ historic range, but as noted in the DEIR, it is outside of this species’ current range. As part of the California Bumble Bee Atlas, extensive survey efforts for bumble bees have been occurring statewide for the past few years and no detections of this species have occurred outside of its current range. This is further evidence that its current range, as shown in the California Department of Fish and Wildlife’s *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species document,* is accurate. Therefore, Valley Water suggests this species’ potential to occur is changed to absent. LA6-8
    b. Salt marsh harvest mouse: The DEIR concludes that this species has a moderate potential to occur. To inform our management of our salt marsh harvest mouse mitigation site, Lower Coyote Reach 1A, Valley Water routinely traps and releases this species on our mitigation site. Our trapping results, the most recent of which are from 2020 and 2023, have shown that the highest densities of this species on our mitigation site are in the salt marsh along the pond. This pond is immediately adjacent to the proposed alignment and its work areas. Given this species has been regularly trapped within 75 feet of the project area, and the project area itself provides upland foraging and flood refugia habitat, Valley Water disagrees that their potential to occur is moderate. The species is present, and Valley Water suggests its potential to occur finding be changed to present. Valley Water acknowledges that the DEIR does not utilize “present” as a potential to occur finding but disagrees with that approach. If a species is known to be present, it should not be categorized as having a moderate or high potential for occurrence. At a minimum, Valley Water suggests the potential to occur finding be changed to “high.” LA6-9
8. Pages 3.4-43 to 3.4-47: Comments regarding the APMs related to biological resources are described in the comments below on Appendix B. LA6-10
9. Page 3.4-51: The vegetation communities listed in Table 3.4-4 are too vague and non-specific to identify impacts. Please revise the table to be more specific including information on vegetation community type (i.e. “riparian” and “wetland” are non-specific types and highly simplistic, which does not allow adequate assessment of impacts) and specifically identify which vegetation communities are sensitive natural communities per CDFW. LA6-11
10. Page 3.4-51: The discussion on Effects on Special-Status Plants mentions that there are 12 plant species with moderate to high potential to occur. However, Table 3.4-2 only lists plant species with a moderate potential to occur. The discrepancy between the table and the text needs to be addressed. LA6-12
11. Pages 3.4-52 and 3.4-53: Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants
    a. Please explain why surveys are proposed to be conducted between April and July; however, protocol-level surveys floristic in nature capture multiple survey periods in a given calendar year and the range is typically February to August.
    b. This mitigation measure states that the surveys will be conducted in conjunction with the blooming seasons of rare plants with moderate potential to occur. The surveys should also be conducted in conjunction with special-status plants with other potentials to occur. If no protocol-level special status plant surveys have been conducted, then those plant species cannot be ruled out as absent in the project areas.
    c. CDGW and USFWS do not typically issue Incidental Take Permits (ITP) for plant species. Please revise the text accordingly.
    d. Item 5 regarding relocation is not an appropriate mitigation measure. Per the California Native Plant Society policy on plant relocation, plant relocation is strongly discouraged due to lack of successes as well as plant pathogen concerns. LA6-13

12. Pages 3.4-54 and 3.4-55: Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring
    a. The mitigation measure, as described, seems to only apply to wetland and riparian habitat. It should be renamed to reflect this.
    b. If mitigation measure 3.4-1b only applies to wetland and riparian vegetation communities, please confirm that no upland vegetation sensitive vegetation communities will be impacted by the proposed project.

LA6-14

13. Page 3.4-68: the **Mitigation** and **Significance after Mitigation** conclusion sections for salt marsh harvest mouse appear to be for nesting birds and bat in error. Valley Water recommends this error be corrected.

LA6-15

14. Throughout the draft EIR, Valley Water's salt marsh harvest mouse mitigation site, Lower Coyote Reach 1A, is not explicitly identified or described. Valley Water suggests this location is identified and described in the Final EIR to recognize the importance and sensitivity of this site.

LA6-16

15. APM BIO-7 states that surveys for and avoidance of salt marsh harvest mouse will occur in all suitable habitats; however, it concludes that this APM would be applied along the transmission line west of the proposed alignment in the vicinity of Coyote Creek Lagoon. This latter statement is vague and open for interpretation. Valley Water requests that in the Final EIR it is explicitly stated that this APM would be applied at Valley Water's salt marsh harvest mouse mitigation site, Lower Coyote Reach 1A

LA6-17

16. During the project's design phase, Valley Water expressed concerns to LS Power about the proposed installation of an overhead transmission line within Valley Water's salt marsh harvest mouse mitigation site, Lower Coyote Reach 1A. The proposed alignment of the overhead line would create raptor perches within 75 feet of the salt marsh along the pond that, per Valley Water's trapping data, has the highest density of salt marsh harvest mice throughout the entire mitigation site. These raptor perches would increase predation pressures on the salt marsh harvest mice onsite in perpetuity. Valley Water considers this potential impact significant, and the DEIR does not evaluate this potential impact on salt marsh harvest mouse. Valley Water reviewed the proposed Aplicant Proposed Measures and Mitigation Measures for salt marsh harvest mouse, and none of these measures address this potential impact. Valley Water recommends that this potential in-perpetuity impact is acknowledged and evaluated in the Final EIR. Unless the proposed alignment of the transmission line can be modified in a way to remove the creation of raptor perches immediately adjacent to the known population of salt marsh harvest mice, Valley Water recommends that appropriate mitigation measure(s) are incorporated into the Final EIR. For example, sufficient funding to offset this potential in-perpetuity impact could be contributed to the ongoing predator management activities in the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge), or other appropriate locations. This could be accomplished by developing and implementing an agreement with the U.S. Department of Agriculture Animal and Plant Health Inspection Service, which performs predator management in coordination with the Refuge.

LA6-18

17. Page 3.5-24: There is a disjuncture between the 50-foot stop-work buffer described in Mitigation Measure 3.5-1 and the 100-foot stop-work buffers described in APM-Cul-3 and PG&E BMP CULT-2. Mitigation Measure 3.5-1 should be updated for consistency.

LA6-19

18. Throughout the DEIR, it refers to potentially obtaining take coverage for Western burrowing owl and tricolored blackbird through the Santa Clara Valley Habitat Plan (VHP) if direct impacts to these species could not be avoided. Although these species are covered species under the VHP, the VHP does not provide take coverage for direct impacts to these species unlike other covered species such as California red-legged frog. Furthermore, the VHP prohibits the relocation of owls and the removal of vegetation that has been used for nesting by tricolored blackbirds in the past three years.

LA6-20

19. The DEIR only evaluates special-status species with a moderate or high potential to occur in the project area. However, in the PEA Appendix 5.4-A, additional special-status species with a low potential to occur were included. Although these species were determined to have a low potential to occur, if present, the project could still result in significant impacts to these species; therefore, these species should be evaluated in the Final EIR.

LA6-21

20. Page 3.10-16: The discussion on Valley Water's Water Resources Protection Manual should be updated to read: "The Water Resources Protection Manual was adopted by Valley Water in 2006.

LA6-22

This manual provides a framework for evaluating permit applications and setting permit conditions under the Water Resources Protection Ordinance. Additionally, the manual contains requirements, recommendations, and design standards related to the protection or riparian vegetation, stream bank protection, erosion control, levee and pipeline protection, utility crossings under creeks, among other topics."

LA6-22 cont.

21. Page 3.10-17: There is a typo in the acronym for the Santa Clara Valley Urban Runoff Pollution Prevention Program. LA6-23

Appendix B – Proponent's Environmental Assessment Appendix 5.4-A Biological Resources Technical Report

22. Page 28 : It should be noted that the Santa Clara Valley Habitat Conservation Plan (HCP) is also a Natural Community Conservation Plan and not just a Habitat Conservation Plan. LA6-24
23. Page 30 : Coverage of the subject project under the Santa Clara Valley HCP needs to be determined as it will affect impact analysis and mitigation measures proposed in the DEIR. LA6-25
24. Figure 7, Page 5 of 11: The proposed Staging Area 4 and Area 5 are located very close to Valley Water's Coyote 1A SMHM preserve and these areas serve as upland foraging habitat as well as high-tide refugia habitat. Staging areas should be relocated or downsized to prevent impacts to the SMHM. LA6-26
25. Section 4.3 – Vegetation Communities and Land Cover Types:
    a. Page 33: The Vegetation Community categories listed in Table 1 are broad and overly generic and should be broken down to more specific vegetation communities.
    b. Pages 33-36: Sensitive natural communities should be clearly separated out for discussion and impact evaluation.
    c. Page 33: More detailed vegetation mapping sources are available such as the Santa Cruz Mountains Stewardship Network's County-wide fine scale vegetation mapping. LA6-27
    d. Page 34: The discussion on the Wetland habitat notes that the "wetland habitat type contains some areas that could include salt marsh habitats, but these areas could not be surveyed in detail to confirm this." This is an insufficient level of detail to conduct an impact analysis. The SMHM is documented to occur within the survey area. A survey of the areas needs to be conducted to survey salt marsh areas. LA6-28
26. Section 4.4 – Special-Status Plants
    a. Table 2: Table 2 is titled "CNPS Plant Species" but also includes a listing for the Northern coastal salt marsh as a sensitive vegetative community. The Table should be re-named or a separate table showing sensitive natural communities for the project site should be created. Due to the size of the project, it is likely that there is more than just one sensitive natural community. If a separate table for sensitive natural communities is created, it should include the global and state ranking for sensitive natural communities. LA6-29
    b. Page 42: It is noted that special-status plant species have the potential to occur in the Survey Area. If these special-status plant species have the potential to occur, protocol-level presence/absence surveys should have been conducted. Without these surveys, rigorous impact analysis of potential impacts, avoidance measures, or appropriate mitigation measures cannot be prepared. These surveys need to be conducted and an impact analysis based on those surveys need to be prepared. LA6-30
    c. Figure 11a shows overlaps of CNDDB species and planned project features and/or impact areas. However, there is no analysis of potential impacts and avoidance or mitigation. LA6-31
27. Section 5.3 – Recommended Applicant-Proposed Measures
    a. Page 114-122: The applicant-proposed measures seem to combine best management practices (BMPs) and mitigation measures. BMPs and mitigation measures should be described separately. LA6-32
    b. Page 115, APM BIO-2:
        i. references "standard guidelines" for protocol surveys but does not identify the source of the standard guidelines. Information on the "standard guidelines" being referenced needs to be provided. LA6-33

ii. states that if a rare plant is discovered, areas shall be marked as a sensitive area and shall be avoided to the extent practicable. The measure needs to include an appropriate buffer around the plant or population.

iii. states that if avoidance is not possible, LS Power will consult with USFWS for individual take permits. USFWS typically does not issue take permits for listed plant species.

iv. Plant species with a California Rare Plant Rank (RPR) or list status are required to be evaluated under CEQA. APM BIO-2 and the DEIR do not address this. It only states that CNPS species would require surveys and potential mitigation if they cannot be avoided. The lack of data provided in this measure and the DEIR is a deferral of mitigation. Please address this.

LA6-33 cont.

c. Page 116: APM BIO-5 should include adequate decontamination measures to prevent introduction and spread of plant pathogens such as *Phytophthora* into sensitive habitats

LA6-34

d. Page 117: APM BIO-7

i. APM BIO-7 references "standard guidelines" for protocol surveys and suitable buffers but does not identify the source of the standard guidelines. Information on the "standard guidelines" being referenced needs to be provided.

ii. Coyote Creek Lagoon is not shown on any maps included in the DEIR. SMHM habitats also include Valley Water's Low Coyote Creek Reach 1A SMHM mitigation site, Waterbird Pond, and additional SMHM habitat adjacent to Coyote Creek in Milpitas, CA.

iii. SMHM is a fully-protected species and no take is allowed. The language in in APM BIO-7 "If avoidance is not possible" needs to be revised as avoidance is required.

LA6-35

e. Page 117: APM BIO-9

i. APM BIO-9 should include worker environmental awareness training of all sensitive resources, including but not limited to, wildlife, plants, sensitive habitats, etc. and not just wildlife. Please revise this language

LA6-36

f. Page 121-122: APM BIO-19 only calls for wetland and aquatic resources delineation within the Caltrans right-of-way. Other federal and state waters delineation areas need to be included or details on why they are excluded need to be included.

LA6-37

27. Section 5.4.1.1 – Special-Status Plant Species and Sensitive Vegetation Communities

a. Table 6 lacks appropriate level of detail on the vegetation community types. The included community types are non-specific and do not allow adequate assessment of impacts. Please revise the table with more detailed vegetation community types and identify which vegetation communities are sensitive natural communities per the California Department of Fish and Wildlife.

LA6-38

b. Page 127: The discussion on restoration of disturbed areas states "Work areas would be recompacted, and salvaged topsoil materials would be respread…" This sentence should read, "Work areas would be decompacted…" not recompacted.

LA6-39

c. Page 127: The discussion on special-status plant species states "… San Joaquin spearscale, Contra Costa goldfields, and saline clover can occur in grassland habitats, which are not considered sensitive." however, the San Joaquian spearscale and saline clover occur in alkaline grassland habitats which are considered sensitive. Please revise this.

LA6-40

d. Page 128: The discussion on focused surveys for rate plants lists a time window of February 1 through June 15. Protocol-level surveys typically cover at least three rounds of surveys from early spring through late summer. An end date of June 15 would not cover late-blooming species. This time window needs to be revised. Survey dates should be adjusted to capture phenology of all potentially-occurring species in a given year and reference sites should be visited in order to schedule appropriate timing of surveys to ensure adequate detection.

LA6-41

e. Annual grassland is not described or mapped in sufficient detail to determine vegetation community type and thus cannot be verified that this area is comprised of non-sensitive

LA6-42

vegetation communities and that the impact is less than significant. Additional detail on this vegetation community type as well as other vegetation community types listed in the Biological Resources Technical Report need to be provided.

f. The lack of presence/absence survey data on special-status plant species within and adjacent to the proposed project areas and lack of a detailed mitigation measure(s) outlining how impacts would be reduced to a less than significant level do not allow for a rigorous impact analysis. Additional survey data and mitigation measure(s) are needed.

28. Figure 15, Page 5 of 11: The SMHM habitat area is underrepresented in the figure. The areas immediately to the west and south of the habitat area depicted also serve as SMHM habitat and this species has been previously trapped in these areas. Furthermore, all habitats immediately surrounding these areas provide upland foraging and flood refugia habitat for this species. Valley Water recommends this be corrected.

LA6-42 cont.

LA6-43

LA6-44

Thank you for the opportunity to review and provide comments on this DEIR. This project has been assigned to Valley Water File 34728. Please reference this number on future correspondence regarding this project. We look forward to reviewing the FEIR and response to comments when they are available.

Thank you,

MATT SASAKI
Pronouns: he/him
Assistant Engineer II
Community Projects Review Unit
msasaki@valleywater.org

Santa Clara Valley Water District is now known as:

Valley Water

Clean Water • Healthy Environment • Flood Protection
5750 Almaden Expressway, San Jose CA 95118
www.valleywater.org

Letter LA6: Santa Clara Valley Water District

LA6-1 The Santa Clara Valley Water District (Valley Water) confirms its role as a Responsible Agency under CEQA for approval of work requiring a Valley Water encroachment permit. The CPUC acknowledges Valley Water's input and will consider it as part of the CPUC decision-making process.

LA6-2 Valley Water notes that its comments regarding APMs related to biological resources are described in its comments related to the biological resources technical report (BRTR) attached as Appendix 5.4-A in LSPGC's Proponent's Environmental Assessment.

The CPUC acknowledges that Valley Water would like to modify some of the Project's APMs. As noted in the Draft EIR, LSPGC identified APMs intended to avoid or reduce potential impacts associated with the Project (see Draft EIR Chapter 2, *Project Description*). As the CEQA lead agency, the CPUC has proposed mitigation measures to avoid or reduce the Project's potentially significant impacts, including those that may not be adequately addressed by APMs. As the Project's APMs are, by definition, measures proposed by the applicant, the CPUC cannot directly modify the APMs. However, the CPUC-proposed mitigation measures would reduce the Project's potential impacts on biological resources, among other resource areas, as further discussed below and in Volumes I and II of the Final EIR. The CPUC's responses to Valley Water's comments regarding the biological resources APMs referenced in the BRTR are discussed in responses to comments LA6-32 through LA6-37 and LA6-41.

LA6-3 Valley Water states that Table 2-11 does not include an APM that specifically addresses avoidance or mitigation of impacts to sensitive natural communities as identified by CDFW. Further, Valley Water states that APM BIO-4 does not discuss restoration of areas following construction activities and does not discuss impacts to sensitive areas and sensitive natural communities when these areas cannot be avoided.

APM BIO-1: Restoration of Disturbed Areas requires that, once Project construction is complete in a given area, natural vegetation areas (annual grassland, annual grassland/wetland, riparian, wetland, and vernal pools) that are temporarily disturbed by Project activities shall be restored to approximate preconstruction conditions. To supplement APM BIO-1, the CPUC also proposes **Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring**, which requires submittal of a Restoration Plan to CDFW detailing compensatory mitigation for impacts on riparian and wetland habitat (which are the only types of sensitive natural communities identified at the Project area), along with associated monitoring requirements, invasive species control methods, and success criteria. Further, the mitigation measure states that impacts to riparian and wetland habitat would be restored or otherwise mitigated in accordance with the Restoration Plan within the same calendar year in which the impact occurs.

LA6-4 Valley Water states that the Draft EIR does not describe field methods or dates that vegetation communities were field-verified and suggests that a desk audit process of vegetation mapping should be field-verified.

As stated on page 3.4-2 of the Draft EIR, the vegetation community types described in Section 3.4, *Biological Resources*, are based on field observations and LSPGC's PEA (including information from the BRTR), in addition to the California Native Plant Society's Manual of California Vegetation Online and California Sensitive Natural Communities maps, as well as the U.S. Fish and Wildlife Service's National Wetlands Inventory maps. Natural communities were evaluated using NatureServe's Heritage Methodology, the same system used to assign global and state rarity ranks for plant and animals species in the California Natural Diversity Database (CNDDB).

The methodology used in LSPGC's BRTR is a combination of literature reviews and habitat assessment and jurisdictional waters mapping surveys and represents the CPUC's and LSPGC's understanding at the time the Notice of Preparation was issued on July 29, 2024. The CPUC understands that biological reconnaissance surveys supporting the BRTR were conducted over the course of six survey dates (September 22, October 20, and December 19 in 2023; January 24 and 25 and March 23 in 2024), the intent of which was to map vegetation communities and analyze the potential for occurrence for special-status species. The surveys included an assessment of a survey area spanning approximately 3,889.7 acres, which is the area of the Project's alignment buffered by 1,000 feet.

As noted on page 3.4-1 of the Draft EIR, ESA biologist Leonard Liu performed a reconnaissance-level biological survey of the Project site on February 28, 2024 to verify site conditions and found the surveys were adequate to CEQA standards. As LSPGC continues to refine the Project's design and implementation outside the CEQA process, it will continue to coordinate with all affected agencies and landowners on any aspect of Project construction that would affect resources under an agency's jurisdiction, including Valley Water.

LA6-5 Valley Water notes that the pond and associated marsh intersected by the Project transmission line alignment near aboveground structures NN-5 to NN-7, which are mapped as "Wetland (Potential Wetland/Floodplain)" in Figure 3.4-1D, are not described in the Draft EIR. Valley Water recommends that this pond and associated marsh be classified as "Wetland (Salt-brackish Tidal Marsh)".

The CPUC appreciates this clarification. Figure 3.4-1D of the Final EIR has been revised to reflect that the pond and associated marsh immediately west of the Project's alignment (near aboveground structures NN-5 to NN-7) are "Wetland (Salt-brackish Tidal Marsh)".

LA6-6 Valley Water comments that the discussion on Wetland communities on page 3.4-11 of the Draft EIR omits the "Wetland (Potential Wetland/Floodplain)" community and requests to update the text to include discussion on all communities depicted in Figure 3.4-1.

The CPUC appreciates this comment to update the discussion under "Wetland Communities" to address all communities depicted in Figure 3.4-1. New text has been added on page 3.4-12 of the Final EIR to include description of "Floodplain", as follows:

> Floodplain
>
> Floodplains are low-lying land areas bordering the bay and its tributaries that are subject to natural flooding and tidal inundation. These areas are open unvegetated mudflats due to regular inundation of tidal or brackish waters. The periphery of floodplains support tidal marsh vegetation, such as pickleweed and *Spartina* grass.

As it relates to the classification of "Potential Wetland", as discussed on page 3.4-11 of the Draft EIR, "[*w*]*etlands* include seasonally wet vernal pools; brackish or saline tidal marshes, which develop on the shores of tidally influenced waters; and floodplains bordering the former salt ponds, which are primarily mud or unvegetated, but have the hydrological potential to develop tidal marsh vegetation over time". It is also discussed that vernal pools within the Project area are located near the existing PG&E Newark 230 kV Substation, representing less than 1 percent of the Project area.

With the exception of the vernal pools located near the existing PG&E Newark 230 kV Substation/Don Edwards San Francisco Bay National Wildlife Refuge (the Refuge), other areas classified as "Wetland (Potential Wetland/Floodplain)" in Figure 3.4-1 of the Draft EIR are brackish or saline tidal marsh and floodplains, not vernal pools. To reflect this, Figures 3.4-1A through 3.4-1D in the Final EIR have been revised to re-define "Wetland (Potential Wetland/Floodplain)" to "Wetland (Potential Salt-brackish Tidal Marsh/Floodplain)".

LA6-7 Valley Water notes that Section 3.4.2.1 of the Draft EIR only discusses special-status plant species with a moderate potential to occur. Valley Water requests clarification regarding whether there are any plants that have a high potential to occur.

As discussed in response to Comment LA6-4, the vegetation communities evaluated in the EIR are based on field observations and supporting studies. Based on these efforts, the Project area was determined to not include any special-status plant species that have a high potential to occur. The CPUC appreciates this clarification which, where appropriate, has been reflected in the Final EIR.

LA6-8 Valley Water states that extensive survey efforts for bumble bees have been occurring statewide for the past few years as part of the California Bumble Bee Atlas and no detections of the western bumble bee have occurred outside of its current range and recommends that this species' potential to occur is changed from moderate potential to occur to absent.

The CPUC appreciates the information provided by Valley Water regarding the western bumble bee's historic and current range. As discussed on page 3.4-56 of the Draft EIR,

with the implementation of APMs (e.g., **APM BIO-16: Special-Status Invertebrate Surveys**) and mitigation measures (e.g., **Mitigation Measure 3.4-1d: Protection of Special-status Wildlife**), direct and indirect impacts on invertebrates, such as the Western bumble bee, would be avoided or minimized to a less-than-significant level. As a conservative approach and to consider all reasonably foreseeable potential environmental impacts of the Project, including those on western bumble bees, no changes to the EIR are necessary. However, the CPUC will consider this information as part of its decision-making process.

LA6-9 Valley Water summarizes its management activities of its salt marsh harvest mouse (SMHM) mitigation site, Lower Coyote Reach 1A, noting that this pond is immediately adjacent to the Project alignment and its work areas. Valley Water states that this species has been regularly trapped within 75 feet of the Project area, disagrees that its potential to occur is moderate, and recommends that its potential to occur be changed to "present". The comment also suggests that the categorization of species as having low, moderate, or high potential to occur is not appropriate when a species is "present". At the minimum, Valley Water recommends that the potential to occur finding be changed to "high".

Valley Water correctly points out that the salt marsh harvest mouse has been recorded in the vicinity of its Lower Coyote Reach 1A mitigation site and adjacent areas (see pages 3.4-29 through 3.4-30 of the Draft EIR for a discussion of SMHM occurrences in the Project area). However, during development of the EIR, the CPUC received no information about Valley Water's mitigation site prior to receiving Valley Water's comment letter, and such information was not readily available for appropriate CEQA-level analysis. With this said, the CPUC appreciates this comment, and text on page 3.4-30 of the Final EIR has been revised to reflect that the SMHM's potential to occur in the Project area is "high", as follows:

> Therefore, SMHM has a high ~~moderate~~ potential to occur along the transmission line alignment and near staging areas.

Further, **Appendix D** and Table 3.4-3 of the Final EIR have been revised, as follows:

salt marsh harvest mouse *Reithrodontomys raviventris*	FE/CE, FP	Only in the saline emergent wetlands of San Francisco Bay and its tributaries.	Year-round	**High ~~Moderate~~.** The Project area has ~~some~~ suitable habitat in the vicinity of Coyote Creek, and there are numerous CNDDB records within 5 miles.

It should be noted that, in December 2025, the CPUC received supporting documentation regarding Valley Water's SMHM mitigation site, Lower Coyote Reach 1A. However, after a review of the materials provided, it was determined that the existing conditions and supporting studies that formed the basis of the EIR's analysis remain sufficient in meaningfully analyzing the Project's potential impacts on biological resources under CEQA, including on SMHM (CEQA Guidelines Section 15384).

LA6-10 Valley Water notes that its comments regarding APMs related to biological resources are described in its comments on the BRTR. Responses to Valley Water's comments regarding biological resources APMs referenced in the BRTR are discussed below in responses to comments LA6-32 through LA6-37 and LA6-41.

LA6-11 Valley Water states that the vegetation communities listed in Table 3.4-4 of the Draft EIR are too vague and non-specific to identify impacts, and requests that the table be revised to be more specific regarding vegetation communities and to identify which vegetation communities are "sensitive natural communities" per CDFW.

As discussed above in the response to Comment LA6-4, the vegetation community types described in Section 3.4 of the Draft EIR are based on field observations and supporting studies, including the California Native Plant Society's Manual of California Vegetation Online. Manual of California Vegetation Online classifications are based on *A Manual of California Vegetation, 2nd Edition* (Sawyer et al. 2009).

The Draft EIR states on page 3.4-10 that three sensitive natural communities occur on the Project site: Fremont cottonwood woodland, alkaline vernal pool, and northern coastal salt marsh. To the level required by CEQA at this stage of Project development (CEQA Guidelines Section 15126.2[a]), the Project's potential impacts on sensitive vegetation communities are assessed under Impact 3.4-2 of the Draft EIR. Based on the vegetation communities observed from field observations and desktop mapping and analysis, it is anticipated that the Project would result in 0.12 acre of temporary impacts and 0.005 acre of permanent impacts to riparian habitat; the Project would also result in 79.85 acres and 0.05 acre of permanent impacts to annual grassland.

All wetlands and other aquatic resources not yet delineated, including vernal pools, would be delineated before construction (**APM BIO-19: Wetland and Aquatic Resources Delineation**), and impacts would be avoided to the extent practicable (APM BIO-4 and Mitigation Measure 3.4-1d). Additionally, all temporary impacts on sensitive vegetation communities would be restored in accordance with APM BIO-1 and Mitigation Measure 3.4-1b. Further identification and confirmation of sensitive vegetation communities would occur during the permitting stage of the Project, in consultation with jurisdictional agencies. Thus, the information incorporated in the EIR is sufficient to meaningfully analyze the Project's impacts on biological resources under CEQA, including sensitive natural communities, and no changes to the EIR are necessary (CEQA Guidelines Section 15204[a]).

LA6-12 Valley Water requests clarification on why Table 3.4-2 of the Draft EIR only lists special-status plant species with a moderate potential to occur, but text on page 3.4-51 of the Draft EIR discusses that there are 12 special-status plant species with moderate to high potential to occur.

As discussed in response to Comment LA6-7, it has been determined that the Project area does not include any special-status plants that have a high potential to occur. The CPUC appreciates this clarification and, where appropriate, it has been reflected in the

Final EIR. For example, text on page 3.4-51 of the Final EIR has been revised, as follows:

> Twelve special-status plant species have moderate ~~to high~~ potential to occur within the study area, but none are expected to occur within the temporary or permanent impact areas.

LA6-13 Valley Water references **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants** and requests explanation on why surveys are proposed to be conducted between April and July. Valley Water also recommends that the surveys during blooming seasons of rare plants should also be conducted in conjunction with special-status plants with other potentials to occur. Additionally, Valley Water states that CDFW and USFWS do not typically issue Incidental Take Permits (ITPs) for plant species and that the text should be revised accordingly. Last, Valley Water asserts that item 5 in the mitigation measure related to relocation is not an appropriate measure according to the California Native Plant Society policy on plant relocation.

As stated under Mitigation Measure 3.4-1a, the period to conduct rare plant surveys from April to July reflects the blooming periods of rare plants with potential to occur in the Project area. The CPUC appreciates the comment regarding plant ITPs and has removed this reference from Mitigation Measure 3.4-1a, as follows (please note that revisions from response to Comment LA2-9 are also reflected below):

> **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**
>
> Rare plant surveys conducted under APM BIO-2 shall be floristic in nature and shall be conducted by a qualified botanist according to procedures outlined in the CDFW publication *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities* (CDFW, 2018b). The survey(s) shall be conducted between April and July in accordance with CDFW protocol and in conjunction with the blooming seasons of those rare plants with moderate potential to occur in the survey area.
>
> If no special-status plants are observed during appropriately timed surveys by a qualified botanist, it shall be assumed that the construction activity will have no impact on special-status plants and no further action is required. If special-status plants are identified within the survey area, the individuals or populations shall be mapped and quantified and reported to the CNDDB <u>and to the City of San José</u>, and the LSPGC project manager shall be notified at least 14 days prior to construction in that area. Impacts on these known occurrences shall be avoided when feasible. LSPGC shall coordinate with CDFW and/or USFWS staff to establish appropriate avoidance and minimization measures, depending on whether the species is federally and/or state listed~~, and shall consult with CDFW and/or USFWS to obtain an ITP as required for any impacts that cannot be avoided~~. Avoidance and minimization measures may include, but need not be limited to:
>
> (1) No-disturbance buffers.

(2) Work windows for low-impact activities that are compatible with the dormant phase of a special-status plant life cycle but that may kill living plants or severely alter their ability to reproduce.

(3) Silt fencing or construction fencing to prevent vehicles, equipment, and personnel from accessing the occupied habitat.

(4) Erosion control BMPs such as straw wattles made of rice straw, erosion control blankets, or hydroseeding with a native plant seed mix to prevent sedimentation from upslope construction activities.

(5) In consultation with and as authorized by CDFW or USFWS, collection and spreading of seeds or relocation of plants to appropriate locations by a qualified botanist.

Regarding relocation (item 5 of Mitigation Measure 3.4-1a), the CPUC understands that CNPS discourages this approach; however, it is included as one among several avoidance and minimization measures to be considered under regulatory agency guidance in the unlikely event that a rare plant population cannot be avoided during Project construction. Nonetheless, the CPUC will consider this information as part of its decision-making process.

LA6-14 Valley Water suggests that Mitigation Measure 3.4-1b seems to apply only to wetland and riparian habitat and therefore should be renamed to reflect this. If the mitigation measure indeed only applies to wetland and riparian vegetation communities, Valley Water requests confirmation that no upland sensitive vegetation communities would be impacted by the Project.

The Draft EIR states on page 3.4-10 that three sensitive natural communities occur on the Project site – Fremont cottonwood woodland (a riparian community), and two wetland types: alkaline vernal pool and northern coastal salt marsh. Based on field observations and supporting studies incorporated in the EIR, it was determined that no upland sensitive vegetation communities are present in the Project area. The CPUC confirms that no upland sensitive vegetation communities would be impacted by the Project, and clarifying text on page 3.4-10 of the Final EIR has been added as follows:

> Three sensitive natural communities occur on the Project site: Fremont cottonwood woodland, alkaline vernal pool, and northern coastal salt marsh. <u>No upland sensitive vegetation communities are present in the Project area.</u> The distribution of these communities in the Project area is discussed below under *Wetland Communities*.

LA6-15 Valley Water notes that the "Mitigation" and "Significance after Mitigation" on page 3.4-68 of the Draft EIR erroneously references nesting birds and bats, rather than SMHM, and recommends revising the conclusion statement accordingly. The CPUC acknowledges this input, and text on page 3.4-69 of the Final EIR has been revised as follows:

With implementation of the LSPGC APMs, PG&E BMPs and PG&E FPs, Mitigation Measure 3.1-2, Mitigation Measure 3.4-1b, Mitigation Measure 3.4-1d, and Mitigation Measure 3.4-1e, construction-related impacts to ~~special-status nesting birds and roosting bats~~ salt marsh harvest mouse would be reduced to a less-than-significant level.

LA6-16 Valley Water comments that its SMHM mitigation site, Lower Coyote Reach 1A, is not explicitly identified or described in the Draft EIR, and recommends that this location be identified and described in the Final EIR.

As discussed in response to Comment LA6-9, the CPUC received no information about Valley Water's mitigation site during development of the EIR, prior to receiving Valley Water's comment letter. However, the area is acknowledged and evaluated on pages 3.4-67 through 3.4-69 of the Draft EIR. **APM BIO-7: Salt Marsh Harvest Mouse (SMHM) Surveys**, as revised in the Final EIR, requires surveys and avoidance measures for salt marsh harvest mouse in suitable habitat in the Project area, and states that, "[t]his APM would be applied along the transmission line west of the proposed alignment in the vicinity of Coyote Creek Lagoon". This coverage would include Valley Water's SMHM mitigation site, Lower Coyote Reach 1A.

LA6-17 Valley Water references APM BIO-7 and asserts that the concluding sentence is vague and open to interpretation. Valley Water requests for the Final EIR to explicitly state that the APM would be applied at Valley Water's SMHM mitigation site, Lower Coyote Reach 1A.

The CPUC understands Valley Water's concern that APM BIO-7 may be vague and open to interpretation. However, APM BIO-7 states that, "[t]his APM would be applied along the transmission line west of the proposed alignment in the vicinity of Coyote Creek Lagoon". The area discussed in APM BIO-7 would include Valley Water's SMHM mitigation site, Lower Coyote Reach 1A, and adjacent areas. Therefore, no changes to APM BIO-7 as response to this comment is necessary. However, this input has been considered in the development of the Final EIR and will be considered as part of the CPUC decision-making process.

LA6-18 Valley Water states that it has expressed concerns to LSPGC regarding the proposed installation of an overhead transmission line within Valley Water's SMHM mitigation site, and further explains that the overhead section of the alignment would create raptor perches within 75 feet of the salt marsh along the pond that has the highest density of SMHM throughout the entire mitigation site, as shown in Valley Water's trapping data. Valley Water asserts that this is a potentially significant impact and that the Draft EIR does not evaluate this potential impact on SMHM. Valley Water suggests that the APMs and mitigation measures in the Draft EIR do not address this potential impact, and recommends that this potential in-perpetuity impact be acknowledged and evaluated in the Final EIR, with appropriate mitigation measure(s) also incorporated in the Final EIR if the alignment of the transmission line cannot be modified to remove the

creation of raptor perches. Valley Water then provides suggestions for mitigation measures, for example, by implementing an agreement with the U.S. Department of Agriculture Animal and Plant Health Inspection Service and establishing sufficient funding for the Project to offset the potential in-perpetuity impact on SMHM.

Valley Water's scoping letter for the Project, dated July 29, 2024, notes the importance of assessing impacts to SMHM, and separately notes the importance of assessing impacts related to proposed above-ground infrastructure; however, it does not mention a mitigation site for SMHM. Thus, the CPUC was unaware of the location of this mitigation site until after receiving Valley Water's comment letter on the Draft EIR. As such, the mitigation site was not evaluated in the Draft EIR (see the related response to Comment LA6-9).

With this said, the discussion in pages 3.4-67 through 3.4-69 of the Draft EIR evaluates the Project's potential impacts on SMHM. As stated above in response to comments LA6-16 and LA6-17, APM BIO-7 requires surveys and avoidance measures for suitable SMHM habitat in the Project area and would be applied west of the proposed alignment in the vicinity of Coyote Creek Lagoon. This coverage would include Valley Water's SMHM mitigation site, Lower Coyote Reach 1A. The impact discussion, which references APM BIO-7, notes that CDFW and USFWS would be consulted if avoidance is not possible, and federal or state ITP coverage would be pursued if needed.

However, as Valley Water states, potential indirect impacts from the Project's overhead transmission line were not described previously. Accordingly, text on page 3.4-69 of the Final EIR has been revised, as follows:

> Indirect operational impacts could include decreased terrestrial, wetland, and aquatic habitat quality in the Project's vicinity caused by spills or leaks, runoff, sedimentation, invasive species proliferation, vehicle noise, <u>overhead lines providing perches for predators,</u> and human activity. However, operational noise would be low and in the range of normal background noise. Indirect impacts related to spills or leaks, runoff, and sedimentation would be minimized through continued adherence to the site stormwater pollution prevention plan and erosion control BMPs. <u>Indirect impacts from predation due to overhead power lines are expected to be infrequent due to the primarily nocturnal activity of mice and the height (115 to 150 feet) of the lines.</u> Indirect impacts from invasive species proliferation would be minimized through adherence to APM BIO-5, which requires vehicle cleaning before entering natural areas. After implementation of these measures, O&M impacts would be mitigated to a **less-than-significant** level.

LA6-19 Valley Water asserts that there is a disjuncture between the 50-foot stop-work buffer described in **Mitigation Measure 3.5-1: Archaeological Monitoring Plan** and the 100-foot stop-work buffers described in **APM CUL-3: Unanticipated Discovery of Potentially Significant Prehistoric and Historic Resources** and **PG&E BMP CULT-2: Inadvertent Discovery**, and Mitigation Measure 3.5-1 should be updated for consistency.

The CPUC appreciates this input, and the stop-work buffer referenced in Mitigation Measure 3.5-1 has been revised to 100 feet, as follows:

Mitigation Measure 3.5-1: Archaeological Monitoring Plan

Prior to authorization to proceed, a Secretary of the Interior-qualified archaeologist shall prepare an archaeological monitoring plan. The plan shall be reviewed by the culturally-affiliated Native American Tribe(s) and the CPUC. The plan will include (but not be limited to) the following components:

- Training program for all construction and field workers involved in site disturbance. On-site personnel shall attend a mandatory pre-project training led by a Secretary of the Interior-qualified archaeologist and a Native American representative. The training will outline the general cultural sensitivity of the area and the procedures to follow in the event that cultural materials and/or human remains are inadvertently discovered.
- Detailed explanation of where monitoring will be completed and under what circumstances based on soil types, geology, distance to known sites, and other factors.
- Person(s) responsible for conducting archaeological monitoring activities, including a request to the culturally affiliated Native American Tribe(s) for a tribal monitor.
- Identification of the lead Secretary of the Interior-qualified archaeologist responsible for overseeing and directing the monitors.
- How the monitoring will be conducted and the required format and content of monitoring reports.
- Schedule for submittal of monitoring reports and person(s) responsible for review and approval of monitoring reports.
- Protocol for notifications in case of encountering cultural resources, as well as methods of dealing with the encountered resources (e.g., collection, identification, curation).
- Methods to ensure security of cultural resources.
- Protocol for notifying local authorities (i.e., Sheriff, Police) should site looting and other illegal activities occur during construction.

During the course of the monitoring, the lead Secretary of the Interior-qualified archaeologist and lead tribal representative or lead tribal monitor may adjust the frequency of the monitoring from continuous to intermittent or vice versa based on the conditions and professional judgment regarding the potential to impact resources.

If cultural materials are encountered, all soil-disturbing activities within 100 ~~50~~ feet in all directions of the find shall cease until the resource is evaluated and the CPUC project manager concurs with the evaluation. The archaeological monitor shall immediately notify the lead Secretary of the Interior-qualified archaeologist, the CPUC, and its consultant of the encountered resource(s). After making a reasonable effort to assess the identity, integrity, and

> significance of the encountered resource, in consultation with the culturally affiliated Native American Tribe(s), the lead Secretary of the Interior-qualified archaeologist shall present the findings of this assessment to the CPUC for review no later than 10 calendar days after the find. If it is not possible to present the findings within 10 calendar days, the lead Secretary of the Interior-qualified archaeologist shall explain why doing so is infeasible and when it will be possible to present the findings.
>
> If the find is determined to be potentially significant by the CPUC, the lead Secretary of the Interior-qualified archaeologist, in consultation with the CPUC and the culturally affiliated Native American Tribe(s), shall determine whether preservation in place is feasible. Consistent with CEQA Guidelines Section 15126.4(b)(3), this may be accomplished through planning construction to avoid the resource; incorporating the resource within open space; capping and covering the resource; or deeding the site into a permanent conservation easement.
>
> If avoidance is not feasible, the CPUC shall consult with the culturally affiliated Native American Tribe(s) and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC [Public Resources Code] Section 21083.2, and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC Section 21084.3).

LA6-20 Valley Water states that the Draft EIR refers to potentially obtaining take coverage for western burrowing owl and tricolored blackbird through the Santa Clara Valley Habitat Plan (SCVHP) if direct impacts to these species could not be avoided. Valley Water notes that, while these species are covered species under the SCVHP, the SCVHP does not provide take coverage for direct impacts to these species, and furthermore that the SCVHP prohibits the relocation of owls as well as the removal of vegetation that has been used for nesting by tricolored blackbirds in the past three years.

The CPUC understands the concerns raised by Valley Water regarding take coverage for direct impacts to tricolored blackbird and western burrowing owl. However, based on a Record of Decision (ROD) developed by the USFWS, the tricolored blackbird and western burrowing owl, as part of the list of "18 Covered Species" under the SCVHP, are eligible for take contingent on the implementation of avoidance and minimization measures and conditions (USFWS 2013). In its ROD, approved on July 20, 2023, the USFWS states:

> The purpose of this ROD is to document the Service's decision on application for an Incidental Take Permit (Permit) under Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act) submitted jointly by the County of Santa Clara (County), City of San Jose, City of Morgan Hill, City of Gilroy, Santa Clara Valley Water District (SCVWD), Santa Clara Valley Transportation Authority and the Santa Clara Valley Habitat Agency

> (Implementing Entity) (collectively referred to as the "Applicants") *for take of 18 Covered Species* [emphasis added] described in the Santa Clara Valley Habitat Conservation Plan (HCP)/Natural Community Conservation Plan (NCCP) (Plan or Santa Clara Valley Habitat Plan).

As discussed on pages 3.4-67 of the Draft EIR, if impacts are identified during species-specific surveys (e.g., tricolored blackbird and western burrowing owl), the take for these species would be covered either under the SCVHP or state ITP in consultation with CDFW. In addition, as discussed on page 3.4-64 of the Draft EIR, potential direct impacts on tricolored blackbird would be avoided or minimized by implementation of **APM BIO-3: Preconstruction Survey**, **APM BIO-4: Demarcation of Sensitive Areas**, **APM BIO-11: Special-Status Bird Surveys**, **APM BIO-12: Nesting Bird Protection Measures**, and **APM BIO-15: Nesting Bird Surveys**, in addition to other APMs.

For example, APM BIO-3 would require that a qualified biologist conduct preconstruction survey sweeps of the Project work area for special-status wildlife and plans in potentially suitable habitats prior to initial vegetation clearance. If found, occupied habitat would be avoided, if feasible. As a supplement to these APMs, LSPGC would also implement Mitigation Measure 3.4-1d, which further specifies that a qualified biologist be on site to conduct daily pre-activity surveys and monitor all ground-disturbing and vegetation removal activities in suitable habitat for special-status species.

The discussion under Impact 3.4-6, as revised in the Final EIR, also articulates LSPGC's commitment to comply with the SCVHP for covered species. The discussion states that for any species for which coverage is not possible under the SCVHP, LSPGC would consult with the wildlife agencies for take coverage. Also, as discussed on page 3.4-65 of the Draft EIR, potential direct impacts on burrowing owl would be minimized by implementation of APM BIO-3, APM BIO-4, APM BIO-11, and APM BIO-12, as well as **PG&E BMP BIO-1: Burrowing Owl** and **PG&E BMP BIO-2**, for nesting bird and burrowing owl protection.

With this said, it should be noted that burrowing owl relocation is not expected as a result of the Project. Before and during implementation of the above measures, it is expected that LSPGC would coordinate with the Santa Clara Valley Habitat Agency regarding vegetation removal, including areas that tricolored blackbirds have used for nesting in the past, as well as regarding potential relocation of owls. Please see the response to Comment LA6-25 below for additional discussion for the Project's coverage under the SCVHP.

LA6-21 Valley Water comments that the Draft EIR only evaluates special-status species with a moderate or high potential to occur in the Project area while Appendix 5.4-A of LSPGC's PEA includes additional special-status species with a low potential to occur. Valley Water suggests that while these species were determined to have a low potential to occur, if present, the Project could still result in significant impacts on these species and, thus, potential impacts to these species should be evaluated in the Final EIR.

The CPUC appreciates this clarification. New text has been added on page 3.4-12 of the Final EIR, in accordance with CEQA Guidelines Section 15128, to clarify why species with low potential to occur are not further evaluated in the EIR, as follows:

> There are no special-status plant species with high potential to occur in the Project area. Species with low potential (unlikely) to occur are listed in Appendix D but are not further discussed below. The Project would be unlikely to cause substantial harm to these species, which have limited populations in the area.

Although species with low potential to occur are not specifically discussed in the EIR outside of Appendix D, surveys for plant species occurring from April through July would also cover the blooming periods of low potential plant species listed in Appendix D (Mitigation Measure 3.4-1a); thus, these plant species would be identified and protected if found during the surveys. Similarly, if low potential wildlife species are observed during surveys, such wildlife species would be identified and protected (Mitigation Measure 3.4-1d).While unlikely, if special-status plant and wildlife species with a low potential to occur are discovered or identified during surveys, impacts to these species would be avoided or minimized through the implementation of measures (e.g., APM BIO-1 and BIO-2, and Mitigation Measure 3.4-1a for plants; APM BIO-11 and BIO-12, and Mitigation Measure 3.4-1d for wildlife). For these reasons, it is not anticipated that the Project would result in significant impacts on special-status species with low potential to occur.

LA6-22 Valley Water suggests that the discussion on page 3.10-16 of the Draft EIR regarding Valley Water's Water Resources Protection Manual should be updated. The CPUC appreciates this input, and the third paragraph on page 3.10-17 of the Final EIR has been revised as follows:

> The Water Resources Protection Manual was adopted by Valley Water ~~in collaboration with the city and county of Santa Clara and resource agencies~~ in 2006. This manual provides a framework for evaluating permit applications and setting permit conditions under the Water Resources Protection Ordinances ~~supports the evaluation of encroachment permit applications and establishes conditions for protecting water resources~~. Additionally, the manual contains requirements, recommendations, and design standards related to the protection of riparian vegetation, stream bank protection, erosion control, levee and pipeline protection, utility crossings under creeks, among other topics.

LA6-23 Valley Water notes that there is a typo in the acronym for the Santa Clara Valley Urban Runoff Pollution Prevention Program on page 3.10-17 of the Draft EIR. The CPUC appreciates this clarification and, where necessary, it has been reflected in the Final EIR, from "SCVRPPP" to "SCVURPPP".

LA6-24 Valley Water notes that the SCVHP that is discussed on page 28 of the BRTR is also a Natural Community Conservation Plan and not just a Habitat Conservation Plan. While

this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges Valley Water's input.

LA6-25 Valley Water references page 30 of the BRTR and states that coverage of the Project under the SCVHP needs to be determined as it will affect the impact analysis and mitigation measures proposed in the EIR.

As discussed in the Final EIR under Impact 3.4-6, if impacts on covered species under the SCVHP are identified and cannot be avoided, LSPGC would coordinate with the SCVHP stakeholders to obtain required coverage for the Project. To further clarify, new text has been added on pages 3.4-76 through 3.4-77 of the Final EIR stating that, because the Project area is partially located in the Habitat Plan Permit Area, the Project would be subject to conditions identified in Chapter 6 of the SCVHP, as follows:

> However, as noted in Section 3.4.3.3, the Project area is partially located in the Habitat Plan Permit Area. Portions of the Project area are located within fee zones and are subject to conditions identified in Chapter 6 of the SCVHCP. Specifically, the Project area is within the burrowing owl fee zone and could be subject to such fees, in addition to other land cover fees such as Zone A (Ranchlands and Natural Lands), wetland fees (Coastal and Valley Freshwater Marsh), and nitrogen deposition fees. If coverage under the SCVHCP is necessary for the Project, LSPGC would be required to adhere to avoidance and minimization measures to reduce potential impacts to special-status species and/or suitable habitat covered by the SCVHCP.

LA6-26 Valley Water comments that Staging Areas 4 and 5 are located close to Valley Water's Lower Coyote Reach 1A SMHM preserve, noting that these areas serve as upland foraging habitat as well as high-tide refugia habitat. Valley Water suggests that these staging areas should be relocated or downsized to prevent impacts on SMHM.

As a practical matter at this stage of Project development, LSPGC has 12 potential staging areas to allow for flexibility during the construction window. As noted in Chapter 2 of the EIR, site availability during the construction window years in the future is uncertain. Based on site availability at the time of construction, only 3 to 4 of the 12 potential sites would be used.

All 12 of the Project's potential staging areas were disclosed in the Draft EIR, and the environmental impacts at each site were thoroughly analyzed as required under CEQA. The EIR also identifies mitigation measures, APMs, and PG&E BMPs and FPs that would apply to the individual staging areas, just as these measures would apply to the rest of the Project. If the CPUC votes to approve the Project, LSPGC will be legally bound to implement all applicable mitigation measures at the staging areas identified for use during construction of the Project, as well as those subsequently arising from the resource permitting process with the jurisdictional agencies, including agency

considerations and requirements related to Valley Water's Lower Coyote Reach 1A SMHM preserve.

LA6-27 Valley Water states that the vegetation community categories listed in Table 1 of the BRTR are broad and should be broken down to more specific vegetation communities. Valley Water suggests that the text on sensitive natural communities should be clearly separated out for discussion and impact evaluation, and that more detailed vegetation mapping sources are available, such as the Santa Cruz Mountains Stewardship Network's county-wide fine scale vegetation mapping.

As discussed in response to comments LA6-4 and LA6-11, the vegetation community types described in Section 3.4, *Biological Resources*, are based on field observations and categorized according to *A Manual of California Vegetation, 2nd Edition* (Sawyer et al. 2009). As LSPGC continues to refine the Project's design and implementation outside the CEQA process, it will continue to coordinate with all affected agencies and landowners on any aspect of Project construction that would affect resources under an agency's jurisdiction.

LA6-28 Valley Water references text on page 34 of the BRTR relating to wetland habitat for SMHM, asserting that the level of detail is insufficient to conduct an impact analysis given that SMHM is documented to occur within the survey area. Valley Water suggests that a more detailed survey of certain wetland habitat areas needs to be conducted to identify salt marsh habitats.

As discussed under "Salt Marsh Harvest Mouse" in Impact 3.4-1 of the Draft EIR, potential habitat for SMHM is located in various parts of the Project area, including west of the proposed alignment in the vicinity of Coyote Creek Lagoon. It has been determined that direct impacts on SMHM could result from potential vehicle strikes, destruction of habitat during clearing activities, and entrapment in excavations. Indirect impacts would include a temporary reduction in habitat suitability by noise from construction activities and increased human activity; indirect impacts from lighting are not anticipated because the Project does not propose nighttime construction near SMHM habitat.

As discussed on pages 3.4-67 through 3.4-69 of the Draft EIR, potential impacts to SMHM would be avoided or minimized by the implementation of APMs including APM BIO-3 and APM BIO-7, which would involve preconstruction sweeps and protocol surveys to identify any suitable habitat where SMHM could occur close to the Project construction areas. These surveys would be conducted during the resource permitting phase of the Project, when each jurisdictional agency's most current protocols are known and agency-specific mitigation requirements can be determined. Thus, the information incorporated in the EIR is sufficient to meaningfully analyze the Project's impacts on biological resources under CEQA, including on SMHM, and no changes to the EIR are necessary (CEQA Guidelines Section 15204[a]).

LA6-29 Valley Water notes that Table 2 of the BRTR is titled "CNPS Plant Species", but also includes a listing for the Northern coastal salt marsh as a sensitive vegetative community.

Valley Water recommends that the table be renamed or that a separate table be created showing sensitive natural communities for the Project. If a separate table is created, Valley Water recommends that it include the global and state ranking for each sensitive natural community. Valley Water suggests that, due to the size of the Project, it is likely that there is more than just one sensitive natural community.

Appendix D of the Final EIR lists all special-status plant species with potential to occur, and page 3.4-10 of the Final EIR identifies the three sensitive natural communities found onsite. Please see the responses to comments LA6-4 and LA6-11 for additional discussion on the vegetation communities considered in the EIR.

LA6-30 Valley Water references the discussion on page 42 of the BRTR that special-status plant species have the potential to occur in the Survey Area and asserts that protocol-level presence/absence surveys should have been conducted. Valley Water further asserts that these surveys need to be conducted and that an impact analysis based on those surveys needs to be prepared.

As discussed above in the response to Comment LA6-4, the vegetation community types and rare plant potentials described and evaluated in the EIR are based on field observations and supporting studies. Rare plant surveys are required as part of Mitigation Measure 3.4-1a, as a supplement to APM BIO-1. Protocol-level plant surveys would be conducted during the season prior to the anticipated start of construction. Further, protocol-level surveys would be conducted during the resource permitting phase of the Project when each jurisdictional agency's most current protocols are known and agency-specific mitigation requirements can be determined.

Therefore, at this stage of Project development, the information included in the Final EIR is sufficient to meaningfully analyze the Project's impacts on rare plants with potential to occur under CEQA. Please see the response to Comment LA6-33 below for more discussion on the EIR's evaluation of the Project's potential impacts on special-status plant species.

LA6-31 Valley Water references Figure 11a of the BRTR, which shows overlaps of CNDDB species and Project components and/or impact areas. Valley Water notes that the figure contains no analysis of potential impacts and associated avoidance or mitigation.

The Project's potential impacts to special-status plants and wildlife are analyzed in the Final EIR on pages 3.4-50 through 3.4-70 (Impact 3.4-1 and Impact 3.4-2), including mitigation measures, APMs, PG&E BMPs, and PG&E FPs. Potential cumulative impacts to special-status plants and wildlife are discussed on pages 3.4-79 through 3.4-87 (Impact C.3.4-1 and Impact C.3.4-2) of the Final EIR.

LA6-32 Valley Water suggests that the APMs discussed on pages 114 to 122 of the BRTR seem to combine BMPs and mitigation measures, and asserts that BMPs and mitigation measures should be described separately.

As discussed in the Executive Summary of the Final EIR (see also the response to Comment LA6-2), LSPGC identified APMs intended to avoid or reduce potential impacts associated with the Project. In some instances, those LSPGC APMs have been supplemented or superseded by CPUC-recommended mitigation. These mitigation measures would avoid or reduce the potentially significant impacts of the Project (CEQA Guidelines Section 15126.4[a][1][B]), including those that may not be adequately addressed by APMs.

PG&E has also proposed BMPs and FPs to reduce potential effects associated with the proposed modifications at the existing PG&E Newark 230 kV Substation. PG&E has committed to implementing all of the proposed BMPs and FPs for its portion of work for the Project.

As such, sections 3.1 through 3.20 of the EIR distinctly present the measures proposed to be implemented as part of the Project by LSPGC and PG&E to reduce potential environmental impacts. If the Project is approved, each utility will be responsible for implementing its measures only on that part of the Project which it will own or for which it will be responsible (see Section 2.4, *Project Overview*, of the Final EIR for each utility's scope of work for the Project).

LA6-33 Valley Water notes that APM BIO-2 references "standard guidelines" for protocol-level surveys, but does not identify the source of the standard guidelines. Valley Water asserts that information on the standard guidelines being referenced must be provided. Valley Water further suggests that APM BIO-2 should include an appropriate buffer around the plant or population if a rare plant is discovered. Valley Water also notes that USFWS typically does not issue take permits for listed plant species. Last, Valley Water states that plant species with a California Rare Plant Rank or list status are required to be evaluated under CEQA, and that the Draft EIR and APM BIO-2 do not address this; Valley Water asserts that the lack of data provided in APM BIO-2 and Draft EIR is a deferral of mitigation and should be addressed.

APM BIO-2 is supplemented by Mitigation Measure 3.4-1a, which states that the rare plant surveys shall be floristic, in accordance with CDFW protocol, specifically *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. Mitigation Measure 3.4-1a includes potential avoidance and minimization measures for rare plants, if found, such as no-disturbance buffers, protective fencing, erosion control, and collection of seed for replanting. Mitigation Measure 3.4-1b further requires submittal of a Restoration Plan to CDFW detailing compensatory mitigation for riparian and wetland habitat, invasive species control, and success criteria. The incorporation of CPUC mitigation measures demonstrates the CPUC's responsibility to enforce and LSPGC's binding commitment to achieve full mitigation through performance standards when this mitigation measure is implemented (*Sacramento Old City Association v. City Council of Sacramento* [1991] 229 Cal.App.3d 1011).

It should be noted that the EIR evaluates the Project's potential impacts on plant species with a California Rare Plant Rank of 1 or 2 (see Appendix D of the Final EIR). Last, the CPUC appreciates the comment regarding plant ITPs and has removed this reference from Mitigation Measure 3.4-1a (see the response to Comment LA6-13).

LA6-34 Valley Water recommends that **APM BIO-5: Vehicle Cleaning Prior to Entering Natural Areas** should include adequate decontamination measures to prevent introduction and spread of plant pathogens such as *Phytophthora* into sensitive habitats.

Implementation of APM BIO-5 is required to address a number of the impacts on biological resources, as discussed throughout Section 3.4 of the Final EIR. Proper implementation of mitigation measures, APMs (i.e., those not superseded by mitigation measures), and PG&E BMPs and FPs would be assured through the monitoring and compliance actions required in the CPUC's Mitigation Monitoring, Compliance, and Reporting Program (MMCRP), included as **Appendix G** of the Final EIR.

LA6-35 Valley Water notes that APM BIO-7 references "standard guidelines" for protocol-level surveys but does not identify the source of the standard guidelines. Valley Water asserts that information on the standard guidelines being referenced must be provided. Valley Water adds that Coyote Creek Lagoon is not shown in any maps in the Draft EIR, and that additional SMHM habitats also include Valley Water's Lower Coyote Creek Reach 1A SMHM mitigation site, Waterbird Pond, and areas adjacent to Coyote Creek in the city of Milpitas.

Protocol-level surveys would be conducted during the resource permitting phase of the Project when each jurisdictional agency's most current protocols are known and agency-specific mitigation requirements can be determined. Standard guidelines that may be used for SMHM surveys include *Data Collection Protocols Surveying for the Salt Marsh Harvest Mouse [Reithrodontomys raviventris], California Vole (Microtus californicus), and Other Small Mammals* (Padgett-Flohr et al. 2002).

While the Coyote Creek Lagoon in not explicitly shown on any maps in the EIR, the area is acknowledged and evaluated under "Salt Marsh Harvest Mouse" on page 3.4-68 the Final EIR and also addressed under APM BIO-7 (see also response to Comment LA6-16).

LA6-36 Valley Water suggests that **APM BIO-9: Worker Environmental Awareness (WEAP) Training** should include worker environmental awareness training for all sensitive resources—including but not limited to wildlife, plants, and sensitive habitats—and not just wildlife.

APM BIO-9 is supplemented by **Mitigation Measure 3.4-1e: Construction Worker Environmental Awareness Training Program (WEAP)**, which requires training all personnel about the special-status species, including plants, potentially occurring within the work areas; identification of special-status species and their habitats; a description of the regulatory status and general ecological characteristics of special-status species;

and a review of the limits of construction and measures required to avoid and/or minimize impacts to biological resources within the work area.

LA6-37 Valley Water notes that APM BIO-19 only calls for wetland and aquatic delineation within the California Department of Transportation ROW and suggests that either other federal and state waters delineation areas need to be included or details on why they are excluded need to be explained.

In the Final EIR and in response to Comment O1-4, APM BIO-19 has been revised to expand the boundaries of wetland and aquatic resources delineation on all portions of the Project containing potentially State or Federal jurisdictional waters (i.e., not restricted to California Department of Transportation ROW), as follows:

> **APM BIO-19: Wetland and Aquatic Resources Delineations**
>
> Pursuant to property owner approval, a wetland and aquatic resources delineation will be conducted ~~for the~~ on all portions of the proposed Project ~~Newark to NRS 230 kV AC transmission line within Caltrans ROW~~ containing potentially State or Federal jurisdictional waters. Accurate acreages of vernal pools and RWQCB, CDFW, and USACE jurisdictional waters will be defined from these delineations. Vernal pools and jurisdictional waters shall be marked as a sensitive area and shall be avoided to the extent practicable. If these areas cannot be avoided, applicable permits shall be obtained.

LA6-38 Valley Water comments that Table 6 of the BRTR lacks the appropriate level of detail on vegetation community types, asserting that the types listed are non-specific and do not allow adequate assessment of impacts. Valley Water recommends revising the table with more detailed vegetation community types and identifying which vegetation communities are sensitive communities per CDFW.

The vegetation community types described in the Draft EIR are based on field observations and supporting studies. The Project's potential impacts on sensitive vegetation communities are assessed under Impact 3.4-2 of the Draft EIR to the level required by CEQA at this stage of Project development (CEQA Guidelines Section 15126.2[a]). Please see the responses to comments LA6-4 and LA6-11 for additional discussion of the Project's potential impacts on vegetation communities.

LA6-39 Valley Water suggests revising text on page 127 of the BRTR relating to restoration of disturbed areas, specifically to use the term "decompacted" rather than "recompacted". This comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA. However, it should be noted that APM BIO-1 on Final EIR pages 2-76 and 3.4-43 specifies that work areas shall be *decompacted* [emphasis added] and salvaged topsoil materials shall be respread following recontouring to aid in the restoration of temporary disturbed areas.

LA6-40 Valley Water references text on page 127 of the BRTR regarding the discussion on special-status plant species, specifically about San Joaquin spearscale, Contra Costa goldfields, and saline clover, and suggests clarifying that the San Joaquin spearscale and saline clover occur in alkaline grassland habitats, which are considered sensitive.

"Effects on Special Status Plants" under Impact 3.4-1 of the Final EIR identifies San Joaquin spearscale and saline clover as special-status plant species with moderate potential to occur within the Project area, and specifically notes that these species may also occur in grasslands. The complete description also includes wetlands and vernal pools (e.g., alkaline grasslands) on page 3.4-51 of the Final EIR, as follows (please note that revisions from response to Comment LA6-12 are also reflected below):

> Twelve special-status plant species have moderate ~~to high~~ potential to occur within the study area, but none are expected to occur within the temporary or permanent impact areas. As identified in Section 3.4.2, *Special-Status Species*, most of these plants are associated with wetland, riparian, vernal pool, or estuary habitats. However, Congdon's tarplant, lesser saltscale, San Joaquin spearscale, Contra Costa goldfields, and saline clover may also occur in grasslands.

For these reasons, no changes to the EIR are necessary.

LA6-41 Valley Water references page 128 of the BRTR, noting that protocol-level surveys typically cover at least three rounds of surveys from early spring through late summer, and that the end date of June 15 would not cover late-blooming species. Valley Water recommends that the time window for conducting protocol-level surveys for rare plants be revised to capture the phenology of all potentially occurring species in a given year, and further recommends that reference sites be visited to schedule appropriate timing of surveys to ensure adequate detection.

It should be noted that APM BIO-2, as incorporated in the EIR, does not specify the timing window of February 1 through June 15. APM BIO-2 specifies that the protocol level surveys shall follow standard guidelines for special-status plants that may occur within the Project impact areas during the appropriate blooming period to determine the location and extent of any rare plant populations. Further, APM BIO-2 is supplemented by Mitigation Measure 3.4-1a, which specifies that rare plant surveys shall be conducted by a qualified biologist according to procedures outlined in the CDFW publication *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. These survey(s) would be conducted between April and July in accordance with CDFW protocol and in conjunction with the blooming seasons of those rare plants with moderate potential to occur in the survey area.

LA6-42 Valley Water asserts that annual grassland is not described or mapped in sufficient detail to determine vegetation community type, and that it therefore cannot be verified that this area comprises non-sensitive vegetation communities and that the impact is less than significant. Valley Water recommends providing additional detail on the annual

grassland vegetation community type as well as other vegetation community types listed in the BRTR.

The discussion in the EIR under "Annual Grassland" in Section 3.4.1.1, *Regional Setting*, provides that 12 percent of the study area is annual grassland, and specifies that this annual grassland area is dominated by non-native grasses and forbs along with some native species such as purple needle grass (*Stipa pulchra*) and common fiddleneck (*Amsinckia menziesii*). Table 3.4-4 of the EIR shows that the Project would result in 0.05 acre of permanent impacts and 79.85 acres of temporary impacts on annual grassland.

As discussed on pages 3.4-52 and 3.4-53 of the Final EIR, LSPGC would implement APM BIO-2 and Mitigation Measure 3.4-1a, which would involve focused rare plant surveys in all potentially affected areas during appropriate blooming periods for each species. If rare plants are found, populations would be avoided to the extent practicable. If rare plants are detected and cannot be avoided, including within the Don Edwards NWR along Cushing Parkway, USFWS or CDFW would be consulted for further mitigation steps. Thus, with the implementation of APMs and Mitigation Measure 3.4-1a, in addition to other measures discussed in the EIR, it is anticipated that potential impacts to annual grassland as a result of the Project would be less than significant with mitigation. For these reasons, no changes to the EIR are necessary.

LA6-43 Valley Water comments that the lack of presence/absence survey data on special-status plant species within and adjacent to the Project areas and the lack of detailed mitigation(s) outlining how impacts would be reduced to a less-than-significant level do not allow for rigorous impact analysis. Therefore, Valley Water asserts that additional survey data and mitigation measure(s) are needed.

While focused surveys have not yet been conducted to demonstrate the presence or absence of special-status plants within Project areas that may support such species, LSPGC would implement APMs (e.g., APM BIO-2) and mitigation measures (e.g., Mitigation Measure 3.4-1a) that involve conducting focused rare plant surveys in accordance with CDFW's protocols and, if needed, coordinating with CDFW and/or USFWS staff to establish appropriate avoidance and minimization measures, depending on whether the species is federally and/or state listed. Additional discussion of plant survey requirements is provided above in the response to Comment LA6-41.

Additionally, while Valley Water is correct that presence/absence survey data for special-status plant species will be needed, preparation of such detailed surveys is not required for the preparation of a CEQA document. CEQA does not require the CPUC to conduct every recommended test and perform all recommended research in evaluating a project's environmental impacts (CEQA Guidelines Section 15204[a]). These detailed surveys will be conducted during the Project's resource permitting phase when each jurisdictional agency's most current protocols are known and agency-specific mitigation requirements can be determined. Thus, the information incorporated in the

EIR is sufficient to meaningfully analyze the Project's impacts on biological resources, including special-status plant species.

LA6-44 Valley Water suggests revisions to Figure 14 of the BRTR, asserting that the figure underrepresents the SMHM habitat area, more specifically that the areas immediately to the west and south of the area depicted also serve as SMHM habitat as the species has been previously trapped in these areas. Valley Water further comments that all habitats immediately surrounding these areas provide upland foraging and flood refugia habitat for this species.

In pages 3.4-68 through 3.4-69, the Draft EIR addresses the areas referenced in Valley Water's comment and evaluates the Project's potential impacts on SMHM. Specifically, the text on page 3.4-68 provides that, "[p]otential habitat for SMHM is located west of the proposed alignment in Coyote Creek Lagoon's vicinity, north of the RWF wastewater disposal ponds, and in the Don Edwards NWR (west of the alignment)".

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State of California – Natural Resources Agency
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GAVIN NEWSOM, Governor
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July 23, 2025

Tommy Alexander, Public Utilities Regulatory Analyst
California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Tommy.Alexander@cpuc.ca.gov

Subject: LSPGC Power the South Bay Project, Draft Environmental Impact Report, SCH No. 2024071095, Santa Clara County

Dear Tommy Alexander:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (EIR) from the California Public Utilities Commission (Lead Agency) for the Project pursuant the California Environmental Quality Act (CEQA) and CEQA Guidelines.[1]

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the state. (Fish & G. Code, §§ 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines § 15386, subd. (a).) CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species. (*Id.*, § 1802.) Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources. SA1-1

CDFW is also submitting comments as a **Responsible Agency** under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority over the Project pursuant to the Fish and Game Code. For example, the Project may be subject to CDFW's Lake and Streambed Alteration (LSA) regulatory authority, if the Project impacts the bed, channel or bank of

[1] CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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any river, stream or lake within the State (Fish & G. Code, § 1600 et seq.). Likewise, to the extent the Project may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

REGULATORY REQUIREMENTS

California Endangered Species Act

A CESA Incidental Take Permit (ITP) must be obtained from CDFW if the Project has the potential to result in "take" of plants or animals listed under CESA, either during construction or over the life of the Project. Under CESA, "take" means "hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill." (Fish & G. Code, § 86). CDFW's issuance of an ITP is subject to CEQA and to facilitate permit issuance, any Project modifications and mitigation measures must be incorporated into the CEQA document analysis, discussion, and mitigation monitoring and reporting program. If the Project will impact CESA listed species, early consultation is encouraged, as significant modification to the Project and mitigation measures may be required in order to obtain a CESA Permit.

CEQA requires a mandatory finding of significance if a project is likely to substantially impact threatened or endangered species. Pub. Resources Code, §§ 21001, subd. (c) & 21083; CEQA Guidelines, §§ 15380, 15064 & 15065). In addition, pursuant to CEQA, the Lead Agency cannot approve a project unless all impacts to the environment are avoided or mitigated to less-than-significant levels, or the Lead Agency makes and supports Findings of Overriding Consideration for impacts that remain significant despite the implementation of all feasible mitigation. FOC under CEQA, however, does not eliminate the Project proponent's obligation to comply with the Fish and Game Code.

SA1-1 cont.

Lake and Streambed Alteration

CDFW requires an LSA Notification, pursuant to Fish and Game Code section 1600 et seq., for Project activities affecting rivers, lakes or streams and associated riparian habitat. Notification is required for any activity that may substantially divert or obstruct the natural flow; change or use material from the bed, channel, or bank (including associated riparian or wetland resources); or deposit or dispose of material where it may pass into a river, lake, or stream. Work within ephemeral streams, drainage ditches, washes, watercourses with a subsurface flow, and floodplains is generally subject to notification requirements. In addition, infrastructure installed beneath such aquatic features, such as through hydraulic directional drilling, is also generally subject to notification requirements. Therefore, any impact to the mainstems, tributaries, or

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floodplains or associated riparian habitat caused by the proposed Project will likely require an LSA Notification.

Migratory Birds and Raptors

CDFW has authority over actions that may result in the disturbance or destruction of active bird nest sites or the unauthorized take of birds. Fish and Game Code sections protecting birds, their eggs, and nests include section 3503 (regarding unlawful take, possession, or needless destruction of the nests or eggs of any bird), section 3503.5 (regarding the take, possession, or destruction of any birds-of-prey or their nests or eggs), and section 3513 (regarding unlawful take of any migratory nongame bird). Migratory birds are also protected under the federal Migratory Bird Treaty Act (MBTA).

Fully Protected Species

Several Fully Protected Species (Fish & G. Code § 3511 and 4700) have the potential to occur within or adjacent to the Project area, including, but not limited to: salt-marsh harvest mouse (*Reithrodontomys raviventris*), white-tailed kite (*Elanus leucurus*), golden eagle (*Aquila chrysaetos*), California least tern (*Sternula antillarum browni*), and California Ridgway's rail (*Rallus obsoletus obsoletus*).

Project activities described in the draft EIR should be designed to completely avoid any fully protected species that have the potential to be present within or adjacent to the Project area. Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except as follows:

SA1-1 cont.

- Take is for necessary scientific research;
- Efforts to recover a fully protected, endangered, or threatened species, live capture and relocation of a bird species for the protection of livestock; or
- They are a covered species whose conservation and management is provided for in a Natural Community Conservation Plan (Fish & G. Code, §§ 3511, 4700, 5050, & 5515).

Specified types of infrastructure projects may be eligible for an ITP for unavoidable impacts to fully protected species if certain conditions are met (see Fish & G. Code §2081.15).

CDFW also recommends the draft EIR analyze potential adverse impacts to fully protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors. CDFW recommends that the Lead Agency include in the analysis how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to fully protected species. Project proponents should consult

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with CDFW early in the Project planning process.

SA1-1 cont.

PROJECT DESCRIPTION SUMMARY

Proponent: California Public Utilities Commission

Objective: The Project would include the construction of two new high-voltage direct current (HVDC) terminals and associated new transmission lines which would connect the existing Pacific Gas and Electric Company (PG&E) Newark 230 kilovolt (kV) substation and the existing Silicon Valley Power (SVP) Northern Receiving Station (NRS) 230 kV substation. The transmission line would extend approximately 12 miles alternating between overhead and underground for 2 and 10 miles, respectively. The construction of the transmission line would also include installation and/or modification of 15 overhead transmission structures. In addition, the Project would also include telecommunication infrastructure that would be co-located with the transmission line, which would include two telecommunication fiber optic cables.

SA1-2

Location: Cities of Fremont, Milpitas, San Jose, Santa Clara, Santa Clara County, and GPS coordinates 37°25'44.7"N 121°57'08.6"W.

Timeframe: 2026-2028

COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the Lead Agency in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources.

I. Environmental Setting and Related Impact Shortcoming

Would the Project have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations, or by CDFW or U.S. Fish and Wildlife Service (USFWS)?

SA1-3

COMMENT 1: Nesting Birds

The Project has the potential to disturb special-status species and nesting habitat for birds and raptors. Impacts could occur through direct damage or mortality to birds and nests as well as potential electrocution. Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in the federal MBTA is a violation of Fish and Game Code (§ 3503, 3503.5, 3513).

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Electric distribution lines are typically placed within the range of average bird flight level and are difficult for birds to see. Many birds, particularly raptors and waterbirds, seek out tall perches like distribution poles to hunt for food or perch and roost. Frequent use of poles increases the exposure to energized parts when flying on and off a pole. Nesting material may also cause an electrical connection, or the nest material could catch on fire, killing the bird and damaging the power structure.

Linear features such as generator-tie lines and interior and perimeter fences present collision hazard to birds, and electric lines represent a potential electrocution hazard. The draft EIR should include measures that require all powerlines to be placed underground, if feasible.

SA1-3 cont.

The draft EIR notes that to avoid electrocution risk, Project design includes implementation of the Avian Power Line Interaction Committee (APLIC) measures to space conductors and ground wires sufficiently far apart that raptors or other birds in the area are not able to contact two conductors (or one conductor and a ground wire) to cause electrocution. However, the proposed mitigation measure 3.4-13 does not adequately address risks to birds from powerlines, as this measure is focused on worker education. Additionally, the draft EIR cites outdated 20212 APLIC guidelines. We recommend the use of the latest guidelines, which as of this letter are “Suggested Practices for Avian Protection on Power Lines: State of the Art in 2024” and the APLIC 2025 “Eagle Risk Framework”.

Recommended Mitigation Measure 1: Nesting Bird Surveys

We recommend that APM BIO-12, BIO-13, and BIO-15 be modified to include the language here. If Project-related work is scheduled during the nesting season (typically February 15 to August 30 for small bird species such as passerines; January 15 to September 15 for owls; and February 15 to September 15 for other raptors), a qualified biologist experienced with the applicable species and habitat shall conduct two surveys for active nests of such birds within 14 days prior to the beginning of Project construction, with a final survey conducted within 48 hours prior to construction. Appropriate minimum survey radii surrounding the work area are typically the following: i) 250 feet for passerines; ii) 500 feet for small raptors such as accipiters; and iii) 1,000 feet for larger raptors such as buteos. Surveys shall be conducted at the appropriate times of day and during appropriate nesting times.

SA1-4

Recommended Mitigation Measure 2: Active Nest Buffers

If the qualified biologist documents active nests within the Project area or in nearby surrounding areas, an appropriate buffer between the nest and active construction should be established. The buffer should be clearly marked and maintained until the young have fledged and are foraging independently. Prior to construction, the qualified

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biologist should conduct baseline monitoring of the nest to characterize “normal” bird behavior and establish a buffer distance which allows the birds to exhibit normal behavior. The qualified biologist should monitor the nesting birds daily during construction activities and increase the buffer if the birds show signs of unusual or distressed behavior (e.g., defensive flights and vocalizations, standing up from a brooding position, and/or flying away from the nest). If buffer establishment is not possible, the qualified biologist or construction foreman should have the authority to cease all construction work in the area until the young have fledged and the nest is no longer active.

SA1-4 cont.

Recommended Mitigation Measure 3: Avian Electrocution Assessment

The Lead Agency shall investigate methods to prevent bird nesting and perching on transmission line infrastructure leading to potential electrocution through design changes or installation of deterrents to the greatest extent feasible. All aboveground lines should be fitted with bird flight diverters or visibility enhancement devices. When lines cannot be placed underground, appropriate avian protection designs should be employed. As a minimum requirement, the electrical line system should conform with the most current edition of the APLIC guidelines to prevent electrocutions. Resources may be found on the APLIC website at https://www.aplic.org/mission. CDFW staff are available to assist in determination of measures to protect avian species.

SA1-5

COMMENT 2: Golden Eagle

Impacts on golden eagles (*Aquila chrysaetos*, State Fully Protected and Federally Protected under the Bald and Golden Eagle Protection Act) could occur near Staging Area 9 and Los Esteros Road, where there is a known nest approximately 1,000 feet south of the proposed staging area. A golden eagle pair has successfully nested within the past several years approximately adjacent to the Project site (Menzel and Higgins 2020, Menzel and Higgins 2022). The Project area and surrounding grasslands are within a typical golden eagle pair’s home range (Katzner et al. 2012a, Katzner et al. 2012b) and could potentially support eagle nesting and foraging habitat. See also Comment 1 on nesting habitat and electrocution risks.

Loss of nesting and foraging habitat resulting in take or reduced nesting success (loss or reduced health or vigor of eggs or young).

Take of nesting birds, birds in the orders Falconiformes or Strigiformes, and migratory nongame bird as designated in the federal MBTA is a violation of Fish and Game Code (§ 3503, 3503.5, 3513). The golden eagle is a Fully Protected Species under Fish and Game Code § 3511. Project impacts may result in unmitigated foraging habitat loss, impacts to nesting golden eagles, and cumulative impacts resulting in the restriction in the range of this species. The Project would result in temporary impacts on up to

SA1-6

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approximately 79.85 acres of golden eagle foraging habitat and a permanent loss of approximately 0.05 acre of foraging habitat (annual grassland habitat; Table 3.4-4).

Recommended Mitigation Measure 4: Habitat Assessment and Surveys

The EIR should include a thorough habitat assessment of potential golden eagle nesting and foraging habitat within the Project area and surrounding areas. A qualified biologist should conduct a field assessment that includes all areas that could be directly or indirectly impacted by the Project and include data such as vegetation type, vegetation structure, and evidence of type and abundance of prey.

A qualified biologist should conduct protocol-level surveys in all suitable golden eagle habitat within the Project area and surrounding areas where Project activities could adversely affect eagles during the nesting season (late January to August).

Guidance and resources can be found on our website at Golden Eagles in California, https://wildlife.ca.gov/Conservation/Birds/Golden-Eagles and in consultation with the USFWS Migratory Bird Program.

Recommended Mitigation Measure 5: Compensatory Mitigation

The EIR should include effective compensatory mitigation to offset all eagle habitat loss. A mitigation plan should be prepared in consultation with CDFW and USFWS.

SA1-6 cont.

COMMENT 3: Western Burrowing Owl

The burrowing owl (*Athene cunicularia*) is currently a candidate species under CESA and is afforded the same protection as a CESA-listed species (CEQA Guidelines, §15380, subds.(b)). Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq.

Burrowing owl were formerly numerous throughout the San Francisco (SF) Bay Area region, particularly in the interior east of the Bay. Based on the burrowing owl endangered species petition, the number of breeding burrowing owl pairs in the SF Bay area have declined from 165 in 1993 to less than 25 in 2023. Of the five primary threats it lists, the 2024 Burrowing Owl Petition identifies habitat loss, fragmentation, and degradation as the primary threat to burrowing owl in California.

Small, isolated colonies are vulnerable to extirpation, especially without the influx of immigrants. Fragmented populations are at higher risk of extinction due to factors like reproductive isolation, inbreeding, and increased predation, and environmental factors such as drought or reduced prey density may further threaten these small populations.

SA1-7

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Known populations of burrowing owl occur within and adjacent to the Project area, including the grasslands south of the San Jose-Santa Clara Regional Wastewater Facility and other suitable habitat. Direct impacts on burrowing owl could occur within suitable native and non-native grassland habitat around the existing PG&E Newark 230 kV Substation, Don Edwards NWR along Cushing Parkway, the Santa Clara Police Activities League BMX track, areas of the former Santa Clara Golf and Tennis Club, north of the PG&E Newark 230 kV Substation, and Staging Area 9. Burrowing owl nest near Staging Area 9 and the underground transmission line in Los Esteros Road, at a nearby burrowing owl conservation area.

The Project includes grassland and herbaceous vegetation that may be burrowing owl habitat. Direct mortality could occur through crushing of adults or young within burrows, loss of nesting burrows, loss of nesting habitat, loss of foraging habitat resulting in reduced nesting success (loss or reduced health or vigor of eggs or young), nest abandonment, and reduced frequency or duration of care for young resulting in reduced health or vigor of young. Because of their highly specialized, ground-dwelling lifestyle and dependence on underground tunnels, burrowing owl are extremely vulnerable to direct and indirect impacts of grading, disking, tilling, earthmoving, burrow blockage, and eradication of ground squirrels. The construction of the substation perimeter fence could deter burrowing owl from nesting in grassland habitat near the existing PG&E Newark 230 kV Substation and potentially expose them to predatory raptors.

SA1-7 cont.

The Project would result in temporary impacts on up to approximately 79.85 acres 2025, potentially suitable nesting and foraging habitat for burrowing owl and the permanent loss of up to 0.05 acre of potentially suitable nesting and foraging habitat.

Recommended Mitigation Measure 6: Habitat Assessment and Surveys

The EIR should add a measure to include a thorough habitat assessment of potential burrowing owl habitat within and adjacent to the Project area. A professional biologist experienced with burrowing owl and their habitat should conduct a field assessment that includes all areas that could be directly or indirectly impacted by the Project and include data such as vegetation type, vegetation structure and presence of burrows. Specific information on habitat assessment, burrowing owl survey methods, buffer distances and mitigation is provided in the CDFW Staff Report on Burrowing Owl Mitigation, dated March 7, 2012, and available at https://wildlife.ca.gov/Conservation/Survey-Protocols#377281284-birds.

Recommended Mitigation Measure 7: Compensatory Mitigation

CDFW highly recommends that the Project proponent obtain take authorization from CDFW through issuance of an ITP if full avoidance of take during construction and/or operations is not feasible. The EIR must include all biologically appropriate and feasible

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take avoidance measures. If permanent or temporary impacts of the proposed Project to burrowing owl foraging and/or nesting habitat cannot be completely avoided, the EIR should include measures to minimize the impacts of construction on owls and their habitat, and effective compensatory mitigation to offset all habitat loss. A mitigation plan should be prepared in consultation with CDFW.

SA1-7 cont.

COMMENT 4: State Listed Fish Species

State listed fish species known to be present in the Project area, including green sturgeon (*Acipenser medirostris*), white sturgeon (*Acipenser transmontanus*), Sacramento hitch (*Lavinia exilicauda exilicauda*), Sacramento splittail (*Pogonichthys macrolepidotus*), steelhead - central California coast Distinct Population Segments (*Oncorhynchus mykiss,* DPS) and longfin smelt (*Spirinchus thaleichthys*) along the South Bay shoreline and throughout the Don Edwards San Francisco Bay National Wildlife Refuge.

The draft EIR does not include white sturgeon. The white sturgeon is currently a candidate species under CESA and is afforded the same protection as a CESA-listed species (CEQA Guidelines, §15380, subds.(b)). Unauthorized take of this species pursuant to CESA is a violation of Fish and Game Code section 2080 et seq.

White sturgeon are commonly caught in marshes in the south bay. They occasionally are found in tidal riverine and estuarine habitats of larger tributary streams such as Coyote Creek and Guadalupe River in the South Bay and Napa and Petaluma Rivers and Sonoma Creek in the North Bay (Leidy 2007). These habitats consist primarily of shallow water habitats that provide opportunities for benthic feeding on opossum shrimp (*Mysida*) and amphipods (*Amphipoda*). Foraging movements are presumably in response to salinity changes (Moyle 2002) associated with tides and seasonal outflow. In dry years, white sturgeon follow brackish waters upstream and the opposite occurs in wet years (Kohlhorst et al. 1991). Adults tend to concentrate in deep areas with soft bottoms and often move into intertidal or shallow subtidal areas to feed during high tides (Moyle 2002).

SA1-8

The south bay serves as nursery habitat for a number of these species and project impacts could occur as direct and indirect impacts from construction equipment, pile driving, dredging, stranding from water diversion, and erosion impacts to water quality.

Construction activities would either cross or occur in the vicinity of Coyote Creek, the Guadalupe River, Lower Penitencia Creek, Agua Caliente Creek, Mallard Slough, and other unnamed streams or drainage ditches that could be used by fish species. Activities including horizontal directional drilling or jack-and-bore trenchless techniques could impact fish in the Project area. Special-status fish species could be directly

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affected by the occurrence of a frac-out (i.e., an unintentional release of drilling fluids, typically bentonite, to the ground surface) during drilling.

Indirect impacts on steelhead, longfin smelt, and green sturgeon during construction could include decreased water quality and habitat suitability in the Project's vicinity caused by spills or leaks into waterways, increased noise and vibration from construction activities, and increased human activity.

SA1-8 cont.

Recommended Mitigation Measure 8: Work Windows and Compensatory Mitigation

The draft EIR should include mitigation measures to avoid potential impacts to aquatic species for construction methods such as pile driving and dredging. In-water construction shall only occur during the CDFW approved work window of June 1 through November 30. If horizontal directional drilling or jack-and-bore trenchless techniques are likely to impact state listed species such as longfin smelt, white sturgeon and Chinook salmon (*Oncorhynchus tshawytscha*), the Lead Agency shall consult with CDFW regarding a CESA ITP for potential impacts and compensatory mitigation.

SA1-9

COMMENT 5: Crotch's bumble bee

Crotch's bumble bee are candidate species under CESA (CEQA Guidelines, §15380, subds. (c)(1)). Crotch's bumble bee occurrences have been documented within the vicinity of the Project area and historic observations occur elsewhere in Santa Clara County (CDFW 2023, County). The Project location is within the Crotch's bumble bee range (https://wildlife.ca.gov/Conservation/CESA) and grassland within and adjacent to the Project area may contain potential habitat for Crotch's bumble bee. Suitable habitat is present at the PG&E Newark 230 kV Substation in staging areas, and grassland along the transmission line alignment. Grassland habitat associated with the Don Edwards NWR alongside Cushing Parkway would be mowed and directly affected during construction.

The Project includes ground disturbance that may occur within ruderal grass and herbaceous vegetation and that may be potential Crotch's bumble bee nesting and foraging habitat. Potential impacts include direct mortality through crushing or filling of active bee colonies and hibernating bee cavities, reduced reproductive success, loss of suitable breeding and foraging habitats, loss of native vegetation that may support essential foraging habitat.

CDFW recommends adding these measures below to APM BIO-16: Special-Status Invertebrate Surveys.

SA1-10

Recommended Mitigation Measure 9: Habitat Assessment

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A habitat assessment shall be conducted by a qualified entomologist knowledgeable with the life history and ecological requirements of Crotch's bumble bee. The habitat assessment shall include all suitable nesting, overwintering, and foraging habitats within the Project area and surrounding areas. Potential nest habitat (February through October) could include that of other *Bombus* species such as bare ground, thatched grasses, abandoned rodent burrows or bird nests, brush piles, rock piles, and fallen logs. Overwintering habitat (November through January) could include that of other *Bombus* species such as soft and disturbed soil or under leaf litter or other debris. The habitat assessment shall be conducted during peak bloom period for floral resources on which Crotch's bumble bees feed. Further guidance on habitat surveys can be found within *Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species* (https://wildlife.ca.gov/Conservation/CESA).

Recommended Mitigation Measure 10: Herbicide Application

To minimize impacts to bumble bees, avoid the bloom periods for herbicide application and mowing activities. If this is not possible, CDFW recommends that the Project obtain take authorization under an ITP, pursuant to Fish and Game Code section 2081 subdivision (b).

Recommended Mitigation Measure 11: Avoidance of Nesting Colonies

CDFW recommends that inactive small mammal burrows and thatched/bunch grasses be avoided whenever feasible. If an inactive burrow may be disturbed by Project activities, it should be resurveyed for Crotch's bumble bee presence within seven days prior to the scheduled disturbance. If Crotch's bumblebee has been detected during surveys, the qualified entomologist should identify the location of all nests in or adjacent to the Project site. If nests are identified, 45-foot no-disturbance buffer zones should be established around nests to reduce the risk of disturbance or accidental take. If Project activities may result in disturbance or potential take, the qualified entomologist should expand the buffer zone as necessary to prevent disturbance or take.

Recommended Mitigation Measure 12: Take Authorization and Compensatory Mitigation

If surveys document presence of Crotch's bumblebee within the Project area, due to the difficulty of completely avoiding take of individuals of the species, CDFW strongly recommends that the Project proponent apply for an ITP under CESA to provide take authorization for Crotch's bumblebee as a covered species. The Lead Agency shall coordinate with CDFW on the appropriate level of compensatory mitigation.

SA1-10 cont.

COMMENT 6: Sensitive Natural Plant Communities

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The Project would go through habitat for rare species, including federally endangered species. The Native Plant Protection Act (NPPA) (Fish & G. Code §1900 *et seq*.) prohibits the take or possession of state-listed rare and endangered plants, including any part or product thereof, unless authorized by CDFW or in certain limited circumstances. Take of state-listed rare and/or endangered plants due to Project activities may only be permitted through an ITP or other authorization issued by CDFW pursuant to California Code of Regulations, Title 14, section 786.9 subdivision (b).

Impacts to special-status plant species should be considered significant under CEQA unless they are clearly mitigated below a level of significance. CDFW considers plant communities, alliances, and associations with a statewide ranking of S1, S2, S3, and S4 as sensitive and declining at the local and regional level (Sawyer 2009).

Additionally, plants that have a California Native Plant Society (CNPS) California Rare Plant Rank (CRPR) of 1A, 1B, 2A, and 2B are rare throughout their range, endemic to California, and are seriously or moderately threatened in California. All plants constituting CRPR 1A, 1B, 2A, and 2B are eligible for State listing. Impacts to these species or their habitat must be analyzed during preparation of environmental documents relating to CEQA, as they meet the definition of rare or endangered (CEQA Guidelines, § 15380). Please see CNPS, https://www.cnps.org/rare-plants (CNPS 2022) page for additional rank definitions. SA1-11

Plants included in the draft EIR are brittlescale, lesser saltscale, Congdon's tarplant, Point Reyes salty bird's-beak, Hoover's button-celery, San Joaquin spearscale; Contra Costa goldfields, prostrate vernal pool navarretia, long-styled sand-spurrey, California alkali grass, and saline clover.

In response to the Notice of Preparation (NOP), CDFW submitted the following recommended mitigation measures. These were not included in the draft EIR. We are reiterating them here.

Focused protovcol-level surveys have not been conducted to demonstrate the absence of special-status plants from areas that may support such species. If these special-status plants are present within or immediately outside the Project area, direct impacts include the destruction of individuals or groups of plants within the immediate Project footprint. Indirect impacts include the degradation of habitat for special-status plants outside of the disturbance area and the introduction of nonnative weed

Recommended Mitigation Measure 13: Buffers

To avoid indirect impacts to special-status plants, an appropriate buffer distance should be established between the special-status plant occurrence and the Project impact areas. Appropriate buffer distance should be based upon review of site-specific conditions (e.g. special-status plants located downstream, inland, or in lower elevational

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areas in relation to the impact location, special-status plants being down wind of earth moving activities, and other conditions).

Recommended Mitigation Measure 14: Compensatory Mitigation and Revegetation

A review of protocol-level survey results should be conducted to establish appropriate compensatory mitigation ratios specific to each special-status plant species. Compensatory mitigation ratios should be developed based on the biological factors specific to each species and should be sufficient to compensate for the loss of those species. Appropriate compensatory mitigation should be through preservation and protection in perpetuity of equal or higher quality habitat, or through creation, enhancement, and/or restoration. A mitigation and monitoring plan should be developed, reviewed and approved by CDFW prior to any ground disturbance, and include success criteria to be met at the end of the monitoring period. If success criteria are not met, the mitigation plan should include adaptive management actions along with additional years of monitoring as well as additional mitigation for the temporal loss.

SA1-11 cont.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDB). The CNDDB field survey form can be filled out and submitted online at the following link: https://wildlife.ca.gov/Data/CNDDB/Submitting-Data. The types of information reported to CNDDB can be found at the following link: https://www.wildlife.ca.gov/Data/CNDDB/Plants-and-Animals.

SA1-12

ENVIRONMENTAL DOCUMENT FILING FEES

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the environmental document filing fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, § 753.5; Fish & G. Code, § 711.4; Pub. Resources Code, § 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the draft EIR to assist the Lead Agency in identifying and mitigating Project impacts on biological resources.

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Questions regarding this letter or further coordination should be directed to Marcus Griswold, Senior Environmental Scientist (Specialist), at (707) 815-6451 or Marcus.Griswold@wildlife.ca.gov.

Sincerely,

DocuSigned by:
Erin Chappell
B77E9A6211EF486...

Erin Chappell
Regional Manager
Bay Delta Region

Attachment 1: Special-Status Species and Commercially/Recreationally Important Species

ec: Office of Land Use and Climate Innovation (SCH No. 2024071095)
Craig Weightman, CDFW Bay Delta Region – Craig.Weightman@wildlife.ca.gov
Jason Faridi, CDFW Bay Delta Region – Jason.Faridi@wildlife.ca.gov

REFERENCES

Avian Power Line Interaction Committee website at https://www.aplic.org/mission - "Suggested Practices for Avian Protection on Power Lines: State of the Art in 2024" and the APLIC 2025 "Eagle Risk Framework"..

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ATTACHMENT 1

Special-Status Species

Species	Status
Fish and Invertebrates	
Crotch's bumble bee (*Bombus crotchii*)	State candidate (SC)
green sturgeon – southern DPS (Acipenser medirostris pop. 1)	Federally Threatened (FT), State Species of Special Concern (SSC)
steelhead - central California coast DPS (*Oncorhynchus mykiss irideus*)	FT, SSC
longfin smelt (*Spirinchus thaleichthys*)	Proposed FT, State Threatened (ST)
white sturgeon (*Acipenser transmontanus*)	SC
Sacramento hitch (Lavinia exilicauda exilicauda)	SSC
Sacramento splittail (*Pogonichthys macrolepidotus*)	SSC
Birds	
Cooper's hawk (*Accipiter cooperii*)	State Watch List
Alameda song sparrow (*Melospiza melodia pusillula*)	SSC
black skimmer (*Rynchops niger*)	SSC
burrowing owl (*Athene cunicularia*)	SSC
California least tern (*Sternula antillarum browni*)	FE, State Fully Protected (FP)
California Ridgway's rail (*Rallus obsoletus obsoletus*)	FE, State Endangered (SE), FP
California black rail (*Laterallus jamaicensis coturniculus*)	ST, SSC
golden eagle (*Aquila chrysaetos*)	FP
grasshopper sparrow (*Ammodramus savannarum*)	SSC

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Species	Status
northern harrier (*Circus hudsonius*)	SSC
saltmarsh common yellowthroat (*Geothlypis trichas sinuosa*)	SSC
tricolored blackbird (*Agelaius tricolor*)	ST, SSC
western snowy plover (*Charadrius nivosus nivosus*)	FT, SSC
white-tailed kite (*Elanus leucurus*)	FP
Mammals	
pallid bat (*Antrozous pallidus*)	SSC
salt-marsh harvest mouse (*Reithrodontomys raviventris*)	Federal Endangered (FE), FP
San Francisco dusky-footed woodrat (*Neotoma fuscipes annectens*)	SSC
salt-marsh wandering shrew (*Sorex vagrans halicoetes*)	SSC
Townsend's big-eared bat (*Corynorhinus townsendii*)	SSC
Reptiles and Amphibians	
western pond turtle (*Emys marmorata*)	Proposed FT, SSC
Plants	
Brittlescale (*Atriplex depressa*)	1B.2
Lesser saltscale (*Atriplex minuscula*)	1B.1
California alkali grass (*Puccinellia simplex*)	1B.2
California seablite (*Suaeda californica*)	FE, 1B.1
Congdon's tarplant (*Centromadia parryi ssp. congdonii*)	1B.1

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Species	Status
Contra Costa Goldfields (*Lasthenia conjugens*)	FE, 1B.1
Hoover's button-celery (*Eryngium aristulatum var. hooveri*)	1B.1
Point Reyes salty bird's-beak (*Chloropyron maritimum ssp. palustre*)	1B.2
Long-styled sand-spurrey (*Spergularia macrotheca var. longistyla*)	1B.2
Prostrate vernal pool navarretia (*Navarretia prostrata*)	1B.2
saline clover (*Trifolium hydrophilum*)	1B.2
San Joaquin spearscale (*Extriplex joaquiniana*)	1B.2

Letter SA1: California Department of Fish and Wildlife

SA1-1 CDFW identifies its role as California's Trustee Agency and as a Responsible Agency for the Project. CDFW comments further by providing potential regulatory requirements for the Project, including the California Endangered Species Act (CESA), Lake and Streambed Alteration, and those related to migratory birds and raptors.

CDFW notes the potential for Fully Protected species within the Project area, including salt marsh harvest mouse (*Reithrodontomys raviventris*), white-tailed kite (*Elanus leucurus*), golden eagle (*Aquila chrysaetos*), California least tern (*Sternula antillarum browni*), and California Ridgway's rail (*Rallus obsoletus obsoletus*) and the requirement that these species be completely avoided unless take is for specific listed purposes.

Further, CDFW recommends that the Draft EIR should analyze potential adverse impacts to Fully Protected species due to habitat modification, loss of foraging habitat, and/or interruption of migratory and breeding behaviors, how appropriate avoidance, minimization and mitigation measures will reduce indirect impacts to Fully Protected species, and Project proponents should consult with CDFW early in the planning process.

It should be noted that the Draft EIR discloses the potential to occur in the Project area for six Fully Protected species and provides avoidance measures for these species, including seasonal avoidance of breeding areas, full-time monitoring, and protective buffers. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CDFW's input. This input has been considered in the development of the Final EIR and will be considered as part of the CPUC decision-making process.

SA1-2 CDFW states that the Project would include construction of two new high-voltage direct current (HVDC) terminals. In fact, although the HVDC terminals were initially a part of LSPGC's original CPCN application, and were part of the Project at the time of public and agency scoping period (from July 29, 2024 through August 30, 2024), in response to updated projections from its 2024-2025 transmission planning process, the CAISO Board of Governors subsequently approved a modified version of the Project that no longer required the HVDC terminals. Therefore, the Project evaluated in the Draft EIR does not include the HVDC terminals. The Project's 230 kV AC transmission line would directly connect the existing PG&E Newark 230 kV Substation to the existing SVP NRS 230 kV Substation.

SA1-3 CDFW expresses concern that **Mitigation Measure 3.4-1e: Construction Worker Environmental Awareness Training Program** does not adequately address risks to birds from power lines. CDFW is correct that Mitigation Measure 3.4-1e, which focuses on worker training, does not adequately address risks to birds from power lines. Under Impact 3.4-7, which addresses collision and electrocution risk to birds, the Draft EIR

references the Project Description, which includes adherence to Avian Power Line Interaction Committee (APLIC) guidelines to be incorporated into the Project design (Section 2.6.2.3, p. 2-20). APLIC guidelines include design spacing to avoid potential for bird electrocution and visibility deterrent to minimize risk from collision. CDFW further notes that the 2012 APLIC guidelines have been superseded by 2024 and 2025 guidelines.

The Draft EIR cites the version of the guidelines in effect as of the date of the Notice of Preparation (July 29, 2024) (CEQA Guidelines Section 15125). As of September 2025, the current versions of the guidelines are *Suggested Practices For Avian Protection on Power Lines: State of the Art in 2024* (2024) and *Eagle Risk Framework* (2025).

Although the 2024 and 2025 APLIC guidelines were not released and available at the time Draft EIR analysis was prepared, the Project Description in the Final EIR has been revised to state that,"[t]he most current guidelines available at the time of construction would be implemented to protect birds from collision and electrocution." As such, text in Final EIR page 2-20 has been revised as follows:

> Appropriate methods to reduce the risks of avian collisions would be incorporated into the Project design, consistent with recommendations made by the Avian Power Line Interaction Committee (APLIC 2018; APLIC 2012), where appropriate. Conductors and ground wires would be spaced sufficiently far apart so that raptors would not be able to contact two conductors or one conductor and a ground wire, causing electrocution (APLIC 2006). The most current guidelines available at the time of construction would be implemented to protect birds from collision and electrocution.

Additionally, text has been added to Section 2.16, *References*, in Final EIR page 2-93, as follows:

> APLIC (Avian Power Line Interaction Committee). 2018. Eagle Risk Framework: A Practical Approach for Power Lines.

SA1-4 CDFW recommends revising **APM BIO-12: Nesting Bird Protection Measures**, **APM BIO-13: Raptor Surveys**, and **APM BIO-15: Nesting Bird Surveys** to include specific nesting bird survey requirements related to survey dates, the number of required surveys, and survey buffer sizes. APM BIO-12 and APM BIO-15 include a nesting season estimate of February 15 to August 31, and APM BIO-15 states that LSPGC shall consult with CDFW and U.S. Fish and Wildlife Service (USFWS) for listed species. **PG&E Best Management Practice (BMP) BIO-1: Burrowing Owl** includes additional year-round survey requirements for burrowing owls.

Relative to avian survey requirements, as stated in Draft EIR page 3.4-47, PG&E would implement PG&E BMPs and field protocols (FPs) derived from the PG&E San Francisco Bay Area Operations and Maintenance Habitat Conservation Plan (PG&E Bay Area O&M HCP), with avian survey and avoidance buffers implemented

consistent with the PG&E Nesting Bird Management Plan (PG&E BMP BIO-2: Nesting Birds). **APM BIO-14: Golden Eagle Protection** cites a 1-mile no-disturbance buffer around golden eagle nests, which informs the survey distance for this species, and APM BIO-13 cites a 500-foot survey buffer for other raptors.

For avian surveys, PG&E would follow BMPs and FPs from the PG&E Bay Area O&M HCP, including survey methods and avoidance buffers outlined in the PG&E Nesting Bird Management Plan (PG&E BMP BIO-2). APM language is provided by LSPGC and can only be modified during CEQA review by LSPGC or modified with LSPGC's consent. However, the CPUC can augment an APM with its own mitigation measures if the APM is deemed inadequate to meet CEQA environmental protection standards. The Draft EIR determined that the avian survey methods and buffer zones, as outlined in the APMs and PG&E BMPs and FPs, include biological monitoring and adequate buffer distances, which would incorporate CDFW recommendations for special-status birds, and together, these measures would adequately protect nesting birds.

SA1-5 CDFW advises incorporating the most current APLIC guidelines to prevent bird electrocution on overhead powerlines; however, the input received does not identify any inadequacies in the Draft EIR analysis in this regard. As stated in response to Comment SA1-3, the Project would implement the most current APLIC guidelines available at time of Project approval.

SA1-6 CDFW reiterates the statement within the Draft EIR that there is a known golden eagle nest approximately 1,000 feet south of the proposed Staging Area 9; that the Project area and surrounding grasslands are within a typical golden eagle pair's home range; and that grasslands could support eagle foraging habitat. Thus, the Project could result in loss of nesting or foraging habitat, as well as electrocution risks. CDFW recommends a habitat assessment of potential golden eagle nesting and foraging habitat within the Project area and surroundings, and protocol-level golden eagle surveys during nesting season.

The Draft EIR includes APM BIO-14 for golden eagle, which would involve maintaining a 1-mile buffer around any active golden eagle nests or installing a visual barrier outside of nesting season and maintaining biological monitoring to ascertain any distress in nesting eagles. The biological monitor would have the ability to halt construction and implement additional protective steps, as needed. In addition, under **Mitigation Measure 3.4-1d: Protection of Special-status Wildlife**, a preconstruction survey would be conducted for all special-status species with moderate or high potential to occur, including golden eagle. Electrocution risk would be avoided by implementation of current APLIC measures, as discussed in the response to Comment SA1-3. With implementation of these measures, potential impacts on the golden eagle would be reduced to a less-than-significant level.

CDFW also recommends compensatory mitigation for habitat loss for golden eagles. While temporary impacts would occur to approximately 79.85 acres of foraging habitat, permanent impacts would occur to only 0.05 acre of grassland foraging habitat. These areas are small in relation to the vast open spaces (approximately 30,000 acres) of the nearby Don Edwards National Wildlife Refuge, which would be available to foraging eagles and other raptors during and after Project construction. Within the context of available foraging habitat, permanent impacts on 0.05 acre of such habitat are considered negligible (representing approximately 0.0002 percent of the Project footprint) and do not warrant compensatory mitigation.

SA1-7 CDFW notes that burrowing owls are known to occur within and adjacent to the Project area, including in grasslands south (and west) of the RWF, and that the species has high potential to occur in grasslands near the Project area in numerous locations. CDFW recommends a habitat assessment of potential burrowing owl habitat according to CDFW guidance within the Project area and surroundings, and pursuance of a state Incidental Take Permit (ITP) for take authorization if full avoidance is not feasible. If impacts cannot be completely avoided, CDFW further recommends compensatory mitigation to offset habitat loss.

As stated in Draft EIR page 3.4-65, preconstruction surveys would be conducted for burrowing owl in suitable habitat(s). **APM BIO-11: Special-Status Bird Surveys** includes burrowing owl protocol surveys as a condition of Project approval. Burrowing owl protections may be implemented at Staging Area 9 and Los Esteros Road, such as constructing berms or placing hay bales to shield known breeding and foraging areas from construction activities. Additional APMs would also protect burrowing owls during construction by mandating worker training, restricting speed limits, and establishing nest buffers consistent with CDFW guidance. APM BIO-11 requires that the Project acquire "take" coverage if complete avoidance is not possible.

Additionally, **APM BIO-3: Rare Plant Surveys**, requires the Project to seek take coverage under the Santa Clara Valley Habitat Conservation Plan (SCVHCP, also referred to as "Santa Clara Valley HCP" and "Santa Clara Valley Habitat Plan [SCVHP]" in this EIR) for covered species such as burrowing owl, or to consult with CDFW or USFWS. The Project would comply with all requirements of the SCVHCP or the applicable ITP. With the implementation of these measures, impacts on burrowing owl would be reduced to a less-than-significant level.

As noted in the response to Comment SA1-6, within the context of available foraging habitat, permanent impacts on 0.05 acre are considered negligible (representing approximately 0.0002 percent of the Project footprint) and do not warrant compensatory mitigation.

SA1-8 CDFW points out that the Draft EIR does not include the state candidate white sturgeon (*Acipenser transmontanus*), as well as Sacramento hitch and Sacramento splittail, both California Species of Special Concern. CDFW also points out that Project construction

could harm fish species during directional drilling in the event of a frac-out; habitat damage; or loss from spills, leaks, or human disturbance.

While white sturgeon is not specifically discussed under impacts, Draft EIR page 3.4-58 states that the discussion applies to all special-status fish species "(e.g., steelhead, longfin smelt, and green sturgeon)" and impacts to white sturgeon, Sacramento hitch, and Sacramento splittail, if present, would be addressed by the same avoidance measures as these other special-status fish species. To further address this comment, white sturgeon is added to **Appendix D** as a state candidate threatened species, as follows:

APPENDIX D
SPECIAL-STATUS SPECIES WITH POTENTIAL TO OCCUR AT THE PROJECT AREA

White sturgeon *Acipenser transmontanus*	--/CPT	Found along West Coast, from northern Mexico up to the Aleutian Islands. Primarily live in estuaries of large rivers in deep, soft-bottomed areas of estuaries, where movements in water column depend on salinity. Migrate to spawn in freshwater.	Year-round	**Low.** The Project area has suitable habitat in tidally-influenced waters but species has not been recorded in this area.

SA1-9 CDFW recommends application of the CDFW-approved work window of June 1 through November 30, and that the Project pursue an ITP if the Project is likely to impact state-listed fish species. **APM BIO-17: Wetland, Vernal Pool, and Waterway Construction Timing Restrictions** includes a work window of May 1 to October 15 and notes that work would be restricted to "the dry season" whenever possible. The text of APMs cannot be modified by the CPUC, but CDFW-approved work window dates specified in the Project's resource permits would be applied. Regarding the ITP, the following statement has been added to Final EIR page 3.4-59 as follows:

> Finally, APM BIO-17 would restrict construction, including directional drilling, in the vicinity of waterways to the dry season from May 1 to October 15, when special-status fish are least likely to be present. If construction cannot be avoided at other times, sensitive aquatic areas would be marked and avoided and biological monitors would be present to ensure they were not impacted (APM BIO-17). Additionally, LSPGC would implement Mitigation Measure 3.4-1c, which would require LSPGC or its contractors to prepare and submit a frac-out plan to the CPUC to prevent and address potential inadvertent frac-outs. If unavoidable impacts to state- or federal-listed fish species are anticipated, LSPGC would pursue take coverage from state and/or federal authorities, as applicable.

SA1-10 CDFW notes that the Project is within the Crotch's bumble bee range and may contain habitat for this species, which could be impacted, if present. CDFW recommends mitigation measures, including that **APM BIO-16: Special-Status Invertebrate Surveys** be modified to include the requirement for a qualified entomologist to conduct surveys according to state guidance. CDFW further recommends maintenance of a 45-foot no-disturbance buffer zone around nests, and avoidance of herbicide application

and mowing activities during blooming season. If avoidance cannot be maintained, CDFW recommends applying for an ITP under CESA.

APM BIO-16 states that "protocol surveys using standard guidance" would be used to conduct surveys. These surveys would be required to adhere to CDFW guidance regarding survey protocol and buffers put forth in the Project's permit, as requested in this comment. In addition, APM BIO-16 states that if impacts are identified to state-listed invertebrates during surveys, take coverage under an ITP would be pursued in consultation with CDFW. This approach is consistent with CDFW's recommended mitigation measures.

SA1-11 CDFW notes that the Project would pass through habitat for rare plant species, including listed species and CNPS-ranked rare plants, and that focused protocol-level surveys have not been conducted to demonstrate the absence of special-status plants protected under the Native Plant Protection Act from areas that may support them. Because protocol-level surveys have not been conducted to demonstrate the absence of rare plants, they may be impacted directly or indirectly by Project construction, if present. CDFW recommends mitigation including appropriate avoidance buffers based on site conditions, and compensatory mitigation for any loss of rare plants, including preservation and protection of habitat and development of a mitigation and monitoring plan to be approved by CDFW.

The Draft EIR includes **APM BIO-2: Rare Plant Surveys**, which requires protocol rare plant surveys for special-status plants during the appropriate blooming period. This APM is supplemented by **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**, which states that the rare plant surveys shall be floristic, in accordance with CDFW protocol, specifically *Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities*. If a rare, threatened, or endangered plant species is found and cannot be avoided, the Project shall consult with CDFW and/or USFWS to obtain an ITP. Mitigation Measure 3.4-1a includes potential avoidance and minimization measures for rare plants, if found, such as no-disturbance buffers, protective fencing, erosion control, and collection of seed for replanting. **Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring** further requires submittal of a Restoration Plan to CDFW detailing compensatory mitigation for riparian and wetland habitat, invasive species control, and success criteria.

Although the measures in the Draft EIR are not identical to those provided in Comment SA1-11 and the scoping letter provided by CDFW (dated August 30, 2024), these measures provide the requested floristic surveys, avoidance and minimization measures, and agency consultation, as well as restoration following construction, which would be sufficient to reduce impacts to less-than-significant levels.

SA1-12 CDFW notes that CEQA requires information developed in EIRs and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. CDFW requests to report any special-

status species and natural communities detected during Project surveys to the California Natural Diversity Database. CDFW also notes that the Project, as proposed, would have an impact on fish and/or wildlife, and assessment of environmental document filing fees is necessary. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CDFW's input, and it will be considered as part of the decision-making process. The CPUC agrees to coordinate the payment of the environmental document filing fees to CDFW upon Project approval. Any fees related to separate Project permitting efforts would be the responsibility of LSPGC.

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July 24, 2025

File Ref: SCH #2024071095

California Public Utilities Commission
Tommy Alexander
505 Van Ness Avenue
San Francisco, CA 94102

VIA ELECTRONIC MAIL ONLY (Tommy.Alexander@cpuc.ca.gov)

Subject: Draft Environmental Impact Report for the LS Power Grid California Power the South Bay Project, Alameda and Santa Clara Counties

Dear Tommy Alexander:

The California State Lands Commission (Commission) staff has reviewed the subject Draft Environmental Impact Report (DEIR) for the LS Power Grid California (LSPGC) Power the South Bay Project (Project), which is being prepared by the California Public Utilities Commission (CPUC). The CPUC, is the lead agency under the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.) The Commission is a trustee agency for projects that could directly or indirectly affect State sovereign lands and their accompanying Public Trust resources or uses. Additionally, because the Project involves work on State sovereign land under the Commission's jurisdiction, the Commission will act as a responsible agency. SA2-1

Commission Jurisdiction and Public Trust Lands

The Commission has jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways. The Commission also has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions (Pub.

Resources Code, §§ 6009, subd. (c); 6009.1; 6301; 6306). All tidelands and submerged lands, granted or ungranted, as well as navigable lakes and waterways, are subject to the protections of the common law Public Trust Doctrine.

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all people of the state for statewide Public Trust purposes, which include but are not limited to waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. On tidal waterways, the State's sovereign fee ownership extends landward to the mean high tide line (MHTL), except for areas of fill or artificial accretion or where the boundary has been fixed by agreement or a court. Such boundaries may not be readily apparent from present day site inspections. SA2-1 cont.

Based on Staff's review of the submitted information and internal records, the proposed Project includes four proposed Horizontal Directional Drilling (HDD) crossings that would extend onto State sovereign lands. The DEIR identifies these as: HDD Crossing 1 at Coyote Creek near 4275 Cushing Parkways, HDD Crossing 5 south of Coyote Creek Lagoon, HDD Crossing 6 at Coyote Creek near 1601 Dixon Landing Road, and HDD Crossing 8 at the Guadalupe River adjacent to and north of State Route 237. Additionally, a proposed temporary workspace and splice vault would also utilize a parcel of State sovereign lands adjacent to the Guadalupe River acquired from the Santa Clara County Flood Control and Water District. Commission authorization will be required in the form of a new lease for the portions of the proposed Project at the aforementioned locations. Staff received a lease application on June 4, 2025, and will continue to review and process it. SA2-2

Potential Land Use Conflicts

Please note that the various proposed crossings that will require Commission authorization are also subject to other leases with existing authorizations. While the Commission seeks to lease public lands under a doctrine of non-exclusivity, staff also seek to ensure that competing uses of these lands do not directly conflict. To ensure there are no conflicting uses proposed with any existing leases, LSPGC will be required to obtain letters of concurrence from each of the following lessees acknowledging and agreeing to any proposed construction activities and uses within the areas subject to Commission jurisdiction. Please see SA2-3

the contact information at the end of the letter for further information and questions.

HDD Crossing 1 is subject to two other leases with authorization for various uses:

- Lease 2370, a General Lease – Right-of-Way Use to the Alameda County Flood Control and Water Conservation District, for a flood control channel
- Lease 8174, a General Lease – Public Agency Use to the City of Fremont, for the widening of Cushing Road

HDD Crossing 5 is subject to two other leases with authorization for various uses:

- Lease 9118, a General Lease – Public Agency Use to the Union Sanitary District, for a 12-inch-diameter sewer pipeline with a 30-inch casing
- Lease 6827, a General Lease – Right-of-Way Use to Pacific Gas and Electric Company, for electrical transmission line facilities

HDD Crossing 6 is subject to three other leases with authorization for various uses:

- Lease 6827, a General Lease – Right-of-Way Use to Pacific Gas and Electric Company, for electrical transmission line facilities
- Lease 7994, a General Lease – Public Agency Use to the City of Milpitas, for a public roadway
- Lease 8370, a General Lease – Right-of-Way Use to The Crossings @ 880 Owners Association, a California Nonprofit Mutual Benefit Corporation, for four culverts

SA2-3 cont.

HDD Crossing 8 is subject to three other leases with authorization for various uses:

- Lease 6827, a General Lease – Right-of-Way Use to Pacific Gas and Electric Company, for electrical transmission line facilities
- Lease 5252, a General Lease – Public Agency Use to City of Santa Clara, for a sanitary sewer line
- Lease 3968, a General Lease – Public Agency Use to the Santa Clara Valley Water District, for flood protection and maintenance management purposes, which include bank stabilization, sediment removal, vegetation management, and routine maintenance activities

Subsection 2.7.3.1 of the DEIR identifies that new easements and rights-of-way would be required for the new transmission line segments. Commission staff recommend that Subsection 2.7.3.1 be amended to include all the Lessees identified above as subject to letters of concurrence for proposed siting of the transmission line segments.

Project Description

LSPGC filed an application for a Certificate of Public Convenience and Necessity with the CPUC. The Project was identified as a reliability-driven electric transmission Project by the California Independent System Operator (CAISO). LSPGC proposes to construct a new 230-kilovolt (kV) alternating current (AC) transmission line connecting the existing Pacific Gas and Electric Company (PG&E) Newark 230 kV Substation to the existing Silicon Valley Power Northern Receiving Station (NRS) 230 kV Substation to meet LSPGC's needs for the Project as follows:

- Meet CAISO's reliability-driven need by addressing multiple near-, mid-, and long-term reliability issues in the existing San Jose 115 kV system
- Facilitate the deliverability of energy from existing and proposed renewable generation projects to the Greater San Francisco Bay Area and corresponding progress toward achieving California's Renewable Portfolio Standard Goals
- Comply and assist CAISO in meeting applicable Reliability Standards and Criteria
- Provide a suitable foundation for future grid upgrades expected to be needed to serve the long-term forecasted electricity load in the San Jose area

SA2-4

The Project includes construction and operation of the Newark to NRS 230 kV AC transmission line (approximately 12 miles in length) that would include a two-mile segment of overhead transmission line and a 10-mile segment of underground transmission line, with co-located telecommunications infrastructure consisting of two fiber optic cables. From the Project Description, Commission staff understands that the Project would include the following components that have potential to affect State sovereign lands:

- HDD crossings at three locations at Coyote Creek and one location at the Guadalupe River, which include HDD Crossings 1, 5, 6, and 8
- A temporary workspace adjacent to the sending and receiving pits at HDD Crossing 8, at the Guadalupe River
- An underground splice vault containing fiber splices adjacent to the Guadalupe River

- All other Project components occurring within open water, wetland and tidal marsh habitat, and submerged lands with potential to occur within Commission jurisdiction

SA2-4 cont.

The DEIR identifies the Additional Underground Alternative (Alternative 1) as the Environmentally Superior Alternative.

Environmental Review

Commission staff requests that the CPUC consider the following comments on the DEIR, to ensure that impacts to State sovereign land are adequately analyzed for the Commission's use of the EIR.

General Comments

1. Cumulative Impacts: In accordance with Section 15130 of the CEQA Guidelines, the EIR should include an analysis of how the Project could contribute incremental effects that could be cumulatively considerable or conflict with past, present, or probable future projects occurring in the Project area. As explained in the Potential Land Use Conflicts section of this letter, the proposed Project improvements intersect the previously identified lease areas, which include existing utility lines. The EIR must consider how proposed Project improvements could contribute environmental impacts or conflict with the authorized uses of the existing leases. Commission staff seek to ensure that competing uses of these lands do not directly conflict. Therefore, Commission staff request that the proposed Project be designed to minimize or eliminate such conflict.

SA2-5

2. Proposed Project and Alternatives Analysis: If Project conflicts are identified with the existing uses of the previously identified leases, then alternatives to Project design features should be developed to minimize conflicts and environmental impacts (see State CEQA Guidelines, § 15126.6). For example, the proposed depth of burial of four to 10 feet for underground segments of the transmission line within Commission jurisdiction may need to be adjusted or realigned to avoid existing utility lines and other authorized improvements within existing lease areas.

SA2-6

3. Project Description: Commission staff recommends more detailed description of HDD activities below the bed of Coyote and the Guadalupe River. Subsection 2.6.1.3 of the DEIR briefly mentions that underground segments of

SA2-7

the transmission line would be buried 4 to 10 feet below the ground. Please be advised that a minimum burial depth of 5 feet may be required by Commission staff within the Commission's jurisdiction. Also, please Illustrate on figures and engineering plans the MHTL and provide written description of activities occurring below the MHTL. Thorough descriptions will facilitate Commission staff's determination of the extent and locations of its leasing jurisdiction, make for a more robust analysis of the work that may be performed, and minimize the potential for subsequent environmental analysis to be required.

SA2-7 cont.

4. Biological Resources: The EIR should include a discussion of consultation with the California Department of Fish and Wildlife (CDFW), U.S. Fish and Wildlife Service (USFWS), and the National Marine Fisheries Service (NMFS), as applicable, including any recommended mitigation measures and potentially required regulations identified by these agencies. The EIR must identify biological work windows required by CDFW, USFWS, and NMFS for Project segments that have potential to impact special status species.

SA2-8

5. Invasive Species: The DEIR does not appear to analyze the potential for Project activities and construction equipment to introduce or spread aquatic invasive species. One of the major stressors in California waterways is introduced species. Therefore, the EIR should consider the Project's potential to encourage the establishment or proliferation of aquatic invasive species (AIS), including the recently introduced Golden mussel (*Limnoperna fortunei*) and other nonindigenous, invasive species including aquatic plants. For example, submersible construction equipment may transport new species to the Project area via equipment biofouling, wherein marine and aquatic organisms attach to and accumulate on the wetted surfaces of equipment. If there is potential for Project activities to introduce AIS and significantly impact biological resources and special status species, possible mitigation could include requiring contractors to inspect and clean any submersible equipment prior to arrival at the Project site. The Commission's Marine Invasive Species Program could assist with this analysis as well as with the development of appropriate mitigation measures (information at https://www.slc.ca.gov/misp/).

SA2-9

6. Construction Noise: The EIR should evaluate noise and vibration impacts on fish and birds from construction activities in the water. Mitigation measures could include species-specific work windows as defined by CDFW, USFWS, and

SA2-10

NMFS. Staff recommends early consultation with these agencies to minimize the impacts of the Project on sensitive species. SA2-10 cont.

Cultural Resources

7. Submerged Resources: The EIR should evaluate potential impacts to submerged cultural resources in the Project area. Please note that any submerged archaeological site or submerged historic resource that has remained in state waters for more than 50 years is presumed to be significant. Because of this possibility, please add a mitigation measure requiring that in the event cultural resources are discovered during construction activities, Project personnel shall halt all activities in the immediate area and notify a qualified archaeologist to determine the appropriate course of action. SA2-11

8. Title to Resources Within Commission Jurisdiction: The EIR should state that the title to archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the California State Lands Commission (Pub. Resources Code, § 6313). SA2-12

   Staff requests that the following statement be included in the EIR's Mitigation Monitoring, Reporting and Compliance Plan, "The final disposition of archaeological, historical, and paleontological resources recovered on State lands under the jurisdiction of the California State Lands Commission must be approved by the Commission."

9. Environmental Justice: Environmental justice is defined by California law as "the fair treatment and meaningful involvement of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies." (Gov. Code § 65040.12) This definition is consistent with the Public Trust Doctrine's principle that management of trust lands is for the benefit of all people. SA2-13

   The Commission adopted an updated Environmental Justice Policy and Implementation Blueprint in December 2018 to ensure that environmental justice is an essential consideration in the agency's processes, decisions, and programs. The twelve goals outlined in the Policy reflect an urgent need to address the inequities of the past, so they do not continue. Through its policy,

the Commission reaffirms its commitment to an informed and open process in which all people are treated equitably and with dignity, and in which its decisions are tempered by environmental justice considerations.

Although not legally required in a CEQA document, Commission staff suggests that the CPUC include a section describing the environmental justice community outreach and engagement undertaken in developing the DEIR and the results of such outreach. The California Office of Environmental Health Hazard Assessment developed the CalEnviroScreen mapping tool to assist agencies with locating census tracts near proposed projects and identifying the environmental burdens, should there be any, that disproportionately impact those communities. Environmental justice communities often lack access to the decision-making process and experience barriers to becoming involved in that process. It is crucial that these communities are consulted as early as possible in the project planning process.

Commission staff strongly recommends using the CalEnviroScreen tool and then, as applicable, reaching out through local community organizations, such as the California Environmental Justice Alliance. For projects in the San Francisco Bay Conservation and Development Commission's (BCDC) jurisdiction and the Delta, Commission staff also recommends using the BCDC Community Vulnerability Tool and the Vulnerability to Climate Change in the Delta map developed by the Delta Stewardship Council. Engaging in early outreach will facilitate more equitable access for all community members. In this manner, the CEQA public comment process can improve and provide an opportunity for more members of the public to provide input related to environmental justice. Commission staff also recommends incorporating or addressing opportunities for community engagement in mitigation measures. Commission staff will review the environmental justice outreach and associated results as part of any future Commission action.

SA2-13 cont.

Thank you for the opportunity to comment on the DEIR for the Project. As a responsible and trustee agency, the Commission will rely on the Final EIR when issuing a new lease. Staff requests that you consider these comments before certifying the Final EIR.

SA2-14

Please send electronic copies of the Final EIR, Mitigation Monitoring Program, Notice of Determination, approving resolution, CEQA Findings, and, if

applicable, Statement of Overriding Considerations after the EIR is certified and the CPUC has acted on the Project. Please note that federal and state laws require all government entities to improve accessibility of information technology and content by complying with established accessibility requirements. (29 U.S.C. § 794d; 36 C.F.R. § 1194.1 et seq.; Gov. Code, § 7405.) California State law prohibits State agencies from publishing on their websites content that does not comply with accessibility requirements. (Gov. Code, § 115467.) Therefore, any documents submitted to Commission staff during the processing of a lease or permit that will be posted online, including relevant CEQA documentation, must meet accessibility requirements for Commission staff to place the application on the Commission agenda. SA2-14 cont.

Refer questions concerning environmental review to Christopher Hall, Environmental Scientist, at Christopher.Hall@slc.ca.gov or (916) 574-1845. For questions concerning Commission leasing jurisdiction and lease application requirements, please contact Marlene Schroeder, Public Land Management Specialist, at Marlene.Schroeder@slc.ca.gov or (916) 574-2320.

Sincerely,

Nicole Dobroski, Chief
Division of Environmental Science, Planning, and Management

cc: Office of Planning and Research
M. Schroeder, Commission
C. Hall, Commission
k. Connor, Commission

Letter SA2: California State Lands Commission

SA2-1 The California State Lands Commission (CSLC) provides a summary of its jurisdiction and management authority over all ungranted tidelands, submerged lands, and the beds of navigable lakes and waterways, and also notes it has certain residual and review authority for tidelands and submerged lands legislatively granted in trust to local jurisdictions. CSLC provides a general background of its history and jurisdiction. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CSLC's input.

SA2-2 CSLC identified four horizontal directional drill (HDD) locations and a temporary workspace and splice vault located on State sovereign lands. The CPUC acknowledges that authorization from CSLC would be required in the form of a new lease for these locations. The CPUC understands that CSLC received a lease application from LSPGC for the Project on June 4, 2025. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CSLC's input.

SA2-3 CSLC identified eight entities that also hold leases at the four HDD crossing sites on State sovereign lands and recommends that the lessees be identified in the EIR, as letters of concurrence would need to be obtained from the existing lessees for the proposed siting of the Project transmission line in these State lease areas. A new Footnote 9 is reflected in the Final EIR Section 2.7.3, *New or Modified Rights-of-Way or Easements*, on page 2-22 identifying these eight entities associated with the bullet point for CSLC, as follows:

> As part of the State Lands Commission lease application process, letters of concurrence would be needed from the following entities which have active leases on the same State sovereign lands that would be crossed by the Project: Alameda County Flood Control and Water Conservation District, PG&E, Santa Clara Valley Water District, Union Sanitary District, The Crossings @ 880 Owners Association, City of Fremont, City of Milpitas, and City of Santa Clara.

SA2-4 CSLC provides a summary of the Project Description and notes that CSLC staff understands that the Project would include components that have potential to affect State sovereign lands. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CSLC's input.

SA2-5 CSLC identified four HDD locations and a temporary workspace and splice vault that would be located on State sovereign lands, all of which are proximate to Coyote Creek and the Guadalupe River. The CPUC acknowledges and understands that other utilities

are present within the work areas. As these utilities are extant, they are considered within the existing conditions in the Project area. To that extent, the effects on the environment attributable to the minor relocation of existing utilities are contemplated in the EIR as part of the Project's direct impacts. As described in Section 3.19.3.1 of the Draft EIR, LSPGC has committed to implementing **APM UTIL-1: Coordination with Utilities** as part of the Project. Pursuant to APM UTIL-1:

> LSPGC shall notify all utility companies with utilities located within or crossing the Project ROW to locate and mark existing underground utilities along the entire length of the Project. Due to the linear nature of transmission line construction, utilities shall be marked in short segments at least ~~14 days~~ 72 hours prior to construction within said segments. No subsurface work shall be conducted that would conflict with (i.e., directly impact or compromise the integrity of) a buried utility. In the event of a conflict, areas of subsurface excavation shall be realigned vertically and/or horizontally, as appropriate, to avoid other utilities and provide adequate operational and safety buffering, or relocation of the existing utility shall be coordinated with each utility owner/operator. LSPGC shall coordinate with third-party utilities and shall submit the intended construction methodology to the owner of the third-party utility for review and coordination. Construction methods shall be adjusted as necessary to ensure that the integrity of existing utility lines is not compromised.

Thus, LSPGC would notify and coordinate with all utility companies with utilities located within or crossing the Project ROW, including in State sovereign lands, and throughout the Project design process to reduce potential impacts associated with utility conflict to a less-than-significant level.

SA2-6 As discussed above, APM UTIL-1 has been incorporated into the Project, which requires utility coordination throughout the Project area, including in State sovereign lands, and throughout the Project design process to reduce potential impacts associated with utility conflict to a less-than-significant level. APM UTIL-1 requires notification and coordination of potential utility conflict(s), and if avoidance is not possible, then the Project, notably associated subsurface excavation, would be realigned to avoid the conflict. Based on coordination with each utility owner/operator, the extant utility would be realigned; however, it should be noted that construction methods would be adjusted as necessary to ensure that the integrity of the existing utility is not compromised (see response to Comment SA2-3). The APM specifically requires that all of these activities would require coordination and approval of the utility owner/operator (e.g., USD, ACWD, PG&E). Therefore, potential impacts associated with utility conflict would not be significant, and it is not necessary to develop additional alternatives or mitigation measures to further minimize the potential for conflict.

SA2-7 The characterization of the transmission line depths ranging from 4 to 10 feet below ground surface applies to the Project as a whole. This range captures the minimum

5-foot depth required by CSLC. Project elements on State sovereign lands, including depth of the transmission line, would be presented to CSLC and would be reviewed and resolved as part of the Project's lease agreement negotiations. The request to include additional details about the mean high-tide line to facilitate CSLC's determination of its leasing jurisdiction goes beyond what CEQA requires; the information already provided in the Draft EIR is sufficiently detailed to allow for meaningful environmental analysis. The CPUC expects that LSPGC would provide CSLC with all necessary information during lease agreement negotiations.

SA2-8 CSLC recommends discussion of consultation with CDFW, USFWS, and National Marine Fisheries Service (NMFS), and inclusion of any recommended mitigation measures and regulations from these agencies in the EIR, including required work windows. The analysis of biological resources in Section 3.4 of the Draft EIR states that work windows may be required for protection of rare plants (**Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**) and aquatic species, including special-status fish (**APM BIO-17: Wetland, Vernal Pool, and Waterway Construction Timing Restrictions**), and indicates that consultation with USFWS, CDFW, and NMFS would be required in the event a rare wildlife species was found and could not be completely avoided (**APM BIO-7: Salt Marsh Harvest Mouse (SMHM) Surveys**, **APM BIO-11: Special-Status Bird Surveys**, **APM BIO-14: Golden Eagle Protection**, **APM BIO-16: Special-Status Invertebrate Surveys**, and **APM BIO-18: Special-Status Amphibian Surveys**). In addition, **Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring** requires that: "LSPGC shall obtain all required environmental permits, including a Clean Water Act Section 401 water quality certification for federal and state jurisdictional wetlands, Clean Water Act Section 404 permits for federal jurisdictional, and a CDFW Lake and Streambed Alteration Agreement, and shall adhere to the conditions of each." The conditions of these permits would include final requirements from the agencies regarding work windows and other mitigation. No changes to the Draft EIR are necessary.

SA2-9 CSLC recommends that the EIR analyze the potential for Project activities and equipment to introduce or spread aquatic invasive species, a major stressor in California waterways. As discussed in Section 3.4 of the Draft EIR, **APM BIO-5: Vehicle Cleaning Prior to Entering Natural Areas** requires that vehicles and equipment shall be cleaned prior to use to avoid the spread of noxious weeds or nonnative invasive species. APM BIO-5 would reduce the spread of invasive plants, and because Project activities would not include submersible construction equipment and would avoid submerging vehicles or equipment in water, the Project would not have the potential to spread invasive aquatic invertebrate species, such as golden mussel, on equipment surfaces. No changes to the Draft EIR are necessary.

SA2-10 CSLC recommends evaluation of noise and vibration impacts on fish and birds from construction within water. As discussed in Section 3.4 of the Draft EIR, the Project would avoid construction within water by using directional drilling and trenching work restricted to the dry season to the maximum extent possible (**APM BIO-17: Wetland,**

Vernal Pool, and Waterway Construction Timing Restrictions). If construction cannot be conducted during the dry season in the vicinity of waterways, wetlands, and vernal pools, APM BIO-17 requires that these areas be clearly marked and avoided to the maximum extent possible and biological monitors would be present to ensure that no impacts occur. Thus, aquatic noise and vibration would be minimized, and the Project would not be expected to result in noise and vibration impacts on fish or bird from construction activities within the water.

Outside of the water, potential impacts from airborne noise disturbance would be addressed by **APM BIO-9: Worker Environmental Awareness (WEAP) Training**, **APM BIO-13: Raptor Surveys**, APM BIO-14, and Mitigation Measure 3.4-1e, which may include recommendations to reduce noise or disturbance by a biological monitor, avoidance buffer and/or barrier wall for noise, and worker training to ensure adherence to guidelines and restrictions including those related to noise disturbance. With implementation of these measures, impacts from noise and vibration on fish and birds would be reduced to a less-than-significant level.

SA2-11 As discussed in Section 3.5 of the Draft EIR, **Mitigation Measure 3.5-1: Archaeological Monitoring Plan** would address unanticipated finds of any kind anywhere along the Project and sets forth the procedures to be implemented in the instance of such a discovery. This encompasses the entirety of the Project, including submerged lands. These measures include halting work at the site of discovery (including a buffer area), notification of a Secretary of the Interior-qualified archaeologist, and developing a resource-specific treatment plan.

Additionally, in response to CSLC's comments, a discussion of the Project's sensitivity for submerged resources has been added in the Final EIR. Text has been added in Final EIR pages 3.5-8 and 3.5-9, as well as Final EIR page 3.18-4, as follows:

> ***California Public Resources Code Section 6313***
>
> The final disposition of archaeological, historical, and paleontological resources recovered on or in the tide and submerged lands owned by the State of California is under the jurisdiction of the California State Lands Commission (CSLC) (PRC Section 6313[a]) and must be approved by the CSLC. Also, according to PRC Section 6313(c), any submerged cultural resource remaining in State waters for more than 50 years is presumed to be archaeologically or historically significant.

Text has been added in Final EIR page 3.5-17, as follows:

> Additionally, the potential for submerged cultural resources within the segments of the alignment that cross Coyote Creek and the Guadalupe River is low due to the significant alterations caused by urbanization, agriculture, and flood control infrastructure over the decades.

An additional mitigation measure is also proposed, **Mitigation Measure 3.5-2: Unanticipated Discovery of Submerged Cultural Resources**, which outlines CSLC's standard protocol in the event of an inadvertent discovery of submerged resources. Text has been added to Final EIR page 3.5-23, as follows:

> To mitigate potential impacts to unknown archaeological resources within areas of archaeological sensitivity, particularly those that have not been subject to pedestrian surveys, implementation of **Mitigation Measure 3.5-1: Archaeological Monitoring Plan** would require the development of an archaeological monitoring plan that identifies areas of archaeological sensitivity and areas that require archaeological and tribal monitoring in accordance with APM CUL-2, outside of the 100-foot buffer of known resources. Although unlikely, if an inadvertent discovery of a resource that is submerged and is within the jurisdiction of the CSLC occurs, the implementation of **Mitigation Measure 3.5-2: Unanticipated Discovery of Submerged Cultural Resources** would provide protocols to reduce potential impacts to submerged archaeological resources to less than significant.

Text has been added on page 3.18-11 in the Final EIR, as follows:

> Lastly, the implementation of **Mitigation Measure 3.5-2: Unanticipated Discovery of Submerged Cultural Resources**, outlined in Section 3.5, *Cultural Resources*, would provide protocols to follow in the event of an inadvertent discovery on land under the jurisdiction of the CSLC.

Mitigation Measure 3.5-2 has been added in Final EIR pages 3.5-25 to 3.5-26 (Section 3.5, *Cultural Resources*) and Final EIR pages 3.18-12 to 3.18-13 (Section 3.18, *Tribal Cultural Resources*), as follows:

> **Mitigation Measure 3.5-2: Unanticipated Discovery of Submerged Cultural Resources**
>
> If an unanticipated discovery of cultural resources occurs on land under the jurisdiction of the California State Lands Commission (CSLC), the following protocols will be followed.
>
> - LSPGC shall immediately notify the CPUC of the discovery and the CPUC shall initiate consultation with CSLC staff within 2 business days of the discovery.
> - Per Public Resources Code Section 6313(c), any submerged cultural resource remaining in State waters for more than 50 years is presumed to be archaeologically or historically significant.
> - The qualified archaeologist assessing the find shall have expertise in maritime archaeology if the find is a maritime archaeological resource.
> - The CPUC shall consult with the CSLC regarding assessment of the find and development of any treatment measures to minimize or mitigate potential

impacts on the resource, pursuant to Public Resources Code Section 21083.2 and CEQA Guidelines Section 15126.4.

- The CPUC shall submit to the CSLC any report prepared for the resource as part of the assessment of the find and implementation of treatment measures to minimize or mitigate potential impacts.

Significance after Mitigation: Implementation of APMs CUL-1 through CUL-5, PG&E BMPs CULT-1 through CULT-2, and Mitigation Measures 3.5-1 and 3.5-2 would ensure that impacts associated with the discovery of any archaeological resources, if identified during Project construction, would be less than significant.

Mitigation Measure 3.5-2 supplements the mitigative actions previously disclosed in the Draft EIR to ensure that CSLC's jurisdiction is acknowledged and implemented should submerged resources be encountered, as would occur pursuant to the Public Resources Code. The addition of this mitigation measure does not require recirculation of the Draft EIR as it is not "significant new information" and does not trigger any of the conditions set forth in CEQA Guidelines Section 15088.5.

SA2-12 CSLC requests that the EIR state that "the title to archaeological sites, and historic or cultural resources on or in the tide and submerged lands of California is vested in the State and under the jurisdiction of the California State Lands Commission," and requests modifications to the Draft EIR's MMCRP. The CPUC acknowledges this request, and text has been added in Final EIR pages 3.5-8 and 3.5-9, as well as Final EIR page 3.18-4. Additionally, Mitigation Measure 3.5-2 has been added to the Final EIR and MMCRP (see **Appendix G**), which outlines protocols in the event that an unanticipated discovery of cultural resources occurs on lands under the jurisdiction of the CSLC, as shown above in response to Comment SA2-11.

SA2-13 CSLC suggests that the CPUC should include a section describing the environmental justice community outreach and engagement undertaken in developing the Draft EIR and the results of such outreach. Further, CSLC recommends using the CalEnviroScreen tool, the San Francisco Bay Conservation and Development Commission's Community Vulnerability Tool, and the Vulnerability to Climate Change in the Delta map developed by the Delta Stewardship Council. CSLC also states that analyzing the potential effects of a project related to environmental justice are not legally required in a CEQA document.

While not a legal requirement under CEQA, the Project's Draft EIR does address similar aspects as those that would be used in addressing environmental justice concerns. As disclosed in Draft EIR Section 5.5, *Environmental Justice*, the CPUC follows the environmental justice guidance provided by the Office of the California Attorney General, which recommends that a lead agency consider communities particularly sensitive to Project-specific environmental impacts and cumulative environmental impacts when considered together with future project and/or conditions already borne by those communities. For example, the Draft EIR assesses the potential environmental impacts of the Project on sensitive receptors, and the Project's impacts together with existing or foreseeable cumulative environmental burdens experienced by nearby

communities. These are further addressed in Final EIR Section 3.3, *Air Quality*; Final EIR Section 3.9, *Hazards and Hazardous Materials*; and Final EIR Section 3.13, *Noise*.

SA2-14 All final CEQA and Project approval documents will be posted on the CPUC's Power the South Bay project website (https://ia.cpuc.ca.gov/environment/info/esa/psb/index.html) and the Office of Land Use and Climate Innovation's CEQAnet Web Portal (https://ceqanet.lci.ca.gov/). All CPUC documents posted on public-facing platforms are compliant with all established State accessibility requirements. Additionally, LSPGC would be responsible for submitting the required CEQA and Project approval documentation as part of its State Lands lease application process.

July 24, 2025

VIA EMAIL

Tommy Alexander, CPUC
Power the South Bay Project; Attn. D. Davis
c/o Environmental Science Associates
575 Market Street, Suite 3700
San Francisco, CA 94105
PowertheSouthBay@esassoc.com

RE: LS Power Grid California, LLC Comments on the Draft Environmental Impact Report for the Power the South Bay Project (Application 24-05-014); State Clearinghouse No. 2024071095

Dear Mr. Alexander,

LS Power Grid California (LSPGC) has reviewed the Draft Environmental Impact Report (Draft EIR) dated June 9, 2025, for the Power the South Bay Project (Project). LSPGC appreciates this opportunity to comment on the Draft EIR, pursuant to the California Environmental Quality Act (CEQA) Guidelines. Please see the attached LSPGC Comment Table and Editorial Suggestions Table on the Power the South Bay Project Draft EIR.

Should you have any questions or need any additional information, please do not hesitate to contact me at (925) 808-0291.

Sincerely,

Dustin Joseph

Dustin Joseph
Director of Environmental Permitting

Enclosures

cc: Lucy Marton (LSPGC)
Casey Carroll (LSPGC)
Jacob Diermann (LSPGC)
David Wilson (LSPGC)
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Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
General/ Global Comments					
1	Global Comment	N/A	e.g., "…the County eliminated the potential alternatives listed below…"	Search entire document for instances where the DEIR intended to say "CPUC" but said "County" instead. Make corrections as needed.	UT1-1
2	Global Comment	N/A	N/A	The water crossing at the Grand Boulevard culvert (i.e., HDD-7) has been modified to be crossed utilizing typical trenching methods, under the waterway. In tandem with the duct bank installation in this area, the existing 48-inch Grand Boulevard culvert (which is in poor condition), will be replaced in-kind. The replacement of the culvert will involve excavation of the existing culvert from the roadway or adjacent upland areas. The new culvert will be placed in the same location, at the same elevation, and rebedded in compacted native or imported material. Streambanks and disturbed areas will be restored to pre-existing conditions. The roadway above the culvert will be restored per the specifications of the City of San José. The replacement will not increase the conveyance capacity or alter the stream channel characteristics. Please revise the DEIR text and mapping accordingly, as there will now only be a total of seven HDDs and one open trench/culvert replacement crossing.	UT1-2
3	Global Comment	N/A	e.g., "… underground conductor"	The underground portion of the Project would contain "cable" and the overhead portion of the Project would require "conductor". Make corrections as needed throughout the document.	UT1-3
4	Global Comment	N/A	N/A	LSPGC understands that the DEIR analyzes the open trench option along Cushing Parkway as the most conservative installation method at this location for the impact assessment. However, we recommend the addition of a more detailed description of the bridge attachment to the Project Description (and add to mapping figures) so that option is clearly supported by the FEIR.	UT1-4
5	Global Comment	N/A	N/A	Please add the following permits to the appropriate sections and tables in the DEIR: • Rivers and Harbors Act, Section 10 • Alameda County, Flood Control Encroachment Permit • Valley Transit Authority, License Agreement • San Francisco Public Utilities Commission, Project Review and Encroachment Permit	UT1-5
Executive Summary					
6	ES-3	Footnote 2	LSPGC's application for a CPCN was initially filed and deemed complete in June 2024 when GO 131-D was in effect. Therefore, LSPGC's portion of the Power the South Bay Project will be permitted under GO 131-D. All filings after January 30, 2025, are subject to GO 131-E requirements, therefore, PG&E and SVP's portion of the Project will be permitted under GO 131-E.	LSPGC recommends that this section be revised as Silicon Valley Power (SVP) is not a public utility that is regulated by the CPUC. As such, SVP is not subject to GO 131-E requirements.	UT1-6

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
7	ES-6	4th paragraph	The Project would not generate energy, but it would contribute to the energy supply by storing electricity during times of excess generation and dispatching it to the grid when needed.	We suggest rewording this statement to, "The Project would not generate energy, rather the Project would provide an additional pathway for existing generation."	UT1-7
8	ES-9	1st paragraph	In some instances, those LSPGC APMs have been supplemented or superseded by CPUC-recommended mitigation measures, as described in this Draft EIR. Those LSPGC APMs that have not been supplemented or superseded by mitigation measures are considered part of the Project for the purpose of this Draft EIR, and upon adoption of the Final EIR, would become part of the Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) to assure that implementation of and compliance with the measures would be monitored and enforced by the CPUC.	LSPGC understands that CPUC will supplement and supersede APMs, as deemed necessary based on the CPUC's CEQA analysis. LSPGC requests that where LSPGC APMs are superseded, they not be carried forward to the MMCRP. Compliance with APMs and MMs that can overlap or contradict each other create unnecessary confusion during construction.	UT1-8
9	ES-10 and ES-18	Table ES-3	Summary of Impacts and Mitigation Measures	Please add Agriculture and Forestry Resources and Mineral Resources with "No measure required" for each line item to be consistent with similar resource sections.	UT1-9
10	ES-12	Table ES-3	Mitigation Measure 3.4-2 Habitat Restoration and Monitoring	The remainder of the DEIR refers to the Habitat Restoration and Monitoring MM as 3.3-1b. The reference on DEIR page ES-12 appears to be a typo. Please correct for the Final EIR.	UT1-10
11	ES-25	First Paragraph of ES.7	In addition, the No Project Alternative would not offset greenhouse gas emissions associated with non-renewable energy use the way the Project would make possible.	While this statement can still be supported, please note that the Project would support the addition of new generation sources, including renewable energy, but there are no generation projects associated with the Project.	UT1-11
12	ES-27	4th bullet	Determine whether the significant and unavoidable impact related to air quality outweighs the need for the Project and, if so, prepare a statement of overriding considerations.	Suggest rewording to, "Determine whether the significant and unavoidable impact related to air quality is outweighed by the need for the Project and the Project's benefits and, if so, prepare a statement of overriding considerations."	UT1-12
1. Introduction					
13	1-2	Bulleted list in Section 1.3.1 (Project Purpose)	• Support the provision of safe, reliable, and adequate electrical service to the PG&E and SVP service territories and throughout the South Bay area of the CAISO-controlled grid; • Reliably serve the long-term forecasted electricity demand in the San José area, which is expected to increase substantially, mostly due to new data center loads; • Provide a suitable foundation for future grid upgrades expected to be needed to serve the increasing load in the area; and • Facilitate the importation and use of cost-effective renewable energy to fulfill the State of California's clean energy goals by ensuring reliable operation of the grid.	LSPGC recommends that Section 1.3.1 be revised to read as follows (taken from LSPGC's revised PEA): • Ensure the reliability of the South Bay sub-area of the Greater Bay Area of the CAISO-controlled grid; • Provide better access to cost-effective, renewable energy and other electric transmission grid benefits; • Support the provision of safe, reliable, and adequate electricity service to the Pacific Gas and Electric Company (PG&E) and Silicon Valley Power (SVP) service territories; • Facilitate the importation and use of renewable electricity to fulfill the State of California's energy policies and goals by ensuring reliable operation of the grid	UT1-13

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
14	1-5	2nd full paragraph	"…no local discretionary use permits are required."	The CPUC authority preempts all local discretionary approvals issued pursuant to local authority, not just "use" permits. Please delete "use" from the identified sentence.	UT1-14
15	1-5	2nd full paragraph	The CPUC's General Order 131-D (GO 131-D) requires LSPGC to comply with local building, design, and safety requirements and standards, to the degree feasible, to minimize potential Project conflicts with local land uses.	GO 131-D states "…public utilities shall consult with local agencies regarding land use matters. In instances where the public utilities and local agencies are unable to resolve their differences, the Commission shall set a hearing no later than 30 days after the utility or local agency has notified the Commission of the inability to reach agreement on land use matters." As such, LSPGC suggests the following language: "The CPUC's General Order 131-D (GO 131-D) requires LSPGC to consult with local agencies on land use matters even though local jurisdictions are preempted from regulating the proposed project. In instances where the public utility and the local agency have unresolved differences regarding land use matters, GO 131-D provides a process by which the CPUC would resolve those differences."	UT1-15
2. Project Description					
16	2-2	Footnote 3	Underground segments of the Project alignment would be located along public and private property outside of existing roadways, including a portion of Weber Road owned by PG&E, a portion of property owned by Santa Clara Valley Water District south of McCarthy Boulevard, and a portion on the RWF property before the alignment enters Los Esteros Road.	Please revise this statement to: "Certain underground segments of the Project alignment would be located on public and private property outside of existing roadways including private parcels in South Fremont and North San Jose as well as public parcels owned by PG&E, Alameda County Flood Control District, SCVWD, the RWF, CSLC, and VTA."	UT1-16
17	2-4 and 2-5	Figure 2-2a and Figure 2-2b	Open Trench (in legend).	Please relabel to "Open Trench or Bridge Attachment."	UT1-17
18	2-8 2-11	4th paragraph 2nd paragraph	e.g., "The San José/Santa Clara area is generally served by…" e.g., "…including a significant load increase of approximately 500 megawatts in the Santa Clara area."	The CAISO 2020-2021 TPP specifically states "San Jose/SVP area". Suggest referencing SVP rather than Santa Clara in order to avoid a mischaracterization of the existing utility system.	UT1-18
19	2-21	Last Paragraph	Specifically, LSPGC would negotiate easements with four private landowners for the transmission line.	LSPGC asks that the DEIR address the number of parcels rather than landowners. Due to minor alignment changes already accounted for in the work areas and DEIR, LSPGC would obtain easements on approximately twelve parcels for the transmission line.	UT1-19
20	2-22	First List of Entities	Alameda County Flood Control District • City of Fremont • City of San José • City of Santa Clara • Santa Clara Valley Water District • Santa Clara Valley Transportation Authority • California State Lands Commission • California Department of Transportation • PG&E • SVP	Please add Union Pacific, RWF, and BCDC to the list of entities.	UT1-20
21	2-28	1st paragraph following bulleted list	In addition, a segment adjacent to the Cushing Parkway bridge would cross the Don Edwards San Francisco Bay National Wildlife Refuge (Don Edwards NWR). At this segment of the transmission line, LSPGC would conduct trenching (see Section 2.8.6.2, *Trenching*).	See global comment regarding the addition of the bridge attachment option to appropriate sections in the Project Description.	see UT1-4

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
22	2-41	Figure 2-8 Vertical Duct Bank Figure	A1 B1 C1 S1 A1 B1 C1 S1	Please remove the phasing labels from the vertical duct bank configuration (similar to the horizontal configuration). The phasing has been updated pursuant to the EMF management plan.	UT1-21
23	2-48	Last bulleted list	Two 34-inch casings, each with four 10-inch ducts: three ducts to house the installed cable and one spare duct.	Revise to: “Two 36-inch bores, each containing four 8-inch ducts: three ducts for the installed cable and one spare duct.”	UT1-22
24	2-51 and 2-52	Figure 2-12a and 2-12b	N/A	Please remove Figure 2-12b as this information is not correct. Figure 2-12a provided the correct HDD information.	UT1-23
25	2-77	Table 2-11 APM BIO-18	“Protocol surveys shall be conducted for California tiger salamander and California red-legged frog and preconstruction surveys shall be conducted within all proposed impact areas and suitable buffers within potentially suitable habitat areas for California tiger salamander and California red- legged frog. In the event of the discovery of suitable habitats or live individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. If avoidance is not possible, USFWS and/or CDFW shall be consulted…”	Recommend reducing the potential that California red-legged frog (CRLF) have a potential to occur from “moderate” to “low.” Suitable habitat for this species in the form of breeding and upland habitat is not present in the Project area. One CNDDB occurrence was recorded in 1997 in Agua Caliente Creek; however, this area is now highly developed and the potential for this species is “low.” Recommend striking CRLF from APM BIO-18 as written below. We also recommend removing further discussion of life history and analysis for CRLF globally throughout the document. The measure as written, references coverage under Santa Clara Valley (SCV) HCP or a CDFW ITP. However, if not covered under the SCV HCP, consultation could also be required with USFWS. In addition to striking CRLF, we recommend that the measure be updated as below to address the potential need to coordinate with both agencies. “Protocol surveys shall be conducted for California tiger salamander and preconstruction surveys shall be conducted within all proposed impact areas and suitable buffers within potentially suitable habitat areas for California tiger salamander. In the event of the discovery of suitable habitats or live individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. California tiger salamander is a covered species under the Santa Clara Valley HCP; if impacts are identified during species-specific surveys, the take for this species shall be covered either under the Santa Clara Valley HCP or through consultation with CDFW and/or USFWS. Any other construction activities that may impact special-status amphibians including movement of construction equipment and other activities outside of the fenced/paved areas within suitable habitat shall be monitored by a qualified biologist. The qualified biologist shall have the authority to stop work activities upon the discovery of live individuals and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to sensitive amphibians.”	UT1-24

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
3.1 Aesthetics					
26	3.1-53	MM 3.1-2	The use of outdoor lighting shall be minimized during construction, operations, and maintenance. Photocell and motion detection-controlled lighting shall be provided at a level sufficient to provide safe entry and exit to the Project work sites and to ensure the security of the sites. All lighting shall be selectively placed, shielded, and directed to minimize fugitive light. Portable lights shall be operated at the lowest feasible wattage and height. The number of nighttime lights used shall be limited to those necessary to accomplish the task completely and safely. All lighting near sensitive species habitat shall be directed away from these areas where feasible. Significance after Mitigation: Implementation of APM BIO-10 and Mitigation Measure 3.1-2 would ensure that impacts associated with light and glare would be less than significant.	APM BIO-10 and MM 3.1-2 are essentially the same. LSPGC suggests deleting MM 3.1-2 since APM BIO-10 already addresses this issue and this would reduce confusion between the two measures. In addition, the use of photocell and motion detection-controlled lighting is not technically feasible during nighttime construction where continuous lighting is needed for safety. If MM3.1-2 is retained, LSPGC requests the reference to photocell and motion detection-controlled lighting be removed.	UT1-25
3.3 Air Quality					
27	3.3-29	1st partial paragraph	"Given the relatively large scope of ground disturbance that would occur associated with construction of the transmission line portion of the Project, implementation of only the basic BMPs could result in a significant impact."	While the Project as a whole includes a large area of disturbance, most of the disturbance areas associated with transmission line construction are located within paved and landscaped areas which do not generate high levels of fugitive dust. Utilization of standard dust control BMPs, as outlined in APM AQ-2, would be sufficient to reduce impacts to a less-than-significant level.	UT1-26
28	3.3-33	3rd paragraph	"The impact [O&M health risk] would remain significant and unavoidable for the SVP NRS 230 kV Substation modifications component of the Project as the CPUC has no mitigation enforcement jurisdiction over the work that would occur within the substation."	Please make the following clarifying edit so that the reader understands the significant and unavoidable impact pertains to construction, not operations: "The <u>construction</u> impact would remain significant and unavoidable for the SVP NRS 230 kV Substation modifications component of the Project as the CPUC has no mitigation enforcement jurisdiction over the work that would occur within the substation."	UT1-27
29	3.3-37	Table 3.3-37	Refer to table 3.3-37	Table 3.3-37 incorrectly sums cumulative health risks across multiple receptor locations whereas the summation must occur at a single receptor location (worst-case receptor). Section 11 of BAAQMD's Appendix E states that "Sum the individual cancer risk, chronic hazard, and PM2.5 concentrations from all sources and the Project's contribution to nearby receptors surrounding the Project site." Instead, a cumulative risk assessment should evaluate the total risk from all contributing sources at a specific, worst-case receptor, considering the proximity to emissions, meteorology, and exposure duration. It is not appropriate to sum risk values across geographically distinct receptors and present that as a single cumulative value. Doing so misrepresents localized exposure and overstates the actual health impact.	UT1-28
30	3.3-37	Table 3.3-37; Column 3	Refer to Table 3.3-7 PM2.5 Concentration 6.84	Table 3.3-7 reports a PM2.5 concentration increase of 6.84 µg/m^3 from a single source. However, this may represent a significant error on BAAQMDs data and	UT1-29

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
				should be verified with the district. 6.84 µg/m^3 far exceeds BAAQMD's cumulative threshold of 0.8 µg/m^3 and strongly suggests either a modeling or reporting error for this value.	UT1-29
31	3.3-30 and 3.3-31	MM 3.3-2b	**Mitigation Measure 3.3-2b: Use Best Management Practices for Construction-Related Fugitive Dust Emissions** LSPGC shall implement all the following best management practices, which would reduce fugitive PM10 and PM2.5: • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph. • All trucks and equipment, including their tires, shall be washed off prior to leaving the site. • Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic. • Post a publicly visible sign with the telephone number and person to contact at the CPUC regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations. • Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.	LSPGC recognizes that the list of Best Management Practices for Construction-Related Fugitive Dust Emissions referenced in MM 3.3-2b originates from the BAAQMD's CEQA Guidelines. However, upon review of the list of the basic and enhanced measures, we request the following changes be made to adapt these measures to a linear Project, as well as to make them feasible to implement during construction: • "All trucks and equipment, including their tires, shall be washed off or otherwise cleaned prior to leaving the site." We request that this condition not apply to Project locations in developed/paved areas. • "All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph." We request that this condition not apply to Project locations in developed/paved areas. • "All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day." Please add that this requirement may be adjusted during rain events as needed (similar to the APM AQ-2). • "Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have a maximum of 50 percent air porosity." This measure can be implemented at staging yards but is not feasible for the linear Project components. As such, we suggest limiting this measure to only staging yards. • Please add note that some of the measures involving erosion control and revegetation may be superseded by the Project's SWPPP requirements.	UT1-30

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			• Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas of construction. Wind breaks should have a maximum of 50 percent air porosity. • Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible, unless specified otherwise by the restoration plan, and watered appropriately until vegetation is established. • Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. • Minimize the amount of excavated material or waste materials stored at the site. • Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.		UT1-30 cont.
3.4 Biological Resources					
32	3.4-44	APM BIO-7	Protocol surveys following standard guidelines shall be conducted within all proposed impact areas and suitable buffers within suitable habitat areas for salt marsh harvest mouse (SMHM) by an approved biologist. In the event of the discovery of SMHM individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable.	The language in the APM requires surveys within suitable habitat for SMHM. However, in lieu of protocol surveys, LSP will assume presence and consult with Agencies as appropriate to identify applicable conservation measures. Therefore, we recommend revising APM BIO-7 by striking the following "Protocol surveys following standard guidelines shall be conducted within all proposed impact areas and suitable buffers within suitable habitat areas for salt marsh harvest mouse (SMHM) by an approved biologist." and revising APM BIO-7 to eliminate reference to surveys as written below. We further recommend eliminating reference to fencing as these measures will be established in coordination with Agencies. Suitable habitat for salt marsh harvest mouse (SMHM) and suitable adjacent areas shall be marked as a sensitive area and shall be avoided to the extent practicable. If avoidance is not possible, USFWS and/or CDFW shall be consulted prior to construction activity. Any other construction activities that may impact SMHM including movement of construction equipment within suitable habitat or suitable adjacent areas would be monitored by a qualified biologist. The qualified biologist shall have the authority to stop work activities upon the discovery of live individuals and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to SMHM, such as allowing individuals to leave on their own or temporarily halting construction in areas where SMHM is present. All adjacent known SMHM preserve areas shall be clearly marked as well and avoided. This APM would be applied along the transmission line west of the proposed alignment in the vicinity of Coyote Creek Lagoon.	UT1-31

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33	3.4-68	Last paragraph	With implementation of the LSPGC APMs, PG&E BMPs and PG&E FPs, Mitigation Measure 3.1-2, Mitigation Measure 3.4-1b, Mitigation Measure 3.4-1d, and Mitigation Measure 3.4-1e, construction-related impacts to special-status nesting birds and roosting bats would be reduced to a less-than-significant level.	This section should say that with implementation of mitigation, impacts to SMHM would be LTS. The discussion immediately above pertains to SMHM not nesting birds and roosting bats.	UT1-32
34	3.4-69	Last paragraph under O&M header	Implementation of the LSPGC APMs and Mitigation Measure 3.4-1e would ensure that impacts to birds and bats would be less than significant.	This section pertains to O&M impacts on all special status species, so it should state that impacts to special status species (not just birds and bats) during O&M would be LTS with mitigation.	UT1-33
35	3.4-74	Paragraph right before O&M header	Implementation of the LSPGC APMs, PG&E FPs, Mitigation Measure 3.1-2, Mitigation Measure 3.4-1b, Mitigation Measure 3.4-1c, Mitigation Measure 3.4-1d, and Mitigation Measure 3.4-1e would help ensure that impacts associated with federally or state-protected wetlands would be less than significant.	This conclusion should be corrected to reflect the preceding impacts discussion, as follows: Implementation of the LSPGC APMs, PG&E FPs, Mitigation Measure 3.1-2, Mitigation Measure 3.4-1b, Mitigation Measure 3.4-1c, Mitigation Measure 3.4-1d, and Mitigation Measure 3.4-1e would help ensure that impacts associated with wildlife movement during construction would be less than significant. ~~federally or state-protected wetlands would be less than significant~~.	UT1-34
36	3.4-82	1st paragraph	While it is unlikely that the Project would not have impacts on special-status fish, there is an incremental possibility, as noted above, and, thus, the cumulative projects may also have similar effects.	This sentence should be updated to read: "While it is unlikely that the Project would ~~not~~ have impacts on special-status fish...."	UT1-35
37	3.4-77	1st full paragraph	“The risks of collision associated with this new construction would be reduced by using appropriate Avian Power Line Interaction Committee (APLIC) methods. Collision prevention methods include placing visual deterrents on wires and structures to increase their visibility to migratory birds (APLIC 2012).”	As stated in the Project Description, LSPGC would implement appropriate methods to reduce the risks of avian collisions, consistent with recommendations made by the Avian Power Line Interaction Committee (APLIC 2012), where appropriate. Conductors and ground wires would be spaced sufficiently far apart so that raptors would not be able to contact two conductors or one conductor and a ground wire, causing electrocution (APLIC 2006). This does not commit to specific measures recommended within APLIC 2012 or 2006. With respect to the DEIR, text should be revised as follows: “The risks of collision associated with this new construction would be reduced by using appropriate Avian Power Line Interaction Committee (APLIC) methods. Collision prevention methods could include measures such as placing visual deterrents on wires and structures, or increased spacing of wires, to increase their visibility to migratory birds (APLIC 2012).”	UT1-36
38	3.4-19	Table 3.4-3 under California red-legged frog	Moderate. Suitable habitat is limited in Project area and there is one recent CNDDB record within 2 miles.	Recommend revising Potential to Occur for California red-legged frog to have a low potential to occur. Suitable habitat for this species in the form of breeding and upland habitat is not present in the Project area. One CNDDB occurrence was recorded in 1997 in Agua Caliente Creek; however, this area is now highly developed. Based on lack of recent records and suitable habitat within the Project area, this species should be considered to have a low potential to occur. If this recommendation is not accepted, the proposed changes/revisions to APM BIO-18 will no longer apply.	see UT1-24

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39	3.4-24	3rd paragraph	California Red-Legged Frog	Based on previous recommendation to revise CRFL potential to occur to "low," this section would be eliminated.	see UT1-24 cont.
40	3.4-47	APM BIO-18	California Red-Legged Frog	If recommendation to revise potential to occur from "moderate" to "low" is accepted, recommend striking CRLF from APM BIO-18 as written below. The measure as written references coverage under Santa Clara Valley HCP or a CDFW ITP. However, if not covered under the SCV HCP, consultation could also be required with USFWS. In addition to striking CRLF, we recommend that the measure be updated as below to address the potential need to coordinate with both agencies. Protocol surveys shall be conducted for California tiger salamander and preconstruction surveys shall be conducted within all proposed impact areas and suitable buffers within potentially suitable habitat areas for California tiger salamander. In the event of the discovery of suitable habitats or live individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. California tiger salamander is a covered species under the Santa Clara Valley HCP; if impacts are identified during species-specific surveys, the take for this species shall be covered either under the Santa Clara Valley HCP or through consultation with CDFW and/or USFWS. Any other construction activities that may impact special-status amphibians including movement of construction equipment and other activities outside of the fenced/paved areas within suitable habitat shall be monitored by a qualified biologist. The qualified biologist shall have the authority to stop work activities upon the discovery of live individuals and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to sensitive amphibians.	
41	3.4-51	Table	California Red-Legged Frog reference	If recommendation to revise potential to occur from "moderate" to "low" is accepted, recommend striking CRLF from list of species with potential substantial adverse effects.	
42	3.4-60	Entire page	Discussion of impacts to amphibians and reptiles	Based on previous recommendation to revise CRFL potential to occur to "low," reference and discussion of impacts to CRFL would be eliminated globally.	
43	3.4-63	Second paragraph	There would be up to 0.54 acre of temporary impacts and no permanent impacts on suitable nesting or foraging habitat for California Ridgway's rail and California black rail (Table 3.4-4).	The EIR concludes that all impacts to wetlands, which includes up to 0.54 acre, are suitable for California Ridgway's rail. However, multiple wetland types are present within the project area. For example, unavoidable impacts to wetlands at overhead structures adjacent to Coyote Creek include wet meadow/floodplains that do not provide suitable vegetation coverage or hydrology for species foraging. Suggested revision is to strike and replace "0.54 acre" with "0.23 acre."	UT1-37
44	3.4-52	MM 3.4-1a	**Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**	While we agree that rare plants should be addressed and mitigated through the CEQA process, utilities are exempt from Fish and Game Code FGC 1913:	UT1-38

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			Rare plant surveys conducted under APM BIO-2 shall be floristic in nature and shall be conducted by a qualified botanist according to procedures outlined in the CDFW publication Protocols for Surveying and Evaluating Impacts to Special Status Native Plant Populations and Natural Communities (CDFW, 2018b). The survey(s) shall be conducted between April and July in accordance with CDFW protocol and in conjunction with the blooming seasons of those rare plants with moderate potential to occur in the survey area. If no special-status plants are observed during appropriately timed surveys by a qualified botanist, it shall be assumed that the construction activity will have no impact on special-status plants and no further action is required. If special-status plants are identified within the survey area, the individuals or populations shall be mapped and quantified and reported to the CNDDB, and the LSPGC project manager shall be notified at least 14 days prior to construction in that area. Impacts on these known occurrences shall be avoided when feasible. LSPGC shall coordinate with CDFW and/or USFWS staff to establish appropriate avoidance and minimization measures, depending on whether the species is federally and/or state listed, and shall consult with CDFW and/or USFWS to obtain an ITP as required for any impacts that cannot be avoided. Avoidance and minimization measures may include, but need not be limited to: 1. No-disturbance buffers. 2. Work windows for low-impact activities that are compatible with the dormant phase of a special-status plant life cycle but that may kill living plants or severely alter their ability to reproduce. 3. Silt fencing or construction fencing to prevent vehicles, equipment, and personnel from accessing the occupied habitat. 4. Erosion control BMPs such as straw wattles made of rice straw, erosion control blankets, or hydroseeding with a native plant seed mix to prevent sedimentation from upslope construction activities. 5. In consultation with and as authorized by CDFW or USFWS, collection and spreading of seeds or relocation of plants to appropriate locations by a qualified botanist.	(b) Notwithstanding the provisions of Section 1911, timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511) of Part 2 of Division 4 of the Public Resources Code), or required mining assessment work pursuant to federal or state mining laws, or the removal of endangered or rare native plants from a canal, lateral ditch, building site, or road, **or other right-of-way by the owner of the land or the owner's agent, or the performance by a public agency or a publicly or privately owned public utility of its obligation to provide service to the public, shall not be restricted by this chapter because of the presence of rare or endangered plants,** except as provided in subdivision (c) of this section. As such, we would request that the language in the mitigation measure referencing a CDFW ITP permit be removed. We also ask that this utility exemption be added to the Regulatory Setting section of the Biological Resources Section.	UT1-38 cont.
45	3.4-54	MM 3.4-1b	**Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring** Before construction, the applicant shall obtain all required environmental permits, including a Clean Water Act Section 401 water quality certification for federal and state jurisdictional wetlands, Clean Water Act Section 404 permits for federal jurisdictional, and a CDFW Lake and Streambed Alteration Agreement, and shall adhere to the conditions of each.	LSPGC requests that this measure be modified to only be required for areas of construction that would be in delineated State or Federal jurisdictional waters. As currently written, this measure as written may delay the start of construction activities in upland and disturbed/developed habitats. Please revise to “Before construction in areas containing waters of the U.S. and/or State, the applicant shall obtain all required environmental permits…” and “At least 30 days before the scheduled commencement of Project activities within waters of the U.S. and/or State, the applicant shall submit…”	UT1-39

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			At least 30 days before the scheduled commencement of Project activities, the applicant shall submit a Restoration Plan to CDFW and the CPUC for review and written approval. No Project activities shall commence until the Restoration Plan is approved by CDFW in writing. The plan shall detail compensatory mitigation for permanent impacts to riparian and wetland habitat in the form of restoration or enhancement of habitat either on-site (where practicable) or off-site as close to the Project site as practicable. The plan shall also describe the on-site restoration of temporary impacts to riparian and wetland habitat. The Restoration Plan shall also include monitoring and success criteria. Impacts to riparian and wetland habitat shall be restored or otherwise mitigated according to the Restoration Plan within the same calendar year as the impact occurs unless otherwise approved in writing by CDFW. More than one plan may be necessary for restoration activities in different locations. Restoration and monitoring shall be guided by a qualified biologist experienced in wetland habitat restoration. Restoration shall include protocols for replanting native vegetation removed before or during construction, and management and monitoring of the plants to ensure replanting success. The following measures shall apply to site restoration: • Areas affected by construction-related activity shall be replanted or reseeded with locally collected and grown native shrubs and herbaceous species suitable for riparian and wetland locations, under guidance from a qualified restoration biologist. • To ensure a successful revegetation effort, all plants shall be monitored and maintained as necessary for a minimum of 5 years. LSPGC shall submit an annual monitoring report to the CPUC and CDFW during each year of revegetation. • The revegetation shall be considered successful when, after at least 5 years of monitoring (including at least 3 years without supplemental irrigation), each category of plantings (e.g., herbs, shrubs) has a minimum of 85 percent survival, and restoration areas have attained a relative native cover of 70 percent after 3 years and 75 percent after 5 years, unless approved in writing by CDFW. Survival and cover criteria shall both be required unless the herbaceous or spreading plants cannot be differentiated by individual, in which case the cover success criteria alone may be sufficient if determined in writing by CDFW.	In addition, LSPGC requests that approval from CDFW be removed from MM 3.4-1b as permits received from CDFW will already contain specific restoration requirements.	UT1-39 cont.

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46	3.4-55	MM 3.4-1c	**Mitigation Measure 3.4-1c: Frac-out Plan** To avoid potential indirect impacts to aquatic resources and associated habitats during horizontal boring or horizontal directional drilling (i.e., trenchless techniques) using pressurized drilling fluids, LSPGC or its contractors shall prepare and submit a Frac-out Plan to the CPUC for preventing and addressing potential inadvertent frac-outs. The Frac-out Plan shall specify when a biological monitor will be present during the trenchless technique process, and shall limit work associated with trenchless waterway crossings to daylight hours to enable identification of potential frac-outs and/or potential impacts to sensitive species should a frac-out occur. The Frac-out Plan shall also establish communication protocols and training information for construction personnel, the response materials to be available on site to minimize frac-out effects, and effective responses to potential releases of drilling fluids used during the trenchless technique process. LSPGC's Frac-out Plan shall be submitted to the CPUC 30 days before the start of construction.	LSPGC is requesting that HDD operations be allowed at anytime with a monitor onsite. Depending on the location, size, and length of the HDD, drilling operations may need to occur at night. During construction, drilling conditions are monitored to ensure adequate conditions. As part of that monitoring drilling fluid return volume is continuously monitored. A significant drop in return volume could signify fracturing-out, and drilling would be stopped. While HDD sites are also visually monitored, the drilling fluid return volume will be the first indication of a potential frac-out. Both of these monitoring systems can and will occur during daylight and nighttime operations. In addition, this measure should be specific to the HDD sites with the Frac-out Plan submittal being required prior to the start of construction only at any of the HDD sites.	UT1-40
47	3.4-75	MM 3.4-5	"All removal of street trees within the cities of Fremont, Milpitas, San José, and Santa Clara shall be coordinated with the responsible department in each city (see Section 3.4.3, *Regulatory Setting*) to obtain any necessary tree removal permits. LSPGC shall comply with all permit conditions including tree replanting and monitoring to help ensure successful replanting. Prior to the start of construction, LSPGC shall provide the CPUC with copies of the permits issued by the applicable jurisdictions."	Please revise this section to reference ministerial tree removal permits. Per GO 131-E, LSPGC is exempt from local discretionary approvals issued pursuant to local authority (including discretionary tree removal permits).	UT1-41
3.8 Greenhouse Gas Emissions					
48	3.8-17	1st paragraph and 2nd paragraph	"Based on Environmental Science Associates' review of these Project changes, there are no substantive changes to Project components or Project construction activities beyond those previously analyzed in the 24-month construction scenario." "As discussed in Section 2.9.4, *Construction Schedule*, Project construction would emit GHGs over a period of approximately 26 months."	Add a sentence under the construction section of Impact 3.8-1 concluding that the 24 months is conservative to the point that it would account for the additional 2 months that was not included in the modeling.	UT1-42
3.9 Hazards and Hazardous Materials					
49	3.9-25 through 3.9-27	Mitigation Measures 3.9-1a	**Mitigation Measure 3.9-1a: Pre-Construction Hazardous Materials Assessment** Prior to the preparation of the Health and Safety Plan and Soils and Groundwater Management Plan for the Project, LSPGC or its contractor(s) shall perform a limited soil and groundwater investigation at proposed construction work areas that overlap with the San José-Santa Clara RWF, Cisco Systems 6/Syntax Court Disposal Site, and	Mitigation Measure 3.9-1a requires soil sampling and characterization within four general areas along the proposed transmission line route: with the RWF facility, within 1,000 feet of landfills, within the Cisco Systems 6/ Syntax Court Disposal Site, and within the South Bay Asbestos Superfund site. Pre-construction (i.e., greater than 60 days prior to construction) is not required in order to ensure potential impacts are less than significant, and in some cases may cause disruptions to existing land uses, as further described below. The	UT1-43

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			South Bay Asbestos Superfund Site to characterize soil and groundwater quality prior to construction. Samples shall be collected from each of the proposed work areas that will be disturbed during project construction, and these samples shall be collected to the depth of the planned excavation. Subsurface soil samples shall be analyzed for total petroleum hydrocarbons (TPH) (e.g., gasoline, diesel, and waste oil), Title 22 metals, volatile organic compounds (VOCs), and polychlorinated biphenyls (PCBs) to evaluate the potential presence of contamination. Groundwater samples shall be collected if subsurface excavations are anticipated to require dewatering. Additional analyses for VOCs and semi-volatile organic compounds (SVOCs) shall be conducted for groundwater samples collected at construction locations within 1,000 feet of adjacent landfills. In the event the assessment identifies hazardous materials issues, the results of the hazardous materials assessment shall be incorporated into the Site Health and Safety Plan prepared in accordance with Mitigation Measure 3.9-1b and the Soil and Groundwater Management Plan prepared in accordance with Mitigation Measure 3.9-1c to determine whether specific soil and groundwater management and disposal procedures for contaminated materials are required, whether excavated soils are suitable for reuse, and whether construction worker health and safety procedures for working with contaminated materials are required. In the event the assessment does not identify hazardous materials issues, LSPGC shall implement APM WQ-1. LSPGC shall compile the results of these assessments and analyses into a Pre-Construction Hazardous Materials Assessment, and shall submit this Pre-Construction Hazardous Materials Assessment to the CPUC no less than 60 days before the start of construction.	appropriate procedures for sampling, excavation, handling, transportation, and disposal of soil and groundwater will be included within the HMMP included as APM HAZ-2. The HMMP will set forth procedures for both the known contaminated sites as areas of unknown contamination of soil and groundwater discovered during construction. In reference to the RWF site, areas of potential soil contamination are known to the RWF, and appropriate procedures for sampling, excavation, handling, transportation, and disposal will be included within the HMMP included as APM HAZ-2. LSPGC will incorporate input from RWF in preparation of the HMMP, incorporating any necessary known site conditions and procedures. Exported soils from these areas will be tested if necessary according to existing regulations. Implementation of APM HAZ-2 would address identification, handling, and disposal of soils within the RWF area during construction activities, in coordination with RWF operations. Therefore, conducting pre-construction soil sampling and characterization is not required to ensure impacts are less than significant. Pre-construction sampling within the RWF may also interfere with RWF operations. While the Cisco Systems 6/ Syntax Court Disposal Site and the South Bay Asbestos Superfund site have documented soil contamination, both sites have open regulatory oversight with development covenants, soil management plans, and health and safety plans. Implementation of APMs HAZ-3 and HAZ-4 document the Project's compliance with the existing covenants and environmental restrictions, which would address potential impacts relating to Project construction within these existing sites. Soil sampling and characterization of these sites would not inform the HMMP as they are known to be contaminated with established procedures for soil disposal and will be addressed accordingly. Preparation of the HMMP, under APM HAZ-2, would assume presence of the documented contamination within these sites, and would include specific procedures for testing, handling, transportation, and disposal of contaminated soils as detailed in their respective development covenants, soil management plans, and health and safety plans. Implementation of the APM HAZ1, APM HAZ-2, APM HAZ-3, and APM HAZ-4 will avoid unnecessary soil sampling in areas of known contamination potentially leading to confusion as well as eliminate redundancy and potential conflicting requirements. In relation to groundwater sampling within 1,000 of a landfill, the Project will, as would be outlined within the HMMP, test any groundwater or other water encountered during underground construction activities that are suspected of being contaminated. Appropriate procedures for sampling, extraction, handling, transportation, and disposal of groundwater will be included within the HMMP as well as in accordance with APM HAZ-2 and APM WQ-1. As such, LSPGC requests that the Final EIR utilize APM HAZ-1, APM HAZ-2, APM HAZ-3, APM Haz 4, and APM WQ-1 in place of Mitigation Measure 3.9-1a.	UT1-43 cont.

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				If Mitigation Measure 3.9-1a is retained within the Final EIR, any pre-construction hazardous materials actions should only be applied to the applicable portions or segments of the Project. Because the Project is linear in nature, it is not efficient to condition the beginning of all construction activities based on site conditions or approvals that are limited to only one portion or segment of the Project. Therefore, any pre-construction Mitigation Measures that apply to specific areas or portions of the Project, such as Mitigation Measure 3.9-1a, need only be completed prior to construction within the affected areas. If Mitigation Measure 3.9-1a is retained within the Final EIR, LSPGC suggests the following revision to the timing: "LSPGC shall compile the results of these assessments and analyses into a Pre-Construction Hazardous Materials Assessment and shall submit this Pre-Construction Hazardous Materials Assessment to the CPUC no less than 60 days before the start of construction <u>within the affected area(s)</u>."	UT1-43 cont.
50	3.9-26	Mitigation Measure 3.9-1c	**Mitigation Measure 3.9-1c: Soil and Groundwater Management Plan** LSPGC or its contractor(s) shall direct the construction contractor to prepare and implement a Soil and Groundwater Management Plan, subject to review by the CPUC, that specifies the method for handling and disposal of contaminated soil and groundwater prior to construction. The plan shall include all necessary procedures to ensure that excavated materials and fluids generated during construction are stored, managed, and disposed of in a manner that is protective of human health and in accordance with applicable laws and regulations. The plan shall include the following information. • Step-by-step procedures for evaluation, handling, stockpiling, storage, testing, and disposal of excavated material, including criteria for reuse and offsite disposal. All excavated materials shall be inspected prior to initial stockpiling, and spoils that are visibly stained and/or have a noticeable odor shall be stockpiled separately to minimize the amount of material that may require special handling. In addition, excavated materials shall be inspected for buried building materials, debris, and evidence of underground storage tanks; if identified, these materials shall be stockpiled separately and characterized in accordance with landfill disposal requirements. If some of the spoils do not meet the reuse criteria and/or debris is identified, these materials shall be disposed of at a permitted landfill facility. • Procedures to be implemented if unknown subsurface conditions or contamination are encountered, such as previously unreported tanks, wells, or contaminated soils.	LSPGC APM HAZ-2, which includes preparation of an HMMP, was intended to include procedures to address the sampling, excavation, handling, transportation, and disposal of hazardous materials and wastes that may be used, generated, or encountered during Project construction. Therefore, preparation of the Soil and Groundwater Management Plan included as Mitigation Measure 3.9-1c is redundant and not required to ensure impacts relating to hazardous materials and wastes are less than significant. LSPGC requests that the Final EIR utilize APM HAZ-2 in place of the Mitigation Measure 3.9-1c. If the Final EIR retains Mitigation Measure 3.9-1c, LSPGC requests that it supersedes APM HAZ-2 to ensure that two similar and overlapping plans are not prepared, thus minimizing confusion during construction and removing potential conflicting requirements.	UT1-44

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
			• Procedures for containment, handling, and disposal of groundwater generated from construction dewatering, including the method(s) used to analyze groundwater for hazardous materials likely to be encountered at specific locations (based on the results of Mitigation Measure 3.9-1a), and the appropriate treatment and/or disposal methods. LSPGC shall submit the Soil and Groundwater Management Plan to the CPUC 30 days before the start of construction, or upon the receipt of the results of the Pre-Construction Hazardous Materials Assessment (whichever comes first).		UT1-44 cont.
3.13 Noise					
51	3.13-18	Third paragraph under City of Santa Clara Municipal Code	Error! Reference source not found.	Correct reference error here.	UT1-45
3.17 Transportation					
52	3.17-16 and 3.17-17	Mitigation Measure 3.17-2a	**Mitigation Measure 3.17-2a**	With implementation of APM TRA-1 (Traffic Control Plan), APM TRA-2 (Coordinate Bus Stop Closures) and APM TRA-3 (Repair Infrastructure), it is unclear why Mitigation Measure 3.17.2a is required to reduce potential impacts to less than significant given the APMs and Mitigation Measure contain similar requirements. We recommend removing the Mitigation Measure and relying on the APMs to eliminate redundancy and potential conflicting requirements.	UT1-46
53	3.17-19	MM 3.17-2a	LSPGC's traffic control plan, with proof of coordination, shall be submitted to the CPUC at least 30 days before the start of construction.	LSPGC request that the "proof of coordination" requirement be removed from MM 3.127.2a as this is vague and could be difficult to provide. Cities typically will work together when issuing permits that overlap jurisdictions and will not issue a permit until coordination has been complete. As such, we believe the issued encroachment and/or traffic control permit would be the "proof of coordination" that the CPUC is requesting.	UT1-47
54	3.17-19	Mitigation Measure 3.17-2b	"After completion of the repair of any damaged roads, sidewalks, trails, and bicycle facilities resulting from Project construction activities, LSPGC shall submit a report to the CPUC and other jurisdictions whose facilities have been affected be Project construction (e.g., city, county, state, etc.) to confirm repairs are consistent with preconstruction conditions…"	Mitigation Measure 3.17-2b and APM TRA-3 (Repair Infrastructure) are adequate to reduce potential impacts to less than significant. LSPGC requests that the Mitigation Measure be removed and APM TRA-3 be referenced in the impact analysis.	UT1-48
3.19 Utility and Service Systems					
55	3.19-31	Last paragraph	**Mitigation Measure 3.19-5:** Utility Coordination and Induction Study At least 90 days prior to the start of construction, LSPGC shall notify all municipalities, companies, and other public and private entities owning and maintaining utilities within or crossing the right-of-way of the Project, and shall positively identify and confirm the location and	AC induced corrosion effects are limited to coated, metallic, pipelines paralleled by the Project, rather than all metallic pipelines. LSPGC requests the reference to metallic pipelines should be updated to specify coated and metallic pipelines and that requirements to conduct AC induced corrosion	UT1-49

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
			type of any utilities present. For those identified utilities that do not pose a threat of AC-induced corrosion attributable to the Project, APM UTIL-1 shall be implemented. For the three identified natural gas pipelines, and all other utilities potentially affected by Project-related AC-induced corrosion (i.e., metallic utilities), design and construction of the Project's 230 kV transmission lines shall be coordinated with the applicable utility owners to definitively locate each utility relative to the Newark to NRS 230 kV transmission line, determine the distance of separation between the transmission line and potentially affected utility, and determine the point of intersection and/or distance along which the Project transmission line is parallel to the utility. LSPGC shall prepare a detailed induction study for all identified existing utilities potentially affected by the Project transmission line alignments. At minimum, the study shall include, but not be limited to, a detailed analysis of the known [metallic] pipelines or other utilities identified during these utility surveys; shall identify adequate and implementable measures to avoid corrosion potential; and shall present commitments to the implementation of those actions, including a design of the AC mitigation system for any pipeline found to have an AC potential of 2 volts or greater and a schedule to implement any required AC mitigation systems. Pursuant to Section 6.6.2 of National Association of Corrosion Engineers SP21424-2018, Alternating Current Corrosion on Cathodically Protected Pipelines: Risk Assessment, Mitigation and Monitoring, the induction study shall demonstrate that any required mitigation system would reduce the AC potential to less than 2 volts, or an AC density level of less than a time-weighted average of 30 amperes per square meter. No less than 60 days prior to the start of construction, LSPGC shall submit the full induction study, including the AC mitigation component, to the CPUC for review and concurrence. Once the CPUC concurrence is secured, LSPGC shall implement the AC mitigation system during construction of the Project, phased into the construction process as appropriate.	studies for perpendicular or near perpendicular crossings of pipelines be removed. Pursuant to Section 6.2 of the National Association of Corrosion Engineers SP21525-2018 Alternating Current Corrosion on Cathodically Protected Pipelines: Risk Assessment, Mitigation and Monitoring, the AC current density should not exceed a time-weighted average of: 30 amperes per square meter if DC current density exceeds 1 ampere per square meter or 100 amperes per square meter if DC current density is less than 1 ampere per square meter. Maintaining induced AC potential to less than 2 volts is not referenced in this standard, which was provided in LSPGC's Appendix 5.9-C only as an estimate based on certain general assumptions to achieve the AC current densities cited in the above-referenced standard. LSPGC requests the time-weighted average current density values cited above be updated accordingly and the reference to maintaining an induced AC voltage of less than 2 volts be removed. LSPGC requests the induction study for applicable utilities within a given segment of the Project be provided prior to the start of construction of such segment. Because the Project is linear in nature, it is not efficient to condition the beginning of any construction activities on the completion of the induction study for the entire Project, particularly those segments that contain no existing pipelines susceptible to Project-induced AC corrosion effects. Therefore, any pre-construction Mitigation Measures that apply to specific segments of the Project, such as Mitigation 3.19-5, need only be completed prior to start of construction within such segment. If Mitigation Measure 3.19-5 is retained within the Final EIR, LSPGC suggests the following revision to the timing: "No less than 60 days prior to the start of construction of a Project segment containing an underground utility or utilities identified to be materially affected by accelerated corrosion caused by the Project, LSPGC shall submit the induction study for such Project segment, including the AC mitigation component, to the CPUC for review and concurrence. Once the CPUC concurrence is secured, LSPGC shall implement the AC mitigation system prior to energization of the Project, phased into the construction process as appropriate."	UT1-49 cont.

Comment Number	DEIR Page #	DEIR Paragraph, Note, Figure, Table, Etc.	Original DEIR Text	LSPGC DEIR Comment	
4 Alternatives					
56	4-19 and 4-20	Section 4.9, Paragraphs 2 and 6	Determining an environmentally superior alternative can be difficult because of the many factors that must be balanced. Nonetheless, at this draft stage, Alternative 1 has been determined to be preferred because, relative to the Project, it would avoid potentially significant impacts of the Project on biological resources and aesthetics. However, Alternative 1 would potentially result in greater environmental impacts than the Project related to hazards or hazardous materials, as well as some impacts related to air quality. Additional information received in or developed during the agency and public review period for the Draft EIR, or during the Project approval process, could affect the balancing of the respective benefits and consequences of the alternatives. Accordingly, while a preliminary determination has been made that Alternative 1 would be the Environmentally Superior Alternative, it would be premature to formally designate it as such at this stage. This preliminary determination as to which alternative is the Environmentally Superior Alternative will be confirmed or corrected in the Final EIR.	LSPGC understands the DEIR preliminarily identifies Alternative 1 as the environmentally superior alternative. The DEIR, Section 4.9, also acknowledges that this determination is not final, and could be changed based on information provided during the public review of the DEIR and/or during the Project approval process. LSPGC understands that installation of an underground transmission line through the RWF facility may be incompatible with ongoing RWF facility operations. LSPGC requests that the Final EIR incorporate the potential incompatibility of Alternative 1 with the existing RWF facility and operations, and update the environmental analysis and Environmentally Superior Alternative determination as applicable.	UT1-50
Appendix G – Draft Mitigation Monitoring, Reporting, and Compliance Program					
57	G-8	Last paragraph	In some instances, those APMs have been superseded by CPUC-recommended mitigation measures, as described in the Draft EIR. The table below identifies only those APMs that have not been superseded and will be implemented as part of the Project.	As stated in the DEIR, some APMs have been superseded by mitigation measures. These superseded APMs should be removed from the Final MMCRP to avoid confusion and potential conflicting requirements between mitigation measures and superseded APMs.	UT1-51

Comment Number	DEIR Page #	DEIR Paragraph or Table #	Original DEIR Text	DIER Editorial Comment
Editorial Suggestions				
1	Figure Numbering and Lettering	N/A	e.g., "Figure 2-2a" and "Figure 3.1-3A"	Chapter 2 uses lowercase letters in figure sequencing while Chapter 3 uses capital letters.
2	Global Comment	N/A	e.g., Mitigation Measure 3.9-1b: "…2) notifying SCCDEH, RWQCB, or DTSC…"	SCCDEH is not a defined acronym anywhere in the document.
3	ES-2	Figure ES-1	Newark to NRS 230 KV AC Transmission Line	The label for the transmission line in the legend should have "kV" instead of "KV."
4	1-3	Figure 1-1	Newark to NRS 230 KV AC Transmission Line	The label for the transmission line in the legend should have "kV" instead of "KV."
5	2-3	Figure 2-1	Newark to NRS 230 KV AC Transmission Line	The label for the transmission line in the legend should have "kV" instead of "KV."
6	2-8	2nd to last paragraph	A total of 30 overhead transmission lines and 10 overhead distribution lines are connected to the existing PG&E Newark 230 kV Substation., specifically, seven 230 kV transmission lines, 21 115 kV transmission lines, two 60 kV transmission lines, and 10 distribution lines.	There are two punctuations following "Substation." Delete the period and keep the comma to be consistent with the subsequent paragraph about the SVP NRS 230 kV Substation.
7	2-54	1st paragraph	The existing 230kV Double Bus Double Breaker (DBDB) system would be expanded to add one additional bay to support the interconnection of the new 230kV transmission line.	Insert a space between 230 and kV in both occurrences in this sentence to be consistent with the rest of the document.
8	2-77	Table 2-11, APM BIO-16	"If impacts are identified during species-specific surveys for verna pool tadpole shrimp,…"	There is a typo. "Verna" should be "vernal" pool.
9	2-81	APM HAZ-3	"…(as outlined in Figure 3.9-1, *Contaminated Sites Map*)…"	Figure 3.9-1 is titled *Open Hazardous Materials Clean-Up Sites in the Project Vicinity*.
10	3.1-47	3.1.6.2 Heading	PG& Best Management Practices and Field Protocols	Change PG& to PG&E.
11	3.2-3	1st paragraph	"However, some lands designated as Farmland of Local Importance are located near the Newark to (Northern Receiving Station) NRS 230-kilovolt (kV) AC transmission line, but…"	"…Newark to Northern Receiving Station (NRS) 230-kilovolt (kV) AC transmission line…"
12	3.3-33 3.3-37	1st paragraph Last paragraph	The Project would continue regular O&M activities at the PG&E Newark 230 kV and SVP NRS 230kV substations, respectively.	Insert a space between 230 and kV to be consistent with the rest of the document.
13	3.7-3	2nd paragraph	"The nearest active fault zone is the Hayward Fault Zone, approximately 1.5 miles from the Newark to Northern Receiving Station (NRS) 230-kilovolt(kV) AC transmission line (CGS 2024b)."	Insert a space between kilovolt and (kV).
14	3.9-19	APM HAZ-3	"…(as outlined in Figure 3.9-1, *Contaminated Sites Map*)…"	Figure 3.9-1 is titled *Open Hazardous Materials Clean-Up Sites in the Project Vicinity*.
15	3.11-2	Table 3.11-1	Newark to NRS 230kV AC Transmission Line	Insert a space between 230 and kV to be consistent with the rest of the document.

UT1-52

Comment Number	DEIR Page #	DEIR Paragraph or Table #	Original DEIR Text	DIER Editorial Comment
16	4-5	2nd paragraph	"…to the existing Silicon Valley Power (SVP) Northern Receiving (NRS) 230 kV Station with…"	"…to the existing Silicon Valley Power (SVP) Northern Receiving Station (NRS) 230 kV Substation with…"
17	4-7	1st paragraph	**Table 4-1**, *Screening: HVCD Alternative*, provides a brief explanation of the reasons underlying the CPUC's determination.	There is a typo in the table title. HVDC instead of HVCD.
18	4-18	1st paragraph	"…which includes 2.3 miles underground and approximate 1.9 miles of overhead transmission line (see Figure 4-5)."	Replace approximate with approximately.
19	4-18	1st paragraph	"Alternative 2 reduce noise impacts (i.e., lesser, short-term noise effects) compared…"	Insert "would" before reduce (i.e., Alternative 2 *would* reduce noise impacts…)
20	4-18	2nd paragraph	"…which would result in a higher risks of impacts related to collision and/or electrocution on birds/bats (i.e., greater long-term biological resources effects)."	Change risks to risk (i.e., higher risk of impacts).
21	4-21	Table 4-5, Impact 3.1-1	"**LTS** (less than the Project) because all but 0.1 of the transmission line would be installed underground,…"	Insert "mile" after 0.1.
22	4-22	Table 4-5	"Impact 3.3-1: **SU** (greater than the Project) because Alternative 1 would conflict with…"	Define SU in the notes section at the bottom of the table.
23	G-4	4th paragraph	If the CPUC approves LSPGC's application for authority to construct the Project., LSPGC would be responsible for implementing all adopted APMs and CPUC-recommended mitigation measures governing the construction, operation, and maintenance of the Project.	There are two punctuations following the first occurrence of "Project." Delete the period and keep the comma.
24	G-10	Table G-1	"This person shall respond and take corrective action within 48hours."	Include a space between 48 hours.
25	Various	Table G-1	"During all project activities" "Prior to and during all project activities"	There are various instances in the "Timing" column where Project is not capitalized.
26	G-16	Table G-1	"If impacts are identified during species-specific surveys for verna pool tadpole shrimp,…"	There is a typo. "Verna" should be "vernal" pool.
27	G-20	Table G-1	"…the applicant shall submit a Restoration Plan…"	Should "LSPGC" be used in place of "the applicant"?
28	G-21	Table G-1	Mitigation Measure 3.4-1e: "The signed form shall be provided to the Project Applicant as documentation of training completion."	Should "LSPGC" be used in place of "Project Applicant"?
29	G-34	Table G-1	APM HAZ-3: "…(as outlined in Figure 3.9-1, *Contaminated Sites Map*)…"	Figure 3.9-1 is titled *Open Hazardous Materials Clean-Up Sites in the Project Vicinity*.
30	G-40	Table G-1	AC Corrosion, "Describe above in Utility Conflicts"	"Described above in Utility Conflicts."

UT1-52 cont.

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Letter UT1: LS Power Grid California, LCC

UT1-1 This is an editorial comment that does not affect the substance of the Project's environmental analysis and has been addressed throughout the Final EIR.

UT1-2 The Project's underground transmission line crossing of an unnamed stream and culvert along Grand Boulevard between Los Esteros Road and Spreckles Avenue at Alviso, shown as HDD location HDD-7 in Draft EIR Figure 2.2c, was originally proposed to be executed using HDD technology.

As the culvert has been found to be in poor condition, as part of the installation of the Project's underground transmission line, it is now proposed to be replaced as a part of Project construction. This crossing would be executed by open trenching as excavation would be required to remove the existing culvert. As the culvert replacement is now considered part of the Project, the Project Description of the Final EIR and relevant technical analyses (e.g., biological resources, hydrology and water quality, utilities and service systems) have been revised to reflect this minor Project change.

To reflect this proposed culvert replacement, text has been added on Final EIR pages 2-18 to 2-19 under the fourth full paragraph, as follows:

> At the proposed underground crossing of the Grand Boulevard culvert in the city of San José, the transmission line would be installed in a new duct bank to be installed under the culvert. The duct bank would be installed utilizing typical trenching methods (see Section 2.8.6). In tandem with the duct bank installation in this area, the existing Grand Boulevard culvert (a 48-inch corrugated metal pipe) would be replaced in-kind. The new culvert would be placed in the same location and elevation, and re-bedded in compacted native or imported material.

Text has been added on Final EIR page 2-29, as follows:

> Also, the transmission line would cross under a culvert along Grand Boulevard near the intersection with Spreckles Avenue and Los Esteros Road. In addition, a segment adjacent to the Cushing Parkway bridge would cross the Don Edwards San Francisco Bay National Wildlife Refuge (Don Edwards NWR). At this segment of the transmission line, LSPGC would conduct open trenching (see Section 2.8.6.2, *Trenching*).

Text has been added on Final EIR page 2-38 after the third full paragraph, as follows:

> Construction of aboveground structure NN-8 would entail emptying the drying bed (i.e., dewatered with spoils hauled out); however, it is not anticipated that installation of NN-8 within the RWF drying bed would increase risk of groundwater or wastewater intrusion.

Text has been added on Final EIR page 2-45, as follows:

> Open-cut trenching techniques would be used for most of the transmission duct bank installation and for installation of the ~~conductor~~ cable along the Cushing Parkway bridge and Grand Boulevard culvert.

Text has been added in Final EIR page 2-47 under the first full paragraph, as follows:

> The replacement of the existing culvert along Grand Boulevard would involve excavation of the existing culvert from the road or immediately adjacent upland areas with a backhoe and/or excavator. It is anticipated that there would be a minor excavation of the channel on both sides of the existing culvert to accommodate the removal and replacement of the existing culvert. It is anticipated that up to approximately 32 square feet of open water would be excavated as part of the proposed culvert replacement work. The anticipated areas of excavation at both sides of the culvert are approximately 8 feet wide (perpendicular to flow path) by 2 feet long (parallel to flow path).

To reflect the proposed culvert replacement in the EIR's analysis related to biological resources, text in Final EIR Section 3.4, *Biological Resources*, has been revised and/or added, as follows:

Final EIR page 3.4-11:

> This habitat includes hardwood trees and associated shrubs and comprises approximately 4 percent of the study area, located primarily east of the Newark to NRS 230 kV AC overhead transmission line alignment near Staging Areas 5 and 6, in association with Coyote Creek and its tributaries (Figure 3.4-1). The proposed culvert replacement is also located within this habitat (see Section 2.6.1.2, *Underground Transmission Line Segments*).

Final EIR page 3.4-59:

> Potential direct impacts would be minimized by the implementation of APM BIO-1 (restoration), APM BIO-4 (demarcation of sensitive areas), APM BIO-9 (WEAP training) and APM BIO-17 (minimize work in wet areas).

Final EIR page 3.4-73:

> Implementation of APM BIO-17 would restrict work in aquatic resource areas to the dry season, whenever possible, when fish are less likely to be present, and require biological monitoring during in-water work; and APM BIO-10 would restrict nighttime outdoor lighting.

To reflect the proposed culvert replacement in the EIR's analysis related to hydrology and water quality, text within Final EIR Section 3.10, *Hydrology and Water Quality*, has been revised and/or added, as follows:

Final EIR pages 3.10-22 to 3.10-23:

> Additionally, ~~nine~~ seven horizontal directional drill crossings are proposed under waterways, including Coyote Creek, Agua Caliente Creek, Guadalupe River, and other tributaries to San Francisco Bay. Additionally, the transmission line crossing the Grand Boulevard culvert would be installed in a new duct bank under the replaced Grand Boulevard culvert. Open cut trenching techniques would be used for the crossing at the Grand Boulevard culvert.

Final EIR page 3.10-26:

> The Project would not substantially alter the course of any of the surface waters crossed, as methods such as jack and bore, micro-tunneling, and horizontal directional drilling are proposed at ~~all~~ the majority of proposed water crossings.

Final EIR page 3.10-27:

> In locations where the transmission line segments are proposed to cross waterways, horizontal directional drilling would generally be used, which is typically associated with minimal runoff impacts. Where culvert replacement is proposed at the Grand Boulevard culvert in the city of San José, this activity would occur in tandem with a SWPPP (for the Construction General Permit) and consistent with permit conditions for a CWA Section 401 Water Quality Certification and/or waste discharge requirements, and applicable Fish and Game Code Section 1602 Lake and Streambed Alteration Agreement conditions. With implementation of these regulatory control measures, the Project impacts would be **less than significant**.

To reflect the proposed culvert replacement in the EIR's analysis related to utilities and service systems, text within Final EIR Section 3.19, *Utilities and Service Systems*, has been revised and/or added, as follows:

Final EIR page 3.19-24:

> Some watercourse crossings in the Project area would require permanent improvements. LSPGC has identified seven watercourse crossing locations ~~that follow~~ along the Project alignment that ~~. The Project~~ would use horizontal bore (jack-and-bore or micro-tunnel) or horizontal directional drilling construction techniques at the locations of waterway and culvert crossings (see Section 2.8.6, *Underground Transmission Line Construction*). Additionally, the transmission line crossing the Grand Boulevard culvert would be installed in a new duct bank under the replaced Grand Boulevard culvert. Open cut trenching techniques would be used for the crossing at the Grand Boulevard culvert. The locations of watercourse crossings are identified in Figures 2-2a through 2-2d.

The addition of the proposed culvert would not result in a new significant impact; would not result in a substantial increase in the severity of an environmental impact; and would not result in a new project alternative or mitigation measure considerably different from any previously proposed. Further, open trenching has been proposed for other parts of the Project, and the trenching at this location would not be a new type of activity not already contemplated in the Draft EIR. Therefore, these revisions to the Project Description do not require recirculation of the Draft EIR (CEQA Guidelines Section 15088.5).

UT1-3 This is an editorial comment that does not affect the substance of the Project's environmental analyses and has been addressed throughout the Final EIR.

UT1-4 Draft EIR Section 2.6.1.2, *Underground Transmission Line Segments*, describes an option of attaching the Project transmission line to the Cushing Parkway bridge as it crosses over a portion of the Don Edwards San Francisco Bay National Wildlife Refuge, as opposed to installing the transmission line in an open trench. As a conservative approach and to consider all reasonably foreseeable potential environmental impacts of the Project, the Draft EIR analyses assumed that the transmission line would be installed using the open trench method.

While the CPUC acknowledges LSPGC's request to add more detail regarding the potential bridge attachment along the Cushing Parkway bridge, LSPGC has not yet provided sufficient assurance of the feasibility of attaching the segment along Cushing Parkway bridge, and the potential design of this option is not currently developed to a level of detail that would yield meaningful environmental analysis (CEQA Guidelines Section 15384). If the bridge attachment design is further developed and put forth by LSPGC after certification of the Final EIR and Project approval, the revised design would be reviewed through the CPUC's "minor project refinement" procedure, which would conform to the requirements of the CPUC's CEQA review process. Therefore, the text regarding the potential bridge attachment in the Draft EIR is retained.

UT1-5 This is an editorial comment that does not affect the substance of the Project's environmental analyses, and the listed agencies have been added and addressed, as appropriate, throughout the Final EIR.

UT1-6 As SVP is a municipal utility owned and operated by the City of Santa Clara, a public agency, the CPUC does not have regulatory jurisdiction over SVP. Footnote 2 in Final EIR Section ES.1, *Introduction*, has been revised as follows:

> LSPGC's application for a CPCN was initially filed and deemed complete in June 2024 when GO 131-D was in effect, therefore, LSPGC's portion of the Power the South Bay Project will be permitted under GO 131-D. All filings after January 30, 2025, are subject to GO 131-E requirements, therefore, PG&E's ~~and SVP's~~ portion of the Project will be subject to GO 131-E.

UT1-7 The text on page ES-7 in Final EIR Executive Summary Section ES.5.3, *Growth Inducing Impacts*, has been revised to make clear that the Project does not include an energy storage component, as follows:

> The Project would not generate energy, ~~but it would contribute to the energy supply by storing electricity during times of excess generation and dispatching it to the grid when needed~~ but rather the Project would provide an additional pathway for existing generation. The development of power infrastructure is a response to increased market demand, and the availability of electrical capacity by itself does not ensure or encourage growth within a particular area. Other factors such as economic conditions, land availability, population trends, availability of water supply or sewer services, and local planning policies have a more direct effect on growth.

UT1-8 Applicant-proposed Measures (APMs) identified by LSPGC that have been superseded by CPUC-proposed mitigation measures are not considered part of the Project and are not included in the Project's MMCRP. The text on page ES-9 in Final EIR Executive Summary Section ES.5.4, *Summary of Project Impacts and Mitigation Measures* has been revised, as follows:

> In its PEA, LSPGC identified APMs intended to avoid or reduce potential impacts associated with the Project. In some instances, those LSPGC APMs have been supplemented or superseded by CPUC-recommended mitigation measures, as described in this Draft EIR. Those LSPGC APMs that have ~~not been supplemented or superseded~~ been supplemented by mitigation measures are considered part of the Project for the purpose of this Draft EIR, and upon adoption of the Final EIR, would become part of the Mitigation Monitoring, Compliance, and Reporting Program (MMCRP) to assure that implementation of and compliance with the measures would be monitored and enforced by the CPUC. Those APMs that have been superseded by CPUC-recommended mitigation measures are not considered part of the Project and are not included in the MMCRP.

UT1-9 Text has been added on page ES-9 in Final EIR Executive Summary Section ES.5.4 indicating that Table ES-3 does not include mention of agriculture and forestry resources and mineral resources as the Project would have no impact on these resources, as follows:

> **Table ES-3**, *Summary of Impacts and Mitigation Measures*, summarizes the environmental impacts of the Project and recommended mitigation measures that, if adopted, would avoid or substantially reduce potential significant impacts of the Project, as well as applicable LSPGC APMs and PG&E BMPs and/or FPs for each environmental impact. Table ES-3 does not include resource areas for which there are no anticipated impacts as a result of the Project (e.g., agriculture and forestry resources, mineral resources). The analysis of each Project impact is provided on a resource-by-resource basis in

Chapter 3 of this Final ~~Draft~~ EIR. The draft MMCRP included in Chapter 5 of this Final ~~Draft~~ EIR will be updated if needed to reflect the CPUC's decision on the Project, including any revisions to the mitigation measures that must be implemented if the Project is approved.

UT1-10 Table ES-3 on page ES-12 in the Final EIR Executive Summary Section ES.5.4, *Summary of Project Impacts and Mitigation Measures,* has been revised to remove an erroneous reference to **Mitigation Measure 3.4-2: Habitat Restoration and Monitoring**.

UT1-11 The CPUC acknowledges this comment, and it will be considered in the decision-making process.

UT1-12 As set forth in CEQA Guidelines Section 15093, if the specific economic, legal, social, technological, or other benefits of a proposed project outweigh its unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable." Therefore, when the CPUC considers the Project, it will balance the Project's benefits against its adverse environmental effects. If the CPUC determines that the benefits outweigh the adverse effects and decides to approve the Project, it will prepare a statement of overriding considerations. There is no need to reword the bullet point in Executive Summary Section ES.9, *Issues to be Resolved*.

UT1-13 The CPUC acknowledges this request. Pursuant to Section 15124(b) of the CEQA Guidelines, "a clearly written statement of objectives," which should include the underlying purpose of the project, "will help the lead agency develop a reasonable range of alternatives to evaluate in the EIR and will aid the decision makers in preparing findings of a statement of overriding considerations, if necessary." Additionally, pursuant to Section 1001.1 of the California Public Utilities Code, the CPUC shall establish a rebuttable presumption with regard to the need for a proposed transmission project in favor of a CAISO governing board-approved need evaluation if specified conditions are satisfied, including the condition set forth in Section 1001.1(a) that the CAISO governing board must have "made explicit findings regarding the need for the proposed transmission project and … determined that the proposed project is the most cost-effective transmission solution."

The CPUC crafted the statement of the purpose of the Project to align with the need evaluation set forth in the CAISO 2021-2022 transmission plan, as well as in the CAISO's subsequent decision to modify the Project on November 12, 2024. The purpose of the Project presented in Final EIR Section 1.3.1, *Project Purpose*, reflects the CPUC's independent consideration of the Project, as required by CEQA.

UT1-14 The word "use" has been deleted from the text in Draft EIR Introduction Section 1.4.2, *Other Agencies*, as follows:

> Because the CPUC has preemptive jurisdiction over construction, operation, and maintenance of LSPGC facilities in California, no local discretionary ~~use~~ permits are required.

UT1-15 The suggested text is consistent with GO 131-D and has been incorporated in the Final EIR. Text on page 1-5 in the Final EIR has been revised, as follows:

> The CPUC's General Order 131-D (GO 131-D) requires LSPGC to consult with local agencies on land use matters even though local jurisdictions are preempted from regulating the Project. In instances where the public utility and the local agency have unresolved differences regarding land use matters, GO 131-D provides a process by which the CPUC would resolve those differences. ~~to comply with local building, design, and safety requirements and standards, to the degree feasible, to minimize potential Project conflicts with local land uses~~

UT1-16 The CPUC acknowledges this request and the suggested revised text has been incorporated in the Final EIR. Footnote 3 on page 2-2 in the Final EIR has been revised, as follows:

> Certain underground segments of the Project alignment would be located on public and private property outside of existing roadways including private parcels in South Fremont and North San José, as well as public parcels owned by PG&E, Alameda County Flood Control District, SCVWD, the RWF, California State Lands Commission, and Santa Clara Valley Transportation Authority. ~~Underground segments of the Project alignment would be located along public and private property outside of existing roadways, including a portion of Weber Road owned by PG&E, a portion of property owned by Santa Clara Valley Water District south of McCarthy Boulevard, and a portion on the RWF property before the alignment enters Los Esteros Road.~~

UT1-17 The CPUC acknowledges this request, and where appropriate, is incorporated in the Final EIR.

UT1-18 The CPUC acknowledges these clarifications, and where appropriate, are reflected in the Final EIR. Text on page 2-8 of the Final EIR has been revised, as follows:

> The South Bay area also has key 500 kV and 230 kV interconnections to the Moss Landing and Tesla substations. The San José/Santa Clara area (i.e., SVP service area) is generally served by the Newark 230/115 kV substation to the north and the Metcalf 500/230/115 kV substation the south.

Text on page 2-11 of the Final EIR has been revised, as follows:

> The San José/Santa Clara area (i.e., SVP service area) is served primarily from the existing PG&E Newark 230 kV and Metcalf substations; however, the bulk of the power flows from the Newark side due to the electrical proximity of the area load to the existing PG&E Newark 230 kV Substation.

UT1-19 The text on page 2-22 of the Final EIR Section 2.7.3.1, *LSPGC Facilities*, has been revised to reflect this new information, as follows:

> Specifically, LSPGC would ~~negotiate~~ obtain easements on approximately 12 parcels ~~with four private landowners~~ for the transmission line. Should the CPUC approve the Project, LSPGC would negotiate required agreements with the following entities…

UT1-20 The three entities identified in this comment have been added to the list provided on pages 2-22 and 2-23 of the Final EIR Section 2.7.3.1, as shown below. Please note that CSLC and USD have also been added as a response to comment letters LA4 and SA2.

- Alameda County Flood Control District
- City of Fremont
- City of San José
- City of Santa Clara
- San Francisco Bay Conservation and Development Commission
- San José-Santa Clara Regional Wastewater Facility
- Santa Clara Valley Water District
- Santa Clara Valley Transportation Authority
- California State Lands Commission
- California Department of Transportation
- PG&E
- SVP
- Union Pacific Railroad
- Union Sanitary District

UT1-21 Figure 2-8 of the Final EIR has been revised to remove the phasing numbers.

UT1-22 The text on page 2-49 of the Final EIR Section 2.8.6.3, *Trenchless Techniques*, has been revised to reflect the suggested text revision regarding Horizontal Bore Option 2, as follows:

> Two ~~34~~ 36-inch ~~casing pipes~~ bores, each containing four 8-inch ducts: three ducts for the installed cable and one spare duct.

UT1-23 Figure 2-12b has been removed from Final EIR and the former Figure 2-12a has been renumbered as Figure 2-12.

UT1-24 LSPGC recommends reducing the potential for California red-legged frog (CRLF) from "moderate" to "low" and removing discussion of the species from every section of the Draft EIR. LSPGC also recommends revising **APM BIO-18: Special-Status Amphibian Surveys** to only discuss California tiger salamander.

CRLF has potential to occur upstream in Coyote Creek and could be present as transients in the Project area. However, the potential for transients may reasonably be considered low. Thus, in accordance with LSPGC's suggestion, APM BIO-18 has been revised to remove this species, as follows:

> **APM BIO-18**: **Special-Status Amphibian Surveys**. Protocol surveys shall be conducted for California tiger salamander ~~and California red-legged frog~~ and preconstruction surveys shall be conducted within all proposed impact areas and suitable buffers within potentially suitable habitat areas for California tiger salamander ~~and California red-legged frog~~. In the event of the discovery of suitable habitats or live individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. If avoidance is not possible, USFWS and/or CDFW shall be consulted. California tiger salamander is a ~~and California red-legged frog are~~ covered species under the Santa Clara Valley HCP; if impacts are identified during species-specific surveys, the take for this species shall be covered either under the HCP or covered under a State or Federal ITP in consultation with CDFW and/or USFWS. Any other construction activities that may impact special-status amphibians including movement of construction equipment and other activities outside of the fenced/paved areas within suitable habitat shall be monitored by a qualified biologist. The qualified biologist shall have the authority to stop work activities upon the discovery of live individuals and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to sensitive amphibians.

Additionally, the designation for potential to occur for CRLF within Table 3.4-3 and **Appendix D** of the Final EIR have been revised from moderate to low, as follows:

> **Low** ~~**Moderate**~~. Suitable habitat is limited in Project area and there is one recent CNDDB record within 2 miles.

UT1-25 The CPUC acknowledges LSPGC's input that **APM BIO-10: Outdoor Lighting Measures,** and **Mitigation Measure 3.1-2: Minimize Fugitive Light from Temporary Sources Used for Construction**, may be the same and request to omit Mitigation Measure 3.1-2.

Mitigation Measure 3.1-2 differs from APM BIO-10 in that it is appropriately more prescriptive regarding the use of outdoor lighting. For example, Mitigation Measure 3.1-2 requires the Project to selectively place and shield light and limits the number of nighttime lights to those only necessary to accomplish work completely and safely. With this said, APM BIO-10 differs from Mitigation Measure 3.1-2 as it

discloses local municipalities' authority to dictate the occurrence of transmission line construction (e.g., during nighttime as some areas may experience high levels of construction activities during the daytime).

Second, Mitigation Measure 3.1-2 requires the use of photocell and motion detection-controlled lighting in the context of site-specific safety (for workers and members of the public) and sensitive species protection requirements. While the CPUC understands that the use of photocell and motion detection-controlled lighting may not be technically feasible, as noted by LSPGC, Mitigation Measure 3.1-2 has been proposed since it would primarily help control fugitive lighting (i.e., light trespass). Further, CEQA Guidelines Section 15126.4 addresses the discussion of mitigation measures in terms of feasibility, rather than practicability.

UT1-26 LSPGC indicates that the standard dust control BMPs, as outlined in **APM AQ-2: Dust Control Best Management Practices**, would be sufficient to reduce impacts to a less-than-significant level. In response to this comment and Comment UT1-31, below, the CPUC has taken into consideration the specific conditions of the Project relative to response to Comment UT1-31 and has made appropriate revisions to **Mitigation Measure 3.3-2b: Use Best Management Practices for Construction-Related Fugitive Dust Emissions** that add flexibility to implementation (see revisions in response to Comment UT1-31 below).

UT1-27 The suggested text revision has been incorporated on page 3.3-33 of the Final EIR Section 3.3, *Air Quality*, to reflect that the significant and unavoidable impact related to air quality is associated with the construction activities, as follows:

> The <u>construction</u> impact would remain significant and unavoidable for the SVP NRS 230 kV Substation modifications component of the Project as the CPUC has no mitigation enforcement jurisdiction over the work that would occur within the substation.

UT1-28 The Draft EIR analysis represented the Project's Maximally Exposed Individual Receptor (MEIR) as the entire Project Site. To address this comment, the analysis has been revised to reflect cumulative health risk to the actual location of the Project MEIR (see pages 245 through 247 in updated **Appendix C**). Health risk estimates for mobile and railway sources have been recalculated based on the Project MEIR location. For permitted stationary sources, health risk estimates have been adjusted using BAAQMD's Health Risk Distance Multipliers to account for the attenuation of risk with distance from the source.

The cumulative health risk analysis now appropriately sums all contributing sources at the single, worst-case receptor location, consistent with Section 11 of BAAQMD's Appendix E. This approach ensures that the cumulative risk reflects localized exposure at the MEIR, rather than aggregating risks across geographically distinct receptors.

To reflect these modifications, text in Final EIR Section 3.3, has been revised and/or added, as follows:

Final EIR pages 3.3-36 through 3.3-37:

A review of the Project area indicates there are also existing sources of TACs within approximately 1,000 feet of the Project's Maximally Exposed Individual Receptor (MEIR), including: one local roadway (Lafayette Street), one local railway (Union Pacific Railroad), and three stationary sources (the City of Santa Clara Gianera Generating Station, which utilizes fossil fuels to generate electric power; the City of Santa Clara Gianera Storm Water Pump Station, which has a generator on-site; and RS Alameda LLC, which has a generator on-site). Additionally, cumulative health risks associated with mobile and railway sources are assumed to impact the same maximally exposed individual receptor.

The mitigated maximum combined cumulative health risks associated with the Project and existing identified cumulative sources are presented in **Table 3.3-7**.[3] As shown, mitigated cumulative health risk impacts from the identified sources to the Project maximally exposed individual receptor indicate that the Project would not exceed the BAAQMD cumulative thresholds for cancer risk, annual $PM_{2.5}$ concentration, or the hazard index. ~~Further~~ However, the emissions estimates used as the basis for the health risk assessment for the Project were modeled to incorporate Tier 4 final emissions controls and SVP has not committed to implementation of such controls.

A new Footnote 3 is added to page 3.3-36 of the Final EIR after the first sentence of the fourth paragraph (shown as the second paragraph above) to clarify that the cumulative risks associated with the Northern Receiving Station–Kifer Receiving Station 115 kV Transmission Line Project and the Esperanca Substation Project have not been quantified and are therefore not reflected in Table 3.3-7, as follows:

A health risk assessment was not conducted for the Northern Receiving Station–Kifer Receiving Station 115 kV Transmission Line Project, and the Esperanca Substation Project is currently in the planning phase. Therefore, these projects are not included in the scope of this analysis, and the health risks identified in Table 3.3-7 do not reflect these projects.

Table 3.3-7 on page 3.3-37 of the Final EIR has been revised, as follows:

TABLE 3.3-7
MITIGATED MAXIMUM CUMULATIVE HEALTH RISKS

Maximally Exposed Individual Receptor	Excess Cancer Risk (# per million)	$PM_{2.5}$ Concentration ($\mu g/m^3$)	Chronic Hazard Index (unitless)
Project MEIR (591657.5, 4139928.4)	5.17	0.02	<0.01
Residential Development at 2303 Gianera Street[a]	4.82	0.28	0.01
On-Road: Local Roadway – Lafayette Street[b]	5.0	<0.01	<0.01
Permitted Stationary: RS Alameda LLC ("Red Sea")[b,c]	0.09 ~~4.58~~	0.08 ~~0.01~~	<0.01
Permitted Stationary: City of Santa Clara Gianera Storm Water Pump Station[b,c]	0.18 ~~4.15~~	0.00 ~~0.01~~	<0.01
Permitted Stationary: City of Santa Clara[b,c]	0.08 ~~7.76~~	0.00 ~~6.84~~	<0.01 ~~0.06~~
Railway: Union Pacific Rail[b]	7.0	<0.01	<0.01
Cumulative Total	**22.34** ~~**57.48**~~	~~**7.16**~~ **0.38**	~~**0.07**~~ **0.01**
BAAQMD Significance Threshold	100	0.8	10.0
Threshold Exceeded?	No	No ~~YES~~	No

NOTES: $\mu g/m^3$ = micrograms per cubic meter; BAAQMD = Bay Area Air Quality Management District; $PM_{2.5}$ = particulate matter with a diameter less than or equal to 2.5 microns

a. An initial study of 2303 Gianera was distributed on October 2024, and presented a health risk analysis of the project's construction activities.

b. Values are from BAAQMD's Mobile and Stationary Source Screening Map tool.

c. Health risk estimates at these locations were based on BAAQMD's Health Risk Distance Multipliers, as the contributing sources are not located directly at the MEIR

SOURCES: Data compiled by Environmental Science Associates in 2025 (Appendix C); City of Santa Clara 2024; BAAQMD 2025.

UT1-29 LSPGC states that Table 3.3-7 may represent a significant error in BAAQMD's data and should be verified with the BAAQMD. The BAAQMD cannot confirm that the $PM_{2.5}$ concentration is the correct concentration for the City of Santa Clara permitted stationary source (BAAQMD 2025); however, revisions have been made to the Final EIR Section 3.3 (see revisions to Table 3.3-7 in response to Comment UT1-28) health risk estimates associated with this source based on BAAQMD's Health Risk Distance Multipliers to reflect that the contributing source is not located directly at the MEIR.

UT1-30 LSPGC requests that a list of changes be made to adapt measures from BAAQMD's CEQA Guidelines to a linear project, as well as to make them feasible to implement during construction. To address this comment, Mitigation Measure 3.3-2b has been revised, as follows:

> **Mitigation Measure 3.3-2b: Use Best Management Practices for Construction-Related Fugitive Dust Emissions.** LSPGC shall implement all the following best management practices, which would reduce fugitive PM_{10} and $PM_{2.5}$:
>
> - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. The watering regimen may be adjusted during rain events as needed.

- All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
- All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
- All vehicle speeds on unpaved roads shall be limited to 15 mph.
- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- All excavation, grading, and/or demolition activities in undeveloped or unpaved Project locations shall be suspended when average wind speeds exceed 20 mph.
- All trucks and equipment, including their tires, shall be washed off prior to leaving the site in undeveloped or unpaved Project locations.
- Unpaved roads providing access to sites located 100 feet or further from a paved road shall be treated with a 6- to 12-inch layer of compacted layer of wood chips, mulch, or gravel.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Post a publicly visible sign with the telephone number and person to contact at the CPUC regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
- Limit the simultaneous occurrence of excavation, grading, and ground-disturbing construction activities.
- Install wind breaks (e.g., trees, fences) on the windward side(s) of actively disturbed areas in staging yards used for the Project. Wind breaks should have a maximum of 50 percent air porosity.
- Plant vegetative ground cover (e.g., fast-germinating native grass seed) in disturbed areas as soon as possible, unless specified otherwise by the restoration plan, and watered appropriately until vegetation is established.
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.
- Minimize the amount of excavated material or waste materials stored at the site.

- Hydroseed or apply non-toxic soil stabilizers to construction areas, including previously graded areas, that are inactive for at least 10 calendar days.

Regarding the last bullet item of the request list, if it is determined that any of the LSPGC Mitigation Measure 3.3-2b requirements involving erosion control and revegetation would be superseded by a Project stormwater pollution prevention plan requirement, that superseded requirement would be documented pursuant to a variance process (see **Appendix G** under *Roles and Responsibilities*) to avoid confusion regarding implementation of the mitigation measure. Therefore, that bullet item has not been incorporated into the Mitigation Measure 3.3-2b.

UT1-31 LSPGC requests changes to **APM BIO-7: Salt Marsh Harvest Mouse (SMHM) Surveys** regarding salt marsh harvest mouse, to assume presence and consult with regulatory agencies in lieu of protocol surveys. As such, APM BIO-7 has been revised, as follows:

> **APM BIO-7**: **Salt Marsh Harvest Mouse (SMHM) Surveys**. Suitable habitat for salt marsh harvest mouse (SMHM) and suitable adjacent areas shall be marked as a sensitive area and shall be avoided to the extent practicable. If avoidance is not possible, USFWS and/or CDFW shall be consulted prior to construction activity. Any other construction activities that may impact SMHM including movement of construction equipment within suitable habitat or suitable adjacent areas would be monitored by a qualified biologist. The qualified biologist shall have the authority to stop work activities upon the discovery of live individuals and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to SMHM, such as allowing individuals to leave on their own or temporarily halting construction in areas where SMHM is present. ~~Protocol surveys following standard guidelines shall be conducted within all proposed impact areas and suitable buffers within suitable habitat areas for salt marsh harvest mouse (SMHM) by an approved biologist. In the event of the discovery of SMHM individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. If avoidance is not possible, USFWS and/or CDFW shall be consulted prior to construction activity. Any other construction activities that may impact SMHM including movement of construction equipment and other activities outside of the fenced/paved areas within suitable habitat would be monitored by a qualified biologist. The qualified biologist shall have the authority to stop work activities upon the discovery of live individuals and allow construction to proceed after the identification and implementation of steps required to avoid or minimize impacts to SMHM, such as allowing individuals to leave on their own or temporarily halting construction in areas where SMHM is present.~~ All adjacent known SMHM preserve areas shall be clearly marked as well and avoided. This APM would be applied along the transmission line west of the proposed alignment in the vicinity of Coyote Creek Lagoon.

UT1-32 The CPUC acknowledges this input and text on page 3.4-69 of the Final EIR has been revised, as follows:

> With implementation of the LSPGC APMs, PG&E BMPs and PG&E FPs, Mitigation Measure 3.1-2, Mitigation Measure 3.4-1b, Mitigation Measure 3.4-1d, and Mitigation Measure 3.4-1e, construction-related impacts to ~~special-status nesting birds and roosting bats~~ salt marsh harvest mouse would be reduced to a less-than-significant level.

UT1-33 The CPUC acknowledges this input and text in Final EIR page 3.4-69 has been revised, as follows:

> Implementation of the LSPGC APMs and Mitigation Measure 3.4-1e would ensure that impacts to ~~birds and bats~~ special-status species would be less than significant.

UT1-34 The CPUC acknowledges this input and text on page 3.4-74 of the Final EIR has been revised, as follows:

> Implementation of the LSPGC APMs, PG&E FPs, Mitigation Measure 3.1-2, Mitigation Measure 3.4-1b, Mitigation Measure 3.4-1c, Mitigation Measure 3.4-1d, and Mitigation Measure 3.4-1e would help ensure that impacts associated with ~~federally or state-protected wetlands~~ wildlife movement during construction would be less than significant.

UT1-35 The CPUC acknowledges this input and text on page 3.4-82 of the Final EIR has been revised, as follows:

> While it is unlikely that the Project would ~~not~~ have impacts on special-status fish, there is an incremental possibility, as noted above, and, thus, the cumulative projects may also have similar effects.

UT1-36 LSPGC requests clarification regarding potential methods to reduce collision risk to birds. Text on page 3.4-77 of the Final EIR has been revised, as follows:

> Collision prevention methods could include measures such as placing visual deterrents on wires and structures to increase their visibility to migratory birds (APLIC 2012).

UT1-37 LSPGC advises revising the acreage of suitable Ridgway's rail habitat from 0.54-acre to 0.23-acre based on the presence of wetland types that do not accommodate rail habitat. Text on page 3.4-63 of the Final EIR has been revised, as follows:

> There would be up to 0.23~~54~~-acre of temporary impacts and no permanent impacts on suitable nesting or foraging habitat for California Ridgway's rail and California black rail ~~(Table 3.4-4).~~

UT1-38 LSPGC states that utilities are exempt from Fish and Game Code Section 1913 and requests the exception for utility rights-of-way be added to the Regulatory Setting section of the Draft EIR, and that the reference to ITPs for rare plants be omitted from **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants**. However, Fish and Game Code Section 1913 applies only to the Native Plant Protection Act; it does not apply to CESA or the federal Endangered Species Act (FESA). Accordingly, if the Project may result in the take of a plant species listed under CESA, LSGPC would be required to obtain a CESA ITP pursuant to Fish and Game Code Section 2081. Therefore, the CPUC declines to make the requested changes.

UT1-39 LSPGC requests **Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring** be clarified to exclude uplands and modified to focus exclusively on waters of the U.S. or state, and not include CDFW-jurisdictional areas, Because CDFW-jurisdictional streambanks and riparian areas also require habitat restoration, these areas are retained in the measure. Mitigation Measure 3.4-1b has been revised to exclude uplands and disturbed areas, as follows (please note that revisions from response to Comment O1-16 are also reflected below):

Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring

Before construction in areas containing waters of the U.S. and/or state, or CDFW-jurisdictional areas, LSPGC ~~the applicant~~ shall obtain all required environmental permits, including a Clean Water Act Section 401 water quality certification for federal and state jurisdictional wetlands, Clean Water Act Section 404 permits for federal jurisdictional, and a CDFW Lake and Streambed Alteration Agreement, and shall adhere to the conditions of each.

At least 30 days before the scheduled commencement of Project activities in areas containing waters of the U.S. and/or state, or CDFW-jurisdictional areas, LSPGC ~~the applicant~~ shall submit a Restoration Plan to all applicable permitting agencies (e.g., USACE, RWQCB, CDFW) and the CPUC for review and written approval. No Project activities shall commence until the Restoration Plan is approved ~~by CDFW~~ in writing by the applicable resource agency or agencies having jurisdiction. The plan shall detail compensatory mitigation for permanent impacts to riparian and wetland habitat in the form of restoration or enhancement of habitat either on-site (where practicable) or off-site as close to the Project site as practicable. The plan shall also describe the on-site restoration of temporary impacts to riparian and wetland habitat. The Restoration Plan shall also include monitoring and success criteria. Impacts to riparian and wetland habitat shall be restored or otherwise mitigated according to the Restoration Plan within the same calendar year as the impact occurs unless otherwise approved in writing by the applicable resource agency or agencies having jurisdiction ~~CDFW~~. More than one plan may be necessary for restoration activities in different locations.

Restoration and monitoring shall be guided by a qualified biologist experienced in wetland habitat restoration. Restoration shall include protocols for replanting native vegetation removed before or during construction, and management and monitoring

of the plants to ensure replanting success. The following measures shall apply to site restoration:

- Areas affected by construction-related activity shall be replanted or reseeded with locally collected and grown native shrubs and herbaceous species suitable for riparian and wetland locations, under guidance from a qualified restoration biologist.

- To ensure a successful revegetation effort, all plants shall be monitored and maintained as necessary for a minimum of 5 years. LSPGC shall submit an annual monitoring report to the CPUC and the applicable resource agency or agencies having jurisdiction ~~CDFW~~ during each year of revegetation.

- The revegetation shall be considered successful when, after at least 5 years of monitoring (including at least 3 years without supplemental irrigation), each category of plantings (e.g., herbs, shrubs) has a minimum of 85 percent survival, and restoration areas have attained a relative native cover of 70 percent after 3 years and 75 percent after 5 years, unless approved in writing by the applicable resource agency or agencies having jurisdiction ~~CDFW~~. Survival and cover criteria shall both be required unless the herbaceous or spreading plants cannot be differentiated by individual, in which case the cover success criteria alone may be sufficient if determined in writing by the applicable resource agency or agencies having jurisdiction ~~CDFW~~.

UT1-40 LSPGC requests that **Mitigation Measure 3.4-1c: Frac-out Plan** be clarified to focus on construction at HDD sites and be modified to accommodate horizontal directional drilling in nighttime as well as daytime. Mitigation Measure 3.4-1c has been revised, as follows:

Mitigation Measure 3.4-1c: Frac-out Plan

To avoid potential indirect impacts to aquatic resources and associated habitats during horizontal boring or horizontal directional drilling (i.e., trenchless techniques) using pressurized drilling fluids, LSPGC or its contractors shall prepare and submit a Frac-out Plan to the CPUC for preventing and addressing potential inadvertent frac-outs prior to construction at HDD sites. The Frac-out Plan shall specify when a biological monitor will be present during the trenchless technique process, and shall limit work associated with trenchless waterway crossings to daylight hours, unless otherwise authorized by CDFW to allow nighttime work, to enable identification of potential frac-outs and/or potential impacts to sensitive species should a frac-out occur. The Frac-out Plan shall also establish communication protocols and training information for construction personnel, the response materials to be available on site to minimize frac-out effects, and effective responses to potential releases of drilling fluids used during the trenchless technique process. LSPGC's Frac-out Plan shall be submitted to the CPUC 30 days before the start of construction.

UT1-41 LSPGC requests that **Mitigation Measure 3.4-5: Compliance with Local Tree Ordinances** be modified to acknowledge that utilities are exempt from local discretionary tree permits. GO 131-E 131 would be applicable to tree permits; however, the CPUC

requires a utility to make a "good faith" effort to comply with local ordinances. Thus, the mitigation measure is retained with minor modification:

> **Mitigation Measure 3.4-5: Compliance with Local Tree Ordinances**
>
> All removal of street trees within the cities of Fremont, Milpitas, San José, and Santa Clara shall be coordinated with the responsible department in each city (see Section 3.4.3, *Regulatory Setting*) ~~to obtain~~ regarding any ~~necessary~~ ministerial tree removal permits. LSPGC shall make a good-faith effort to comply with all ~~permit conditions~~ requirements including tree replanting and monitoring to help ensure successful replanting. ~~Prior to the start of construction, LSPGC shall provide the CPUC with copies of the permits issued by the applicable jurisdictions.~~

UT1-42 LSPGC requests clarification that the 24 months included in the Project's GHG emissions modeling was adequately conservative such that it would account for the additional two months not originally included in the modeling. The CPUC acknowledges this request and text on page 3.8-17 of the Final EIR has been revised, as follows:

> As discussed in Section 2.9.4, *Construction Schedule*, Project construction would emit GHGs over a period of approximately 26 months. As noted above, the previous analysis was based on a 24-month construction schedule and the extension to a 26-month construction schedule represents a conservative approach to this analysis. The main components of Project construction would consist of modifications to the existing PG&E Newark 230 kV and SVP NRS 230 kV substations and construction of the new transmission lines between the substations.

UT1-43 LSPGC states that the preconstruction requirements listed under **Mitigation Measure 3.9-1a: Pre-Construction Hazardous Materials Assessment** are not required and may cause disruptions to existing land uses. Further, LSPGC requests that the Final EIR use APM HAZ 1 through APM HAZ-4 and APM WQ-1 in place of Mitigation Measure 3.9-1a, as these APMs would avoid unnecessary soil sampling in areas of known contamination potentially leading to confusion as well as eliminate redundancy and potential conflicting requirements. Lastly, LSPGC requests that if Mitigation Measure 3.9-1a is retained within the Final EIR, any preconstruction hazardous materials actions should only be applied to the applicable portions or segments of the Project.

While the CPUC acknowledges LSPGC's requests and recommendations regarding Mitigation Measure 3.9-1a and understands the concern of potential confusion and/or redundancy with the implementation of APMs, APM HAZ-1 through APM HAZ-4 do not provide a clear timeline for the preparation and implementation of the referenced plans and assessments listed in the APMs. Mitigation Measure 3.9-1a demonstrates the CPUC's responsibility to enforce and LSPGC's binding commitment to achieve full mitigation through performance standards when this mitigation measure is implemented (*Sacramento Old City Association v. City Council of Sacramento* [1991] 229

Cal.App.3d 1011*).* Thus, Mitigation Measure 3.9-1a is necessary to supplement APM HAZ-1 through APM HAZ-4 to ensure that impacts, as discussed in Impact 3.9-1 in the EIR, would be reduced to a less-than-significant level.

The CPUC also acknowledges LSPGC's request regarding revision of the timing described in Mitigation Measure 3.9-1a and has been revised, as follows:

> LSPGC shall compile the results of these assessments and analyses into a Pre-Construction Hazardous Materials Assessment, and shall submit this Pre-Construction Hazardous Materials Assessment to the CPUC no less than 60 days before the start of construction within the affected area(s).

UT1-44 LSPGC states that the preparation of the Soil and Groundwater Management Plan as part of **Mitigation Measure 3.9-1c: Soil and Groundwater Management Plan** is redundant and requests that the Final EIR use APM HAZ-2 in place of Mitigation Measure 3.9-1c. Additionally, LSPGC requests that if the Final EIR retains Mitigation Measure 3.9-1c is retained, then APM HAZ-2 should be superseded to ensure that the "two overlapping plans" are not prepared, to minimize confusion during construction, and remove potential conflicting requirements.

While the CPUC acknowledges LSPGC's requests and concerns for confusion, redundancy, and potential conflicting requirements, Mitigation Measure 3.9-1c is a supplementing measure to APM HAZ 2, as well as APM HAZ-3 and APM HAZ-4. While APM HAZ-2 requires the development of a hazardous materials management plan, the requirements do not provide a clear timeline for the preparation and implementation of the hazardous materials management plan. Mitigation Measure 3.9-1c, as a supplement to APM HAZ-2 through APM HAZ-4, demonstrates the CPUC's binding commitment to full mitigation through performance standards when this mitigation measure is implemented (*Sacramento Old City Association v. City Council of Sacramento* [1991] 229 Cal.App.3d 1011*)*. Thus, Mitigation Measure 3.9-1c is necessary to supplement the above APMs to ensure that impacts, as discussed in Impact 3.9-1 in the EIR, would be reduced to a less-than-significant level.

UT1-45 The CPUC acknowledges this input, and text on page 3.13-18 of the Final EIR has been revised, as follows:

> ~~Error! Reference source not found.~~ **Table 3.13-7***, Exterior Sound or Noise Limits,* presents exterior sound or noise limits for residential, civic, industrial, and commercial zoning categories.

UT1-46 **Mitigation Measure 3.17-2a: Implement Coordinated Traffic Control Plan** supersedes **APM TRA-1: Traffic Control Plan**. While LSPGC's transportation-related APMs require the development of a traffic control plan (TCP) and agency guidance and standards for the TCP, as well as the agencies that would be consulted in the preparation of the TCP, they do not provide the specificity (i.e., performance standards) as to the contents of the TCP, the mitigative actions that would be included in the TCP, and a

clear timeline for preparation and implementation of the TCP. Additionally, APM TRA-1 is silent on alternative transportation modes (i.e., bicycles, pedestrians). Mitigation Measure 3.17-2a demonstrates the CPUC's binding commitment to full mitigation through performance standards when this mitigation measure is implemented (*Sacramento Old City Association v. City Council of Sacramento* [1991] 229 Cal.App.3d 1011*).*

APMs that have been superseded by CPUC-proposed mitigation measures are not considered part of the Project and are not included in the Project's MMCRP. The CPUC acknowledges this clarification, and modifications have been incorporated in the Final EIR to reflect that Mitigation Measure 3.17-2a supersedes APM TRA-1.

UT1-47 LSPGC requests that the "proof of coordination," as listed in Mitigation Measure 3.17-2a, be removed as it may be vague and difficult to provide. Mitigation Measure 3.17-2a demonstrates the CPUC's binding commitment to full mitigation through performance standards when this mitigation measure is implemented (*Sacramento Old City Association v. City Council of Sacramento* [1991] 229 Cal.App.3d 1011). "Proof of coordination" is purposely left general to provide LSPGC with flexibility in the means of obtaining and the form of such proof.

UT1-48 LSPGC states that **Mitigation Measure 3.17-2b: Infrastructure Repair Reporting** and **APM TRA-3: Repair Infrastructure** are adequate to reduce potential impacts and requests that Mitigation Measure 3.17-2b be removed to avoid redundancy. APMs that have been superseded by CPUC-proposed mitigation measures are not considered part of the Project and are not included in the Project's MMCRP. The CPUC acknowledges this clarification, and modifications have been incorporated in the Final EIR to reflect that Mitigation Measure 3.17-2b supersedes APM TRA-3.

UT1-49 LSPGC requests that the reference to metallic pipelines be updated to specify coated and metallic pipelines and that requirements to conduct AC-induced corrosion studies for perpendicular or near perpendicular crossings of pipelines be removed. Further, LSPGC requests that time-weighted average current density values be updated and the reference to maintaining an induced AC voltage of less than 2 volts be removed. Last, LSPGC requests the induction study for applicable utilities within a given segment of the Project associated with **Mitigation Measure 3.19-5: Utility Coordination and Induction Study** be provided prior to the start of construction of such segment.

The CPUC acknowledges the clarification of specifying coated and metallic pipelines and the request to remove the requirement to conduct AC-induced corrosion studies for perpendicular or near perpendicular crossings of pipelines. It should be clarified that AC-induced corrosion analysis would be required for all segments of the pipelines to which the proposed AC transmission line is parallel, both underground and overhead. Mitigation Measure 3.19-5 has been revised to reflect the criteria for AC current density outlined within Section 6.2 of National Association of Corrosion Engineers SP21424-

2018, Alternating Current Corrosion on Cathodically Protected Pipelines: Risk Assessment, Mitigation and Monitoring.

Mitigation Measure 3.19-5: Utility Coordination and Induction Study

At least 90 days prior to the start of construction, LSPGC shall notify all municipalities, companies, and other public and private entities owning and maintaining utilities within or crossing the right-of-way of the Project, and shall positively identify and confirm the location and type of any utilities present. For those identified utilities that do not pose a threat of AC-induced corrosion attributable to the Project, APM UTIL-1 shall be implemented.

For the three identified natural gas pipelines, and all other utilities potentially affected by Project-related AC-induced corrosion (i.e., coated metallic ~~utilities~~ pipelines), design and construction of the Project's 230 kV transmission lines shall be coordinated with the applicable utility owners to definitively locate each utility relative to the Newark to NRS 230 kV transmission line, determine the distance of separation between the transmission line and potentially affected utility, and determine the point of intersection and/or distance along which the Project transmission line is parallel to the utility. LSPGC shall prepare a detailed induction study for all identified existing utilities potentially affected by the Project transmission line alignments. At minimum, the study shall include, but not be limited to, a detailed analysis of the known [coated metallic] pipelines or other utilities identified during these utility surveys (e.g., segment identification assessments); shall identify adequate and implementable measures to avoid corrosion potential; and shall present commitments to the implementation of those actions, including a design of the AC mitigation system for any pipeline found to exceed a time-weighted average of either 30 amperes per square meter, if DC current density exceeds 1 ampere per square meter, or 100 amperes per square meter, if DC current density is less than 1 ampere per square meter. ~~to have an AC potential of 2 volts or greater and a schedule to implement any required AC mitigation systems.~~

Pursuant to Section 6.2 ~~6.6~~ of National Association of Corrosion Engineers SP21424-2018, *Alternating Current Corrosion on Cathodically Protected Pipelines: Risk Assessment, Mitigation and Monitoring*, the induction study shall demonstrate that any required mitigation system would reduce an AC density level to either: (1) less than a time weighted average of 30 amperes per square meter if the DC current density exceeds 1 ampere per square meter, or (2) less than a time weighted average of 100 amperes per square meter if the DC current is less than 1 ampere per square meter. ~~reduce the AC potential to less than 2 volts, or an AC density level of less than a time-weighted average of 30 amperes per square meter.~~

No less than 60 days prior to the start of construction of a segment containing an underground utility or utilities identified as being materially affected by accelerated corrosion caused by the Project, LSPGC shall submit the full induction study for the affected segment, including the AC mitigation component, to the CPUC for review and concurrence. Once the CPUC concurrence is secured, LSPGC shall implement the AC mitigation system ~~during construction~~ prior to energization of the Project, phased into the

construction process as appropriate. LSPGC shall bear the cost of implementing and maintaining the AC mitigation system as it is part of the Project.

UT1-50 The CPUC understands that LSPGC would like the Final EIR to incorporate the potential incompatibility of Alternative 1 (Additional Underground Alternative) with the existing RWF and its operations and update the environmental analysis and environmentally superior alternative as applicable.

The Draft EIR identifies Alternative 1 (Additional Underground Alternative) as the environmentally superior alternative because, relative to the Project, it would have reduced impacts on aesthetics and biological resources (see Section 4.9 of the Draft EIR). The CPUC understands that the drying ponds are currently active, and a closure plan has not been finalized, which is why, as discussed in Section 4.6.2 of the Draft EIR, undergrounding this segment of the proposed transmission line could result in greater effects related to hazards and hazardous materials (through exposure of biosolids potentially containing hazardous wastes such as polychlorinated biphenyls).

Pursuant to CEQA Guidelines Section 15126.6, an EIR must consider a reasonably range of potentially feasible alternatives. While existing RWF and its operations could be incompatible with undergrounding this segment of the proposed transmission line, there is no currently available information or evidence indicating that such alternative would be infeasible, other than the lack of firm closure plans for the RWF drying ponds. Additionally, Alternative 1 would attain most of the basic Project objectives, would substantially lessen impacts of the Project, and would be potentially feasible taking into account economic, environmental, legal, social, and technological factors. For these reasons, no change in the Draft EIR is necessary.

UT1-51 LSPGC requests that superseded APMs be removed from the final MMCRP. The CPUC clarifies that APMs that have been superseded by CPUC-proposed mitigation measures are not considered part of the Project, and are not included in the Project's MMCRP. Modifications have been incorporated in the Final EIR accordingly.

UT1-52 The CPUC acknowledges and appreciates these editorial suggestions and, where appropriate, have been reflected in the Final EIR.

LSPGC's Editorial Suggestion Number 9 notes that "Figure 3.9-1 is titled *Open Hazardous Materials Clean-Up Sites in the Project Vicinity.*" The CPUC clarifies that Figure 3.9-1, *Contaminated Sites Map*, is erroneously labeled and has been revised to Figure 5.9-1 to reflect LSPGC's APM HAZ-3 within its Proponent's Environmental Assessment.

Pacific Gas and Electric Company

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7/31/2025

Tommy Alexander, CPUC Project Manager
Power the South Bay Project
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575 Market Street, Suite 3700, San Francisco, CA 94105
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Re: Power the South Bay Project (Application A.24-05-014)

Dear Mr. Alexander:

In accordance with Pacific Gas and Electric Company's (PG&E's) Declaration Confirming Commitment to Implement Construction Measures on Behalf of Pacific Gas and Electric Company (U 39 E) dated May 23, 2024, Pacific Gas and Electric Company (PG&E) reaffirms PG&E's commitment to implement the Best Management Practices (BMPs) and Field Protocols (FPs) set forth in the attached Exhibit A during construction of PG&E's portions of the LS Power Grid California's Power the South Bay Project (Application A.24-05-014). UT2-1

Thank you for the opportunity to provide this confirmation.

Very truly yours,

David Thomas



David Thomas
Senior Planner
Pacific Gas and Electric Company

Exhibit A

PG&E's Best Management Practices and Field Protocols

PG&E Best Management Practices and Field Protocols

BMP or FP Number	Description
Air Quality	
BMP AQ-1: Vehicle Idling	A vehicle operator is prohibited from idling an on-road diesel-fueled vehicle with a Gross Vehicle Weight of ≥10,001 pounds (lbs), or an off-road diesel-fueled vehicle with a primary engine ≥25 horsepower (hp), in excess of five minutes unless conducting one or more of the following activities: • Doing work for which the vehicle was intended; • Powering equipment necessary to perform a job function; • Operating lights or signals to direct traffic at a PG&E job site; • Service, testing or maintenance on the vehicle; • Regenerating an exhaust filter; • Idling for safety reasons, including providing light when working after dark, defrosting windows, keeping the cabin warm to avoid a health hazard, and providing air conditioning to avoid heat illness; • Idling due to traffic conditions beyond the vehicle operator's control; • Warming an engine up to operating temperatures, as specified by the equipment manufacturer; • Queuing, such as when a line of off-road trucks forms to receive materials from an excavator. Queuing does not include a vehicle waiting for another vehicle to perform a task. Idling while queuing is not allowed within 100 feet of a residential home.
BMP AQ-2: Fugitive Dust—General	Field crews must limit fugitive dust from PG&E project work at all times. Types of work activities where water trucks or other dust abatement methods are typically required include: • Construction; • Demolition; • Excavation; • Trenching; • Grading; • Sand blasting; • and other earthmoving activities Visible emissions of fugitive dust from PG&E project activities must be maintained within the project boundary. The crew shall abate dust by: • Applying water to disturbed areas and to storage stockpiles; • Covering and securing stockpiled soil at the end of each workday; • Applying water in sufficient quantities to prevent dust plumes during activities such as clearing & grubbing, backfilling, trenching and other earth moving activities; • Limit vehicle speed to 15 miles per hour within approved unpaved work areas and along unpaved roads; • Vehicles and equipment used to transport bulk materials must be wetted, covered, and provide at least 6 inches of free board (space between top of truck and load) during transport; • Clean-up track-out at least daily; • Escalate preventative measures as needed to match conditions • Consider postponing construction activities during high wind events; and • The crew shall not generate dust in amounts that create a nuisance to wildlife or people, particularly where sensitive receptors such as neighborhoods, schools, and hospitals are located nearby or down-wind. During inactive periods (e.g. after normal working hours, weekends, and holidays), the crew shall apply water or other approved material to form a visible crust on the soil and restrict vehicle access.

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PG&E BEST MANAGEMENT PRACTICES AND FIELD PROTOCOLS

BMP or FP Number	Description
BMP AQ-3: Portable Equipment Registration Program	PG&E requires that portable engines be registered into the Statewide Portable Equipment Registration Program (PERP) administered by the California Air Resources Board (CARB), if: • the engine is portable (mounted on a truck, trailer, skids, or wheels); • the engine is 50 brake horsepower or greater, and; • the engine does not provide motive force for a vehicle. Auxiliary engines mounted on vehicles need to be registered if they are 50 brake horsepower or greater. For PG&E-owned units, PG&E Environmental Management Air Program is responsible for maintaining valid PERP registration with support from Transportation Services. For rental units, the rental vendor is responsible for the PERP registration and to provide PG&E with a copy of the current registration, permit, and placard before use. *Greenhouse Gas (GHG) Facility Requirements*: If diesel portable engines greater than 50 brake horsepower (bhp) are operated onsite at a GHG facility subject to the Mandatory Reporting Rule for GHGs (MRR) at any time, the AB617 PERP Log must be completed.
BMP AQ-4: Tier 4 Construction Equipment	At least 75 percent of construction equipment with a rating between 100 and 750 hp shall be required to use engines compliant with Environmental Protection Agency (EPA) Tier 4 non-road engine standards. In the event enough Tier 4 equipment are not available to meet the 75-percent threshold, documentation of the unavailability shall be provided and engines utilizing a lower standard shall be used.
Biological Resources	
FP-1	Hold annual training on HCP requirements for employees and contractors performing covered activities in the Plan Area that are applicable to their job duties and work.
FP-2	Park vehicles and equipment on pavement, existing roads, or other disturbed or designated areas (barren, gravel, compacted dirt).
FP-3	Use existing access and ROW roads. Minimize the development of new access and ROW roads, including clearing and blading for temporary vehicle access in areas of natural vegetation.
FP-4	Locate off-road access routes and work sites to minimize impacts on plants, shrubs, trees, small mammal burrows, and unique natural features (e.g., rock outcrops).
FP-5	Notify conservation landowner at least two business days prior to conducting covered activities on protected lands (state and federally owned wildlife areas, ecological reserves, or conservation areas); more notice shall be provided if possible or if required by other permits. If the work is an emergency, as defined in PG&E's Utility Procedure ENV-8003P-01, PG&E shall notify the conservation landowner within 48 hours after initiating emergency work. While this notification is intended only to inform conservation landowner, PG&E shall attempt to work with the conservation landowner to address landowner concerns.
FP-6	Minimize potential for covered species to seek refuge or shelter in pipes and culverts. Inspect pipes and culverts, with a diameter wide enough to be entered by a covered species that could inhabit the area where pipes are stored, for wildlife species prior to moving pipes and culverts. Immediately contact a biologist if a covered species is suspected or discovered.
FP-7	Vehicle speeds on unpaved roads shall not exceed 15 mph.
FP-8	Prohibit trash dumping, firearms, open fires (such as barbecues), hunting, and pets (except for safety in remote locations) at work sites.
FP-9	During fire season in designated State Responsibility Areas, equip all motorized equipment with federally approved or state-approved spark arrestors. Use a backpack pump filled with water and a shovel and fire-resistant mats and/or windscreens when welding. During fire "red flag" conditions as determined by Cal Fire, curtail welding. Each fuel truck will carry a large fire extinguisher with a minimum rating of 40 B:C. Clear parking and storage areas of all flammable materials.

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BMP or FP Number	Description
FP-10	Minimize the activity footprint and minimize the amount of time spent at a work location to reduce the potential for take of species.
FP-11	Utilize standard erosion and sediment control BMPs (pursuant to the most current version of PG&E's *Stormwater Field Manual for Construction Best Management Practices*) to prevent construction site runoff into waterways.
FP-12	Stockpile soil within established work area boundaries and locate stockpiles so as not to enter water bodies, stormwater inlets, or other standing bodies of water. Cover stockpiled soil prior to precipitation events.
FP-13	Fit open trenches or steep-walled holes with escape ramps of plywood boards or sloped earthen ramps at each end if left open overnight. Field crews shall search open trenches or steep-walled holes every morning prior to initiating daily activities to ensure wildlife are not trapped. If any wildlife is found, a biologist shall be notified and shall relocate the species to adjacent habitat or the species shall be allowed to naturally disperse, as determined by a biologist.
FP-14	If the covered activity disturbs 0.1 acre or more of habitat for a covered species in grasslands, the field crew shall revegetate the area with a commercial "weed free" seed mix.
FP-15	Prohibit vehicular and equipment refueling 250 feet from the edge of vernal pools, and 100 feet from the edge of other wetlands, streams, or waterways. If refueling must be conducted closer to wetlands, construct a secondary containment area subject to review by an environmental field specialist (EFS) and/or biologist. Maintain spill prevention and cleanup equipment in refueling areas.
FP-16	Maintain a buffer of 250 feet from the edge of vernal pools and 50 feet from the edge of wetlands, ponds, or riparian areas. If maintaining the buffer is not possible because the areas are either in or adjacent to facilities, the field crew shall implement other measures as prescribed by the land planner, biologist, or HCP administrator to minimize impacts by flagging access, requiring foot access, restricting work until dry season, or requiring a biological monitor during the activity.
FP-17	Directionally fell trees away from an exclusion zone, if an exclusion zone has been defined. If this is not possible, remove the tree in sections. Avoid damage to adjacent trees to the extent possible. Avoid removal of snags and conifers with basal hollows, crown deformities, and/or limbs over 6 inches in diameter.
FP-18	Nests with eggs and/or chicks shall be avoided; contact a biologist, land planner, or the Avian Protection Program manager for further guidance.
BMP BIO-1: Burrowing Owl	A survey for evidence of burrowing owl (sign or presence) shall be conducted prior to initial ground disturbance. The survey shall occur within the best detection timeframe and within two weeks of construction. If burrowing owl are detected, consult with the CDFW.
BMP BIO-2: Nesting Birds	If work is anticipated to occur within the nesting bird season (February through August), nesting birds, including raptors and other species protected under the MBTA, may be impacted. If active nests are discovered, exclusionary measures and/or designated avoidance buffers may be required and implemented according to the guidance in the PG&E Nesting Bird Management Plan. The Project biologist determines if the construction action will impact the nest, and if so, identifies whether alternative actions or monitoring can be implemented to avoid impacts. If active nests are observed during construction, crews must immediately alert the PG&E Project biologist.
Cultural Resources	
BMP CULT-1: Worker Awareness Training	PG&E will provide environmental awareness training on archeological cultural and paleontological resources protection. This training may be administered by the PG&E cultural resources specialist (CRS) or a designee as a stand-alone training or included as part of the overall environmental awareness training as required by the project and will at minimum include: types of cultural resources or fossils that could occur at the project site; types of soils or lithologies in which the cultural resources or fossils could be preserved; procedures that should

PG&E BEST MANAGEMENT PRACTICES AND FIELD PROTOCOLS

BMP or FP Number	Description
	be followed in the event of a cultural resource, human remain, or fossil discovery; and penalties for disturbing cultural or paleontological resources.
BMP CULT-2: Inadvertent Discovery	If any new cultural resources are encountered during Project activities, all work must be suspended in the vicinity (approximately 100 feet) of the resource, and the cultural resource specialist (CRS) shall be immediately notified. At that time, the CRS shall coordinate any necessary investigations of the site with appropriate specialists, as needed. PG&E may be required to implement protective measures deemed necessary for the protection of the cultural resources. Prehistoric resources that may be identified during Project implementation may include, but are not limited to, stone tools and manufacturing debris made of obsidian, basalt, and other lithic materials; milling equipment such as bedrock mortars, portable mortars, and pestles; and locally darkened soils (midden) that may contain dietary remains such as shell and bone, as well as human remains. Historic resources that may be identified include, but are not limited to, small cemeteries or burial plots, structural foundations, cabin pads, cans with soldered seams or tops, bottles or fragments of clear and colored glass, cut (square) nails, and ceramics.
BMP CULT-3: Human Remains	In keeping with the provisions provided in 7050.5 of the CHSC and Public Resource Code 5097.98, if human remains are encountered (or are suspected) during any project-related activity, PG&E shall: • Stop all work within 100 ft.; • Immediately contact: CRS, who will then notify the county coroner; • Secure location, but do not touch or remove remains and associated artifacts; • Do not remove associated spoils or pick through them; • Record the location and keep notes of all calls and events; and • Treat the find as confidential and do not publicly disclose the location. If the human remains are of Native American origin, the coroner must notify the Native American Heritage Commission within 24 hours of such identification. The most likely descendant shall work with the CRS to develop a program for re-interment or other disposition of the human remains and any associated artifacts. No additional work shall take place within the immediate vicinity of the find until the appropriate actions have been implemented.
Geology, Soils, and Paleontological Resources	
BMP PALEO-1: Unanticipated Paleontological Discoveries	If significant paleontological resources are discovered during construction activities, work will stop within 50 feet and the PG&E CRS will be contacted immediately. The CRS will work with the qualified paleontologist to evaluate the discovery. If the discovery is determined to be significant, PG&E will implement measures to protect and document the paleontological resource. Work may not resume within 50 feet of the find until approval by the CRS in coordination with the paleontologist. In the event that significant paleontological resources are encountered during the project, protection and recovery (if feasible and safe) of those resources may be required. Treatment and curation of fossils will be conducted in consultation with the landowner, PG&E, and CPUC. The paleontologist will be responsible for developing the recovery strategy and will lead the recovery effort, which will include establishing recovery standards, preparing specimens for identification and preservation, documentation and reporting, and securing a curation agreement from the approved facility.

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BMP or FP Number	Description
Hazards, Hazardous Materials, and Public Safety	
BMP HAZ-1: Oil-Filled Electrical Equipment (OFEE)	The following measures shall be followed: • OFEE shall be managed in accordance with ENV-3000P-02-JA01 Job Aid: Handling In-Service Electrical Equipment from the Field. • If during the removal/replacement of OFEE, visible evidence of an oil leak is identified (e.g., seeping, weeping, staining, sheen), contact your local EFS immediately to determine cleanup actions and regulatory reporting requirements. • Work must cease on all leaking pre-July 1, 1979 equipment or equipment without a non-poly-chlorinated biphenyls (PCB) blue sticker or other non-PCB indicator on its nameplate until you've made contact with your local EFS. • All leaking equipment must be patched, pumped, or containerized in the field so that it shall not leak during transport; taken straight back to the Service Center (i.e., stops at staging areas are prohibited); and placed in the designated returned equipment area with a completed yellow condition tag. • Other equipment and bushings that cannot be tested and shall be assumed > 500 ppm PCB. Contact the EFS to coordinate generation of a purchase order and contract for disposal. This equipment shall be transported by a PG&E-approved hazardous waste contractor and taken to a disposal facility. • **Note**: Do NOT transport to a PG&E waste consolidation site.
BMP HAZ-2: Hazardous Materials Business Plan (HMBP)	The EFS shall be notified 30 days prior to a threshold exceeding hazardous material/waste being placed on-site. Threshold limits are 200 cubic feet of compressed gases (1,000 cubic feet for simple asphyxiation or the release of pressure only; carbon dioxide), 500 lbs of solids, or 55 gallons of liquids for more than 30 non-consecutive days. If required, the local county or city shall be notified of any amount of hazardous material/waste: • Counties: Nevada, San Bernardino (waste only), San Francisco, Santa Clara (call for city specific details), Santa Cruz, Yuba (waste only) • Cities: Bakersfield (waste only), Berkeley, Healdsburg, Sebastopol, Petaluma, Santa Clara (call for city specific details) • PG&E shall develop an HMBP as necessary.
BMP HAZ-3: Hazardous Waste Management	This Project may involve the storage of hazardous materials, and they must be managed according to regulations and the following BMPs. • All releases of hazardous materials must be immediately addressed. Maintain a spill kit on-site during the length of the Project. Contact the Project EFS for spills of hazardous materials/wastes to determine if agency notifications shall be required and/or if additional resources are needed. • Hazardous materials, greater than 440 lbs and less than 1,001 lbs can be transported on PG&E vehicles if the proper materials of trade (MOT) shipping paper/Material Safety Data Sheet (MSDS) accompanies the load. Contact the Project EFS for additional guidance in these areas. • All hazardous materials containers must be marked correctly. • All hazardous materials signs must be displayed as required. • Non-saturated oily rags (to be laundered) stored in non-combustible containers. • Emergency equipment such as fire extinguisher, eye wash, MSDS, etc. must be available on-site. • Hazardous material containers must be in good condition. • All hazardous materials must be compatible with containers. • Hazardous materials containers are kept closed. • If there is an unauthorized release of hazardous material, contact your EFS immediately. For after-hours releases contact the Environmental Emergency Hotline at 1-800-874-4043.

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BMP or FP Number	Description
	Immediately contact the local PG&E EFS and stop work if any of the following conditions occur. After hours or if the local EFS is unavailable, please call the Environmental Hotline at 800-874-4043. • Discharge or spill of hazardous substance. • If an Environmental Regulator visits the site. • Visually cloudy/muddy water is observed leaving the work area. • An underground storage tank is discovered. • A subsurface component related to site remediation activities (e.g., monitoring well, recovery well, injection well) is discovered. No subsurface components may be impacted. • If during excavation unanticipated evidence of contamination is identified (e.g., staining, odors), work must cease and when safe to do so, cover the trench with steel plates. In order to minimize impacts to public safety and the environment, place contaminated soil on a polyethylene sheet (four milliliters) and cover or place the contaminated soil in lined covered containers. Then contact your local/support EFS to determine the next steps. • If any subsurface components related to site remediation activities (e.g., monitoring well, recovery well, injection well) are discovered in the path of excavation, work must cease in that location and your EFS must be notified to determine the next steps. No subsurface components may be impacted.
BMP HAZ-4: Lead Acid Batteries	This Project shall be generating lead-acid battery universal waste. The construction contractor or PG&E technicians shall properly manage and dispose of universal waste and follow Lead Acid Battery Procedure ENV 4000P-05-JA05 and/or ENV 4000P-05- JA06. Contact the Project EFS for additional guidance in these areas. *Management of Undamaged (Intact) Batteries—Universal Waste*: • If batteries are undamaged (i.e., intact and not leaking), they can be managed as universal waste at the nearest PG&E waste consolidation site. Remote sites shall have batteries transported and disposed of from site if quantities warrant. A PG&E-approved hazardous waste contractor transports intact batteries from a waste consolidation site to an approved universal waste handler using a non-hazardous waste manifest. • Note: It is recommended that large station backup batteries are better shipped directly from the substation to a disposal facility rather than taken to a PG&E waste consolidation site. Coordinate with the local EFS for disposal. • Reference ENV 4000P-05-JA05 for general information, proper labeling, transportation, storage, and accumulation time limit. *Management of Damaged or Leaking Batteries—Hazardous Waste*: • Ship damaged or leaking batteries from a waste consolidation site to an approved treatment, storage, and disposal facility (TSDF) for disposal using a PG&E-approved hazardous waste contractor and a uniform hazardous waste manifest (see ENV-4000P-02-JA01 Uniform Hazardous Waste Manifest). • Batteries must be placed in non-reactive, structurally sound, closed containers (such as plastic drum) that are adequate to prevent breakage or further damage and contain vermiculite, which can be attained at a PG&E waste consolidation site. • Reference ENV 4000P-05-JA05 for general information, proper labeling, transportation, storage, and accumulation time limit. Transportation–Reference ENV 4000P-05-JA05. • Transporting > 10 lbs of non-spillable batteries per vehicle from a field location to a consolidation facility requires a shipping paper (see Utility Procedure: ENV-4000P-05, Hazardous Waste Shipping Paper). Contact EFS if there is a large quantity of batteries for waste to determine handling and whether to ship from site to recycler. Transporting ≤ 10 lbs of intact batteries per vehicle does not require a shipping paper. However, document the shipment in the log maintained in the consolidation site's waste storage area. Disposal–Reference ENV 4000P-05-JA06.

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BMP or FP Number	Description
BMP HAZ-5: Lead Paint Removal	For any physical removal, sanding, scraping, needle gunning, blasting, or welding, contact the local Safety Specialist or Paintings and Coating Department. For PG&E Contractor lead paint removal, the Contractor shall adhere to the Contract for worker health and safety. If the Project team has safety concerns prior to or during the Project, immediately contact the Safety Program Consultant.
BMP HAZ-6: Sulfur Hexafluoride (SF_6) Gas Material/Waste Management	Advanced Specialty Gas (ASG) provides sole-source service in supplying, replacing, removal and recycling of SF_6 in all facilities. ASG provides 24-hour service in response to events involving SF_6 as well as delivery and removal of all SF_6 cylinders. • Contact information: https://www.advancedspecialtygases.com. Before accessing any equipment that may contain SF_6 gas byproduct waste, contact the local EFS at least two weeks in advance for assistance in arranging cleanup, transportation, and disposal. • PSC shall retrieve, package, label, and transport SF_6 byproduct waste (i.e., fluorides of sulfur, metallic fluorides, etc.). All SF_6 byproduct waste that is removed must have proper shipping papers, which could include a remote waste shipping paper or a manifest (manifests require a permanent or temporary EPA identification number). • SF_6 cylinder tracking and facility inventory shall be managed in accordance with Utility Procedure TD-3350P-001.
BMP HAZ-7: Spill Prevention, Control, and Countermeasure (SPCC) Plan	The local/support EFS shall be notified 30 days prior to an SPCC-triggering event occurs. Events that trigger an SPCCP include: • New storage of oil at a facility causing the total oil storage to exceed 1,320 gallons. • Modification to existing oil storage at a facility that contains >1,320 gallons of oil by addition or removal of oil containers >55 gallons. If the oil volume is contained in anything greater than 55 gallons, the SPCC Plan must be certified by a licensed engineer. SPCC containment must be installed prior to moving on-site of oil quantities requiring containment. The PM number must remain open until the local/support EFS notifies the team that the plan is certified by an engineer, and any necessary modifications are complete.
BMP HAZ-8: Underground Electric Cable	Underground electric cable might require special handling and disposal as the cable may potentially be wrapped in lead or asbestos containing material, contain asbestos insulation, and/or oil for insulation. Furthermore, insulating oil used in underground cable may contain PCBs. If evidence of these hazardous materials is identified during the cable replacement, such as weeping oil from the cut end of the cable, the local EFS shall be contacted immediately to arrange for sampling, and to determine transportation and disposal requirements. A PG&E authorized hazardous waste hauler may be required to transport the cable. Arc-proofing wrap that is both friable (brittle, crisp or fragile) and non-friable must be removed by a certified abatement vendor or trained PG&E personnel (PG&E Insulation & Coatings, PSC, Bohm, ACS).
BMP HAZ-9: Vault Dewatering	Vault dewatering may be required. All vault dewatering must take place in accordance with the Vault Dewatering form.
BMP HAZ-10: Stormwater BMP Installation	This Project shall require an SWPPP. If the construction crew shall not be installing stormwater BMPs, it is the responsibility of the Project manager to contact the Stormwater Quality Subject Matter Expert (SME) and Environmental Lead prior to construction to request BMP support with as much lead time as possible. Thirty days is preferred. The regional Stormwater SME shall hire a contractor to install, maintain, and remove stormwater BMPs.
BMP HAZ-11: Construction Dewatering	If dewatering of trenches or excavations is required, the Environmental Lead/Project EFS shall be notified at least 30 days in advance to ensure the appropriate dewatering methods are used, proper notifications are made, and, if necessary, applicable authorizations/permits are obtained. All dewatering activities must be coordinated through the Environmental Lead/Project EFS throughout the duration of the Project.

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Power the South Bay Project Data Request 4
May 2, 2025

PG&E BEST MANAGEMENT PRACTICES AND FIELD PROTOCOLS

BMP or FP Number	Description

NOTES:
AB = Assembly Bill; bhp = brake horsepower; ASG = Advanced Specialty Gas; BMP = best management practice; Cal Fire = California Department of Forestry and Fire Protection; CARB = California Air Resources Board; CDFW = California Department of Fish and Wildlife; CHSC = California Health and Safety Code; CRS = cultural resources specialist; EFS = environmental field specialist; EPA = Environmental Protection Agency; FP = field protocol; ft. = feet; GHG = greenhouse gas; HCP = habitat conservation plan; HMBP = hazardous materials business plan; hp = horsepower; lbs = pounds; MBTA = Migratory Bird Treaty Act; MOT = materials of trade; mph = miles per hour; MRR = Mandatory Reporting Rule for Greenhouse Gases; MSDS = Material Safety Data Sheet; OFEE = oil-filled electrical equipment; PCB = polychlorinated biphenyl; PERP = Portable Equipment Registration Program; PG&E = Pacific Gas and Electric Company; ppm = parts per million; ROW = right-of-way; SF_6 = sulfur hexafluoride; SME = subject matter expert; SPCC = spill prevention, control, and countermeasure; SWPPP = storm water pollution prevention plan; TSDF = treatment, storage, and disposal facility

SOURCE: LSPGC 2025

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Letter UT2: Pacific Gas and Electric Company

UT2-1 PG&E reaffirms its commitment to implement the best management practices and FPs proposed for PG&E's portions of the Project, as noted in its comment letter. The CPUC acknowledges this confirmation and will consider it as part of the decision-making process.

Citizens Committee to Complete the Refuge

P.O. Box 23957, San Jose CA 95137 Tel: 650-493-5540 Email: cccrrefuge@gmail.com www.bayrefuge.org

Comment letter sent via electronic mail only

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Attn: Power the South Bay Project (A.24-05-014)
Email: tommy.alexander@cpuc.gov

July 24, 2025

Re: Comments on the Draft Environmental Impact Report (DEIR) for the LS Power Grid California, Power the South Bay Project (SCC # 2023071095)

Dear Mr. Alexander,

These comments are submitted on behalf of the Citizens Committee to Complete Refuge regarding the *Draft Environmental Impact Report (DEIR)* for the *Power the South Bay Project.* We thank you for the opportunity to provide comments. Our comments are focused on the impacts and proposed mitigation measures for biological resources. We support and incorporate by reference the comments submitted by the Center for Biological Diversity, Santa Clara Valley Bird Alliance, and Loma Prieta Chapter of the Sierra Club.

LS Power Grid California, LLC (LSPGC), proposes to construct a new 230-kilovolt (kV) alternating current (AC) transmission line that would run from the existing Pacific Gas and Electric Company (PG&E) Newark 230 kV Substation to the existing Silicon Valley Power (SVP) Northern Receiving Station (NRS) 230 kV Substation in Santa Clara. The total project alignment is approximately twelve miles, approximately ten miles of the alignment would be undergrounded, with the remaining two miles suspended overhead on 15 new overhead transmission line structures. The project would include eight creek crossings where horizontal direct drilling is proposed to cross the creeks underground. The project would also involve modifications at both substations. O1-1

Based upon our review of the DEIR, we have significant concerns regarding the proposed open trenching to underground the utility lines along the Cushing Parkway Causeway through the Warm Springs Vernal Pool Unit of the Don Edwards San Francisco Bay National Wildlife Refuge and urge that the alternative of O1-2

attaching the lines to the underside of the causeway be implemented instead. In addition, we have the following concerns:

- A potential area of waters of the U.S./State have been mischaracterized as "annual grassland" in Staging Area 3, Staging Area 12 may also have potential waters of the U.S./State
- Maps depicting locations of waters of the U.S./State should be provided in the environmental impact report (EIR) that also depict the potential impacts to areas subject to regulation by Section 404 of the Clean Water Act or the Porter-Cologne Act to enable decision-makers and the public to determine direct and indirect impacts to aquatic resources.
- The DEIR fails to identify the environmental criteria which will be utilized to inform the final selection of the three to four staging areas, nor does the DEIR adequate analyze and propose mitigation for the selected staging areas (deferral).
- The language of the proposed Applicant-proposed measures (APM), Field Protocols (FP), and mitigation measures must be strengthened.

O1-2 cont.

Commenters:

The Citizens Committee to Complete the Refuge has a long history of advocacy for the protection of wetlands and species habitat along the edges of the bay. In the 1960's our senior members were part of a group of citizens who became alarmed at the degradation of the bay and its wetlands. We joined together, and with the support of Congressman Don Edwards, requested that Congress establish a Wildlife Refuge. The process took 7 long years and in 1972 bipartisan legislation was passed to form the San Francisco Bay National Wildlife Refuge. Public Law 92-330 was enacted:

> "That, for the preservation and enhancement of highly significant wildlife habitat in the area known as south San Francisco Bay in the State of California, for the protection of migratory waterfowl and other wildlife, including species known to be threatened with extinction, and to provide an opportunity for wildlife-oriented recreation and nature study within the open space so preserved..."

O1-3

In the late 1980's recognizing that important habitats adjacent to the Bay, that were crucial to maintaining the health of the Bay were continuing to be lost to development, we turned to Mr. Edwards again, and in 1988 (the first year he submitted it) his legislation to double the size of the Refuge was signed into law. In 1988, Congress passed Public Law 100-556, which increased the U.S. Fish and Wildlife Service's acquisition authority from 23,000 acres to a total of 43,000 acres.

Our group has commented on Section 404 and 401 Clean Water Act issues and pressed for the redesign of projects such as the 746-acre Catellus project (Pacific Commons) in Fremont to reduce the adverse impacts of the project on extremely rare vernal pool wetlands and numerous listed and sensitive species. The Section 404 Clean Water Act permit review process for the Pacific Commons project, ultimately resulted in the addition of approximately 444 acres of vernal pool complex habitat to the Warm Springs Unit of the Refuge.

Impacts to the Warm Springs Vernal Pool Unit of the Don Edwards San Francisco Bay National Wildlife Refuge Should Be Avoided as it is an Area of State and Regional significance:

- California has lost more than 90% of its vernal pool habitat[1] and the Warm Springs Unit represents the only remaining vernal pool habitat in the South and Central San Francisco Bay.

  The 1999 Baylands Ecosystem Habitat Goals Project[2] states:

  > "Historically, large areas of grasslands with vernal pools occurred in the Project area in only three areas" adjacent to Suisun Marsh, along Sonoma Creek, and in the Warm Springs area in the South Bay."

  And the recommendation from this report for the South Bay is that "Adjacent moist grasslands, *particularly those with vernal pools*, should be protected and improve for wildlife."

- The Warm Springs Unit supports three federally-listed species including the California tiger salamander, the vernal pool tadpole shrimp, and Contra Costa goldfields. The proposed Recreational Trails would be immediately adjacent to Critical Habitat for the federally-listed vernal pool tadpole shrimp and Contra Costa goldfields.



O1-3 cont.

[1] U.S. Environmental Protection Agency. *Vernal Pools.* https://www.epa.gov/wetlands/vernal-pools

[2] Monroe, M; Olofson, PR; Collins, JN; Grossinger, RM; Haltiner, J; Wilcox, C. 1999. Baylands Ecosystem Habitat Goals. SFEI Contribution No. 330. U. S. Environmental Protection Agency, San Francisco, Calif./S.F. Bay Regional Water Quality Control Board, Oakland, Calif. p. 328.

The Warm Springs vernal pool complex also supports a number of rare plant species and supports migratory bird and resident bird populations. As a permit requirement for the construction of the Pacific Commons Planned District, Catellus (the developer) was required, by federal and state regulatory agencies, to provide mitigation for significant losses of rare vernal pool wetlands habitat and take[3] of federally listed species.

After completion of the required habitat mitigation, these lands were turned over to the U.S. Fish and Wildlife Service and have become part of the Warm Springs Unit of the Don Edwards San Francisco Bay National Wildlife Refuge. Another of the required mitigations for the development of the Pacific Commons site was the construction of the Pacific Commons Linear Park at the end of Stevenson Boulevard (Nobel Road). Over the years the area of the Warm Springs Unit of the Refuge and the Pacific Commons Linear Park has become a haven during the fall and winter migration for rare and unusual birds, including, but not limited to, Ferruginous Hawks, Prairie Falcons, Golden Eagles, Peregrine Falcons, Greater White-fronted Geese, Cackling Goose, Harris' Sparrow, and Swamp Sparrow. The Linear Park, and the Refuge lands adjacent, are at #24 of Species Leaders in Alameda County, with 202 species identified to date (https://ebird.org/spain/region/US-CA-001/hotspots).

O1-3 cont.



- Due to the significance and sensitivity of vernal pool habitats, proposed open trenching to underground the utility lines along the Cushing Parkway Causeway should be avoided in favor of the alternative that attaches the utility lines to the underside of the causeway. Open trenching will alter soil structure and can alter ground elevations. Proposed mitigation measures calling for restoration of ground elevations might not be sufficient to ensure the impacts of the trenching

[3] **Take** as currently defined under the Endangered Species Act means "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." – Endangered Species Act of 1973, Section 3
"**Harass**" means "harass" means an action that "aggressively disturbs or annoys" a species, potentially leading to injury or death, such as disturbance of normal behavior patterns for breeding, feeding, sheltering.

will be less than significant as even subtle changes in ground elevation can result in changes to the direction of surface flows and/or the amount of water flowing to adjacent pools. It's critically important that impacts that could alter the topography and hence the hydrologic regime of this vernal pool complex, be avoided, since the hydroperiod of vernal pools directly influences the ability of several state and federally listed species to complete their life cycles.

- The open trench alternative should also be avoided at this location to ensure the hydrological connectivity between the two vernal pool complexes bisected by the causeway is maintained. The entire reason the causeway was required, as opposed to a roadway on earthen fill with multiple culverts, was to ensure adequate ecological connectivity between the two portions of the vernal pool complex. As mentioned above, even minor alterations in ground elevations can result in changes to the hydrological regime of this vernal pool complex.

O1-3 cont.

Potential waters of the U.S./State appear to have been missed within Staging Area 3:



O1-4

Figure 3.4-1A depicts two habitat types within Staging Area 3 – "disturbed" and "annual grassland." Our review of Google Earth aerial images suggest that wetlands habitat that has persisted in the same location since 2006 have not been mapped.

The area of interest is outlined in red in the Google Earth image from March 13, 2006 and appears in aerial images from April of 2023 and February of 2024.





O1-4 cont.

We urge that the vegetation community for this staging area be reverified. Additionally, Staging Area 12 should be reviewed for potential waters of the U.S./State.

Figures/maps depicting the extent of waters of the U.S./State within the Project Area and the Areas of Jurisdiction that will be impacted by the proposed project must be provided in the EIR:

The maps associated with Figures 3.4-1A – 3.4-1F are of insufficient resolution to understand where aquatic resources will be impacted by direct impacts, or to provide decision-makers and the public with the opportunity to fully identify, analyze and propose mitigation for indirect impacts that may result to surrounding resources through implementation of the proposed project. The EIR must provide the maps that clearly delineate the location of jurisdictional waters/wetlands. These same maps should indicate where project impacts are proposed (permanent and temporary). In addition, for plant species, it is reasonable to request that numbers of listed and rare plants that may be impacted be provided (though this may be in the form of a table if the actual locations should not be disclosed). The request for this mapping and information are not unreasonable requests as this information will be required during the permit and consultation processes.

O1-4 cont.

Criteria for selection of the final 3-4 out of 12 potential staging areas must be provided in the DEIR:

The Project Description p.2-29 states: "The Project anticipates using approximately three to four staging areas during construction. The 12 potential staging area sites have been included because site availability during the construction window years in the future is uncertain at this stage."

However, a number of the potential staging areas have sensitive habitat/support listed or sensitive species or their habitats or contaminant issues, while others appear to be fully developed with existing infrastructure in place. Thus, all staging areas cannot be considered similar in their potential impacts to the environment. Is it truly availability that will be the final determining factor in the selection of staging areas?

Staging areas of particular concern include:

O1-5

- Staging Area 3 – We have already stated the habitat description for this staging area may require revision, and if waters of the U.S./State are present, permits would be required for temporary and permanent impacts.
- Staging Sites 5 adjoins Coyote Creek and the outfall for Penitencia Creek inclusive of riparian and brackish marsh habitat.
- Staging Site 6 adjoins Coyote Creek and the Santa Clara Valley Water District's Coyote Creek overflow easement that includes wetlands, marsh habitat and a salt marsh harvest mouse mitigation site.
- Staging Site 9 adjoins sensitive burrowing owl and wetland habitats.
- Staging Sites 10, 11, and 12 are within the permanently-buried contaminant area known as Cisco Systems Site 6. Sites 10 and 11 adjoin Site 12 which includes wetland habitat and adjoins the Guadalupe River. Sites 11-12 are also identified as Project construction sites.

The DEIR needs to prepare and include <u>Staging Area Site Selection Guidance</u> that describes and prioritizes criteria per Project goals and lists site attributes that make a site more or less suitable.

Availability would be one of the criteria. Criteria can but do not necessarily have to eliminate problematic sites but will identify sites that require all appropriate mitigation.

The DEIR impermissibly defers Staging site-specific impact analysis and mitigation of the final sites.

Staging sites, by condition and location, have potential for varied and substantial impacts on surrounding sensitive areas. The DEIR includes multiple mitigation measures that will apply to Staging Areas. Omitted mitigations discussed in this letter need to also apply. Given the DEIR's expectation of delayed identification of Staging Areas and the CEQA need to avoid deferral of mitigation, a Staging Area Site Management Plan needs to be included in the DEIR. It would utilize the Selection criteria applied to each site and incorporate all mitigations of the DEIR inclusive of the mitigation measures recommended by this letter. O1-5 cont.

Importantly, mitigations need to recognize both human and wildlife impacts. Noise, vibration, dust, waste dispersal, water or contaminant runoff mitigations that currently refer only to human impacts must also consider impacts to wildlife and habitat. This is critically important wherever Staging Areas adjoin sensitive wildlife habitat and waters and the Refuge. The wildlife and habitat importance would need to be described in the Staging Area Site Management Plan.

General comments regarding proposed mitigation measures:

- The use of Applicant Proposed Measures (APM), Best Management Practices (BMP), PG&E Field Protocols (FP), and proposed Mitigation Measures should be consolidated into a more useable format, or at minimum, the requirements when dealing with similar issues should be consistent. As just one example, APM BIO-1: Restoration of Disturbed Areas is silent regarding post restoration monitoring. MM 3.4-1b: Habitat Restoration and Monitoring states where revegetation occurs, plants will be monitored for a minimum of 5years. Inconsistencies in the language of these various mitigation measures will lead to unnecessary confusion at best or worse compliance failure. Each APM, BMP, FP, MM that cover proposed mitigation for the same impacts should be scrutinized to ensure consistency in the language utilized. O1-6
- Similar to the inconsistencies described when consultation regarding listed species is mentioned, for species that are covered both by the California Endangered Species Act (CESA) and the federal Endangered Species Act (ESA), there are instances where only consultation with CDFW is mentioned. In all instances where species are covered by both acts, consultation should be required with both CDFW and the USFWS, and in instances where impacts will occur within the Don Edwards San Francisco Bay National Wildlife Refuge (Refuge), consultation with Refuge staff should occur as well. O1-7
- For impacts to creeks, consultation should occur not only with CDFW and USFWS, but also the National Marine Fisheries Service (NMFS) as well.
- A number of mitigation measures refer to the need for a "qualified biological monitor." The DEIR should clarify for all instances where state or federal listed species are involved, the phrase "qualified biological monitor" means a monitor approved by CDFW and USFWS. O1-8
- The DEIR makes the assumption that "restoration" will adequately ensure that the impacts of the project are less than significant. Under indirect impacts resulting from ground disturbing activities, the DEIR fails to consistently identify changes to the existing hydrological regime of wetlands in the vicinity of the project as an indirect impact. This should be rectified and mitigation measures for "restoration" should include the requirement for the following: O1-9

- Preconstruction mapping of the areal extent of all wetlands within the project area and those adjacent to the project area.
- Preconstruction mapping of the existing ground elevations within the project area and areas adjacent to the proposed project (i.e. areas disturbed by temporary impacts)
- Post construction monitoring of the areal extent of all wetlands within the project area and those adjacent to the project area for a period of 5-years.

O1-9 cont.

- Protocol level surveys for aquatic related resources (species, wetlands, etc.) should occur during normal rainfall years and not under drought conditions. O1-10
- The use of phrases like "whenever practicable" do not instill confidence that a particular impact will actually be minimized. O1-11

Specific comments to Mitigation Measures:

- APM BIO-1 – As stated above, this mitigation measure should include post-restoration monitoring for 5 years as stated in MM 3.4-1b.
- APM BIO-4 – For purposes of clarification, the entire length of Cushing Parkway through the Warm Springs Vernal Pool Unit should be considered a "sensitive area" not just the locations of individual vernal pools as within a vernal pool complex, the upland areas are intimately connected with the vernal pools themselves.
- APM BIO-7 – "Suitable habitat areas for Salt Marsh Harvest Mouse" must recognize that SMHM are not restricted in occurrence to coastal salt marsh habitat – they have been found in diked baylands and agricultural fields. Surveys should not be restricted to coastal salt marsh, but should include adjacent upland areas. Smith[4] reported that SMHM were trapped in high management treatment habitats after the areas had been recently disced.
- APM BIO-10 – The words "whenever practicable" should be struck. The measure already states that the "…most likely areas for nighttime construction are within commercial and industrial areas and not residential or potentially sensitive biological areas. Night work is not anticipated during O&M except during emergencies." [emphasis added]
- APM BIO-11 – The size of buffers, impacts to listed species not covered by the Santa Clara Valley HCP, and mitigation measures to avoid impacts to active nests need to be reviewed and approved by appropriate CDFW and USFWS staff before proceeding with work.
- APM BIO-15 – We urge the following change to the language be made – "If the nesting or breeding activities by a Federal- or State-listed species are observed, LSPGC shall consult with the USFWS and CDFW ~~as necessary~~ and work will not proceed until appropriate protective measures have been reviewed and approve by these agencies."
- APM BIO-16 – We encourage the following work window exclusion of February 1st to October 31st for any work within an active colony, be included for the Crotch's bumblebee if it is documented within the project area, and that a 50' minimum buffer be required.
- APM BIO – 17 – We urge that the work window for work in vernal pools be readjusted to July 1st through October 15th to ensure the pools and areas surrounding are dry and will not be prone to

O1-12

[4] Smith, Katherine. *Emerging Perspective on Salt Marsh Harvest Mouse Conservation and Management – Ducks, Dikes and Demographics.* 2014. California Department of Fish and Wildlife, UC Davis. Bay Delta Science Conference. *https://scienceconf2014.deltacouncil.ca.gov/sites/default/files/uploads/2014-10-30-306PM1-SMITH.pdf*

tire rutting or will support construction mats without alterations to the existing ground elevations.

- APM BIO-18 - Similar to the vernal pool work window, we recommend that the work window for California tiger salamander (CTS) be adjusted to July 1st through October 15th to ensure CTS have left the vernal pools and are back in aestivation burrows. Suitable buffers – CTS are known to migrate as far as 1.3 miles from their breeding ponds to their aestivation burrows, and California red-legged frog (CRLF) have been observed to travel as far as two miles overland, therefore, work should not be conducted until the dry season to avoid adverse impacts to these listed species.
- APM BIO-19 – Wetlands and aquatic resources delineations should be conducted during normal rainfall years and not during drought conditions.
- PG&E BMP BIO-1 – "The survey shall occur within the best detection timeframe and within two weeks of construction." Please clarify what is meant by "the best detection timeframe" and who makes the determination – is it CDFW?
- PG&E BMO BIO-2 – The language of this BMP should be amended to clarify that if active nests of listed species are observed during construction, that the qualified monitor will stop construction, and consult with CDFW and USFWS regarding appropriate next steps before construction can proceed.
- PG&E FP-5 – The language of this FP should be amended to increase the proposed "at least two business days" to "at least five business days" and clarify that work will not proceed until the conservation landowner has acknowledged receipt of the notice.
- PG&E FP-6 – The language of this FP should be revised to read "Minimize potential for ~~covered~~ wildlife species to seek refuge or shelter in pipes…" And "Immediately contact a qualified biologist if a covered species is suspected, or discovered. In the instance that a covered species is discovered, the qualified biologist will report to CDFW/USFWS of how the issue was resolved.
- PG&E FP-14 – This FP should be modified to clarify that "commercial weed free seed mix" will not be utilized within the Warm Springs Vernal Pool Unit unless approval is received by the Refuge and/or Endangered Species Branch of the USFWS Sacramento Field Office. Any revegetation plans for this location must be approved by USFWS.
- PG&E FP-15 – The buffer of 250 feet should be measured from the Ordinary High-Water Mark of the vernal pool and not the edge of the vernal pool as the edge may vary depending on the how early or late in the season the buffer is delineated. Use of the OHWM is the most protective of the areal extend of a vernal pool.
- PG&E FP-16 – The buffer of 50 feet from the OHWM for wetlands, ponds or riparian areas should be increased to 100 feet, though if the areas support listed species consultation with CDFW/USFWS should be required to ensure the buffer is adequately protective. Buffers for vernal pools must be set by CDFW/USFWS for pools that support listed species. As described above, a 250 feet buffer is likely to be inadequate for CTS that are dispersing from vernal pools to their aestivation burrows.

O1-12 cont.

Impact Assessment:

- Failure to provide the results of focused studies significantly constrains the public's ability to understand the magnitude of the project impacts and to provide substantive comments, such as the need to consider different alternatives to the proposed activities (e.g. siting of transmission towers, etc.).

O1-13

- MM 3.4-1a – This mitigation measure mentions "no-disturbance buffers" but fails to identify how these buffers are determined, whether they will be reviewed and approved by CDFW/USFWS,

O1-14

nor is any information available regarding the magnitude of potential impacts (numbers of plants, etc.), therefore it is impossible to determine that the impacts would be reduced to a level that is less than significant. O1-14 cont.

- P.3.4-54 – "Construction vehicle movement would avoid sensitive habitat to the maximum extent possible, and LSPGC would coordinate with USFWS and other applicable agencies to determine whether permits would be required for potential impacts to special-status invertebrates or amphibians (APM BIO-16 and APM BIO-18)." When during this process will this occur? The earlier in the process the better to avoid delays and to ensure impacts truly are reduced to levels that are less than significant. Construction vehicle access should be clearly delineated prior to the permit and consultation processes if traversing sensitive/listed species habitats. O1-15
- MM 3.4-1b – "At least 30 days before the scheduled commencement of Project activities, the applicant shall submit a Restoration Plan to CDFW and the CPUC for review and written approval. No Project activities shall commence until the Restoration Plan is approved by CDFW in writing." The USFWS, U.S. Army Corps of Engineers (Corps) and San Francisco Bay Regional Water Quality Control Board (RWQCB) should be added to the list of agencies who should review and approve the Habitat Restoration and Monitoring Plans. O1-16
- P.3.4-55 – Any restoration and revegetation plan must be reviewed and approved by all the appropriate regulatory and resource agencies and not just CPUC and CDFW. Similarly, sign-off on the achievement of final success criteria should be reviewed and approved by all appropriate regulatory and resource agencies. Successful restoration must also include evidence that the hydrological regime or aquatic resources (and hydroperiod of impacted/adjacent vernal pools) has been restored. O1-17
- MM 3.4-1d – It should not be assumed that the use of mats for construction vehicles is adequate to ensure adverse changes to the hydrological regime of the vernal pool complex has not occurred. This can only be confirmed by post construction monitoring of the areal extent of impacted and adjacent vernal pools. Based upon the language of this mitigation measure as proposed, it is not possible to make a determination that the impacts of the project would be reduced to a level that is less than significant. O1-18
- p.3.4-57 –

  "Should unavoidable impacts be identified during species-specific surveys for vernal pool tadpole shrimp, Western bumblebee, or Crotch's bumblebee, which are not covered under the Santa Clara Valley HCP, federal ITP coverage would be pursued for vernal pool tadpole shrimp, or state ITP coverage for Western bumblebee and Crotch's bumblebee, in consultation with CDFW or USFWS (APM BIO-16). For these reasons, construction effects on invertebrates as it relates to this criterion would be mitigated to a less-than-significant level." O1-19

  The language above sounds like deferral of mitigation, while consultation with USFWS and CDFW will impose mitigation requirements, the DEIR should at least provide some performance standards to offset the impacts to listed species, such as minimum habitat replacement ratios, etc.

Conclusion:

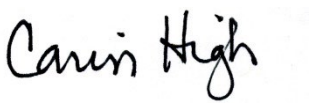
As identified above the DEIR has failed to provide information crucial to inform the public's understanding of the direct and indirect impacts that may occur if the project is implemented as described. In addition, the proposed mitigation measures are inconsistent in their language and insufficient as written to ensure the impacts of the O1-20

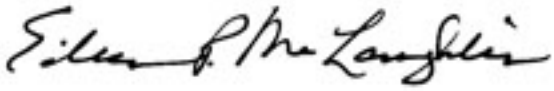
project on significant biological resources including the Don Edward San Francisco Bay National Wildlife Refuge will be reduced to a level that is less than significant.

O1-20 cont.

Thank you for the opportunity to provide comments. We request that we be kept informed of additional opportunities to review the proposed project and provide comments.

Respectfully submitted,





Carin High
CCCR Co-Chair

Eileen McLaughlin
CCCR Board Member

Letter O1: Citizens Committee to Complete the Refuge

O1-1 Citizens Committee to Complete the Refuge (CCCR) notes that it supports and incorporates by reference the comments submitted by the Center for Biological Diversity, Santa Clara Valley Bird Alliance (SCVBA), and Loma Prieta Chapter of the Sierra Club. CCCR provides a brief summary of the Project. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CCCR's input.

O1-2 The CPUC understands that CCCR has significant concerns regarding the proposed open trenching along the Cushing Parkway bridge and requests that the alternative of attaching the proposed transmission line to the underside of the causeway be implemented.

As described in Chapter 2, *Project Description*, of the Draft EIR, in addition to the proposed installation of an open trench parallel to the Cushing Parkway bridge within an existing 10-foot utility easement, LSPGC has informed the CPUC that it is considering physically attaching the segment to the bridge structure. However, LSPGC has not yet provided evidence of the feasibility of attaching the segment along Cushing Parkway bridge, and the potential design of this option is not currently developed to a level of detail that would yield meaningful environmental analysis (CEQA Guidelines Section 15384). If the bridge attachment design is further developed and put forth by LSPGC after certification of the Final EIR and Project approval, the revised design would be reviewed through the CPUC's "minor project refinement" procedure, which would conform to the requirements of the CPUC's CEQA review process. Therefore, the text regarding the potential bridge attachment is retained in the Final EIR.

The CPUC acknowledges CCCR's input, and it will be considered as part of the decision-making process. Responses to the bullet-pointed list of concerns at the top of page 2 of CCCR's letter are included below in response to the specific comments where CCCR provided more detail.

O1-3 CCCR provides historical background information related to the Warm Springs Vernal Pool Unit of the Don Edwards San Francisco Bay National Wildlife Refuge. The CPUC has reviewed this information and has determined it is consistent with the information and analysis in the Draft EIR.

The CPUC understands that CCCR supports attaching the proposed transmission line to the Cushing Parkway bridge structure, as opposed to open trenching in this segment, due to the significance and sensitivity of vernal pool habitats. Please see the response to Comment O1-2 for an explanation of why trenching remains in the Final EIR as the proposed method of construction in this portion of the Project.

Regarding CCCR's comment that proposed mitigation measures calling for restoration of ground elevations might not be sufficient to ensure the impacts of the trenching will be less than significant because the trenching could impact hydrological connectivity between the two vernal pool complexes bisected by the causeway, Mitigation Measure 3.4-1b requires a Restoration Plan to be approved by CDFW for restoration of sensitive natural communities, with monitoring and adaptive management approaches to ensure the vernal pool system regains full functionality, including hydrological connectivity.

The CPUC acknowledges CCCR's input, and it will be considered as part of the decision-making process.

O1-4 CCCR states that the Draft EIR omitted existing wetland habitat within Staging Area 3 in Figure 3.4-1A. CCCR urges that the vegetation community for Staging Area 3 be verified and that Staging Area 12 be reviewed for potential waters of the U.S./State. CCCR further states that the EIR must include maps that clearly delineate the location of jurisdictional waters/wetlands and lists of rare plants. As explained in Section 3.4 of the EIR, LSPGC has committed to conduct protocol surveys for rare plants in suitable habitat pursuant to **APM BIO-2: Rare Plant Surveys** as well as to conduct a wetland and aquatic resources delineation on all portions of the proposed Project containing potentially State or Federal jurisdictional waters pursuant to **APM BIO-19: Wetland and Aquatic Resources Delineations**. As discussed in Section 3.4.6 of the EIR, prior to filing its CPCN application with the CPUC, LSPGC conducted wetland and aquatic resource delineations at the area along Coyote Creek near McCarthy Boulevard and the RWF, as well as on both the north and south sides of the Cushing Parkway Bridge. Aquatic resource delineations would be conducted in all areas with potential for wetlands, including potential staging areas. In the Final EIR, APM BIO-19 has been revised to expand the boundaries of wetland and aquatic resources delineation on all portions of the Project containing potentially State or Federal jurisdictional waters (i.e., not restricted to California Department of Transportation ROW), as follows:

> **APM BIO-19: Wetland and Aquatic Resources Delineations**
>
> Pursuant to property owner approval, a wetland and aquatic resources delineation will be conducted ~~for the~~ on all portions of the proposed Project ~~Newark to NRS 230 kV AC transmission line within Caltrans ROW~~ containing potentially State or Federal jurisdictional waters. Accurate acreages of vernal pools and RWQCB, CDFW, and USACE jurisdictional waters will be defined from these delineations. Vernal pools and jurisdictional waters shall be marked as a sensitive area and shall be avoided to the extent practicable. If these areas cannot be avoided, applicable permits shall be obtained.

Though CCCR is correct that wetland and aquatic resource delineations may be required during permitting, they are not required in advance of the preparation of a CEQA document. CEQA does not require the CPUC to conduct every recommended test and perform all recommended research in evaluating a project's environmental impacts (CEQA Guidelines Section 15204[a]). These detailed surveys will be

conducted during the Project's resource permitting phase (i.e., with resource management agencies including CDFW, USACE, and the RWQCB) when each jurisdictional agency's most current protocols are known and agency-specific mitigation requirements can be determined. The information included in the Draft EIR is sufficient to meaningfully analyze the Project's impacts on biological resources.

O1-5 CCCR states that the Draft EIR fails to identify environmental criteria to inform the final selection of the three to four staging areas via "Staging Area Site Selection Guidance" and does not analyze and propose mitigation for the selected staging areas.

As a practical matter at this stage of Project development, LSPGC has proposed all of these 12 sites to allow for flexibility during the construction window. As noted in Chapter 2, *Project Description*, of the Draft EIR, site availability during the construction window years in the future is uncertain. Based on site availability at the time of construction, only 3 to 4 of the 12 potential sites would be used.

All 12 of the Project's potential staging areas were disclosed in the Draft EIR, and the environmental impacts at each site were thoroughly analyzed as required under CEQA. The EIR also identifies mitigation measures, APMs, PG&E BMPs, and PG&E FPs that would apply to the individual staging areas, just as these measures would apply to the rest of the Project. If the CPUC votes to approve the Project, LSPGC will be legally bound to implement all applicable mitigation measures at the staging areas identified for use during construction of the Project, as well as those subsequently arising from the resource permitting process with the jurisdictional agencies. Since the CPUC would be approving all 12 staging areas for potential use, and the EIR has evaluated and disclosed all potential impacts associated with each staging area, it is not necessary to identify site selection guidance, and there is no requirement under CEQA to do so.

O1-6 CCCR states that the use of APMs, PG&E BMPs and FPs, and CPUC-proposed mitigation measures should be consolidated into a more usable format. The Project's EIR has been formatted such that it is stated throughout the document whether a CPUC-proposed mitigation measure supersedes (i.e., takes precedence over) or supplements an APM. If an APM is superseded by a CPUC-proposed mitigation measure, the APM would no longer be a part of the Project, and thus would not be included in the Project's MMCRP (see **Appendix G**). The Project's MMCRP is the CPUC's document that presents all the applicable protections required for the Project, tracks implementation of those protections, and sets forth the procedure corrective actions if needed. The CPUC acknowledges CCCR's input, which will be considered in the decision-making process. In the specific instance of APM BIO-1, the need for restoration monitoring was the impetus for the addition of Mitigation Measure 3.4-1b.

O1-7 CCCR advises that both USFWS and CDFW be notified when species is listed by both agencies, and that the Don Edwards San Francisco Bay National Wildlife Refuge also be notified in the event of impacts within the Refuge. Consultation with both wildlife agencies is included in applicable mitigation measures; if a species is listed by only one

agency, then only that agency with jurisdiction for that species would be consulted (e.g., **Mitigation Measure 3.4-1d: Protection of Special-Status Wildlife**, **APM BIO-3: Preconstruction Sweeps**). Regarding the Refuge, the following statement is added on page 3.4-51 of the Final EIR as follows:

> The Project would result in approximately 14.13 acres of permanent disturbance and 214.01 acres of temporary disturbance because of the transmission line alignment features, including the PG&E Newark 230 kV Substation and SVP NRS 230 kV Substation. No direct impacts are anticipated to species or habitat within the Don Edwards National Wildlife Refuge due to the implementation of APMs and mitigation measures, as discussed below.

CCCR also advises that consultation should also occur with NMFS for impacts to creeks. Per the discussion on Draft EIR pages 3.4-54, 3.4-58, and 3.4-59, LSPGC plans to avoid all direct impacts to fish species, but would consult with NMFS during the permitting process. Impacts from accidental releases of drilling fluid (frac-out) would be addressed by **Mitigation Measure 3.4-1c: Frac-out Plan**. Impacts to fish from trenching and grading would be addressed by **APM BIO-4: Sensitive Area Demarcation**, **APM BIO-17: Wetland, Vernal Pool, and Waterway Construction Timing Restrictions**, and **APM BIO-19: Wetland and Aquatic Resources Delineations**. Implementation of these measures would reduce potential impacts on fish to a less-than-significant level by quickly addressing any accidental releases into waterways; demarcating and avoiding sensitive habitat for aquatic species; and restricting work to the dry season when fish are least likely to be present.

O1-8 CCCR states that the Draft EIR should clarify that in all instances where state or federally listed species are involved, the phrase "qualified biological monitor" means a monitor approved by CDFW and USFWS. Requesting approval from agencies for each instance of biological monitoring would not be necessary. If regulatory agencies need to review and/or approve biological monitors for certain species, they may specify qualifications during the Project's permitting process. The following text has been added on page 3.4-54 of the Final EIR to disclose the CPUC's qualifications for biologists, as follows:

> For the Project, a qualified biologist must hold a bachelor's or higher degree in biological sciences or a related discipline, with prior field experience in the habitat types present at the project site, familiarity with species that may occur, and prior preconstruction survey or construction monitoring experience.

O1-9 CCCR states that the Draft EIR fails to identify changes to the existing hydrological regime of wetlands in the vicinity of the project as an indirect impact, and that wetlands should be mapped and restoration included in the Draft EIR with monitoring for 5 years post-construction. As shown in Draft EIR Table 3.4-4, 0.54 acre of wetlands would be temporarily impacted during construction. Wetland delineation would be required under APM BIO-19. Also, restoration of wetlands is included in **Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring**, which would also include post-construction

monitoring for a period of 5 years, or until success criteria are met. The inclusion of hydrological interruption as a potential indirect impact of work in wetland areas is clarified in the text of the Final EIR on page 3.4-71:

> However, the construction of pads and substation modifications would cause temporary and permanent impacts on riparian areas and wetlands (Table 3.4-4). Potential temporary impacts include loss of vegetation, soil disturbance, loss of wildlife habitat, and hydrological interruption.

O1-10 CCCR advises that protocol-level surveys for wetlands and other aquatic resources should occur during normal rainfall years and not during droughts. Aquatic resource delineators are trained to identify wetland hydrological indicators, soils, and vegetation during both dry and wet conditions. Seasonal precipitation variations cannot be reliably predicted in advance of such surveys. Moreover, this is not required in any protocols set forth by resource agencies having jurisdiction of the resource. Aquatic species would be identified in a nearby waterway in the event of drought conditions during the survey. Botanical surveys would not be used as proof of absence of rare plants, but rather to determine the presence of rare plants.

O1-11 CCCR states that the use of conditional statements, such as "whenever practicable," do not ensure a particular impact would be minimized. The CPUC understands this concern; however, it should be noted that CPUC-proposed mitigation measures have been developed to the level required under CEQA, which is to say, such measures must be feasible[2]. Further, while some of the Project APMs do use conditional statements (e.g., APM BIO-2, APM BIO-3, and APM BIO-7), some of these APMs are either supplemented or superseded by CPUC-proposed mitigation measures that avoid the use of conditional statements, at the minimum, to the level of specificity required under CEQA. For example, APM TRA-1 is superseded by **Mitigation Measure 3.17-2a: Implement Coordinated Traffic Control Plan** as APM TRA-1 does not provide assurance as to the timely submittal of the TCP (i.e., lack of performance standard). Similarly, APM HAZ-5 does not establish a timeline for when LSPGC should submit the Project's final induction study, so the CPUC proposes **Mitigation Measure 3.19-5: Utility Coordination and Induction Study**.

O1-12 The CPUC acknowledges that CCCR would like to modify the Project's APMs and PG&E's BMP and FPs. As noted in the Draft EIR, LSPGC identified APMs intended to avoid or reduce potential impacts associated with the Project. PG&E also proposed BMPs and FPs to reduce effects associated with the proposed modifications at the existing PG&E Newark 230 kV Substation (see Draft EIR Chapter 2, *Project Description*). As the CEQA lead agency, mitigation measures are proposed by the CPUC to avoid or reduce the Project's potentially significant impacts, including those

[2] California Public Resources Code 21061.1 defines "feasible" as "capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors."

that may remain or not adequately addressed by APMs. As such, the CPUC cannot directly modify the Project's APMs or PG&E BMPs and FPs.

The CPUC understands CCCR's concerns with the LSPGC APMs and PG&E BMPs and FPs. However, some of these concerns may be alleviated through closer examination of the procedures in question—for example, CCCR's comment regarding APM BIO-19 that delineations should be conducted in years of normal rainfall. Aquatic resource delineators are trained to identify signs of wetland hydrology, soil, and vegetation even in the absence of recent rainfall. For example, the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region* (USACE 2008) provides guidance on how to conduct aquatic resource delineations in areas including the Project area. These delineations are valid at any time of year and under any rainfall conditions.

However, where the CPUC has determined that the LSPGC APMs and PG&E BMPs and FPs were insufficient, the EIR recommends mitigation measures which supplement or supersede these measures. The mitigation measures proposed in the EIR address the deficiencies of the APMs. If the Project is approved, the CPUC would be responsible for ensuring that LSPGC implements all mitigation measures and APMs and that, in addition, PG&E implements its BMPs and FPs (see Appendix G).

O1-13 CCCR states that more focused study results would allow for more substantive public comments regarding issues, for example, alternatives for siting the proposed transmission towers. As a preliminary matter, CEQA does not require a lead agency to conduct every recommended test and perform all recommended research in evaluating a project's environmental impacts (*Gray v. County of Madera* [2008] 167 CA4th 1099, 1125). So long as the analysis in the EIR is based on substantial evidence and provides sufficient information for decisionmakers to evaluate the impacts of a decision to approve a proposed project, it is sufficient (CEQA Guidelines Section 15151). Draft EIR Figure 3.4-1, *Vegetation Communities in the Vicinity of the Project Area*, and Draft EIR Section 3.4.1, *Environmental Setting*, provide details regarding the vegetation communities, habitats, and species with potential to occur in the vicinity of the Project. Further, many of the aboveground structures (i.e., tubular steel poles) associated with the Project would be located on existing disturbed land, such as, but not limited to, public roadways, the San José-Santa Clara Regional Waster Facility drying beds, the existing PG&E Newark 230 kV Substation property, or the existing SVP NRS 230 kV Substation. With regard to alternatives for siting Project activities, Draft EIR Chapter 4, *Alternatives*, discloses the Project alternatives that were initially considered, those that were rejected from detail review with an explanation of the rationale, and those that were carried through for a more detailed analysis to determine an environmentally superior alternative. The detail provided in the EIR meets the requirements of CEQA and is sufficient to allow for meaningful review by the public and decision makers.

O1-14 CCCR requests detail regarding how **MM 3.4-1a: Avoid Impacts to Rare Plants** determines "no-disturbance buffers" and whether these buffers would be reviewed and

approved by CDFW and/or USFWS. CCCR further suggests that it is not possible to determine the significance level without knowing the magnitude of potential impacts on rare plants.

As stated in Mitigation Measure 3.4-1a, "LSPGC shall coordinate with CDFW and/or USFWS staff to establish appropriate avoidance and minimization measures." The size of the buffer would be determined based on the size of the rare plant population found, in coordination with applicable agencies having jurisdiction over the resource. CEQA does not require the CPUC to conduct every recommended test and perform all recommended research in evaluating a project's environmental impacts (CEQA Guidelines Section 15204[a]). Protocol-level surveys would be conducted during the Project's resource permitting phase when each jurisdictional agency's most current protocols are known and agency-specific mitigation requirements can be determined. The information included in the Draft EIR is sufficient to meaningfully analyze the Project's impacts on rare plants with potential to occur.

O1-15 CCCR requests detail on when coordination with agencies regarding access routes across sensitive habitat would occur. Coordination with wildlife agencies would occur during the permitting process for the Project, prior to mobilization for construction. Federal and state permits for impacts to waters of the U.S. and state, respectively, and to streambeds, require coordination and permitting, where necessary, for listed and special-status species potentially affected by the Project. No construction would begin until all required federal and state agency permits are issued and permit conditions are known.

O1-16 CCCR suggests additional regulatory agencies to review the Project's Restoration Plan. The Restoration Plan would address temporary impacts to, and restoration of, riparian and wetland habitat and waterways and would be provided to permitting agencies, including the USACE and RWQCB, in addition to CDFW, as applicable. Mitigation Measure 3.4-1b has been revised to clarify this, as follows (please note that revisions from response to Comment UT1-39 are also reflected below):

Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring

Before construction in areas containing waters of the U.S. and/or state, or CDFW-jurisdictional areas, LSPGC ~~the applicant~~ shall obtain all required environmental permits, including a Clean Water Act Section 401 water quality certification for federal and state jurisdictional wetlands, Clean Water Act Section 404 permits for federal jurisdictional, and a CDFW Lake and Streambed Alteration Agreement, and shall adhere to the conditions of each.

At least 30 days before the scheduled commencement of Project activities in areas containing water of the U.S. and/or state, or CDFW-jurisdictional areas, LSPGC ~~the applicant~~ shall submit a Restoration Plan to all applicable permitting agencies (e.g., USACE, RWQCB**,** CDFW**)** and the CPUC for review and written approval. No Project activities shall commence until the Restoration Plan is approved ~~by CDFW~~ in writing by the applicable resource agency or agencies having jurisdiction. The plan shall detail compensatory mitigation for permanent impacts

to riparian and wetland habitat in the form of restoration or enhancement of habitat either on-site (where practicable) or off-site as close to the Project site as practicable. The plan shall also describe the on-site restoration of temporary impacts to riparian and wetland habitat. The Restoration Plan shall also include monitoring and success criteria. Impacts to riparian and wetland habitat shall be restored or otherwise mitigated according to the Restoration Plan within the same calendar year as the impact occurs unless otherwise approved in writing by the applicable resource agency or agencies having jurisdiction ~~CDFW~~. More than one plan may be necessary for restoration activities in different locations.

Restoration and monitoring shall be guided by a qualified biologist experienced in wetland habitat restoration. Restoration shall include protocols for replanting native vegetation removed before or during construction, and management and monitoring of the plants to ensure replanting success. The following measures shall apply to site restoration:

- Areas affected by construction-related activity shall be replanted or reseeded with locally collected and grown native shrubs and herbaceous species suitable for riparian and wetland locations, under guidance from a qualified restoration biologist.

- To ensure a successful revegetation effort, all plants shall be monitored and maintained as necessary for a minimum of 5 years. LSPGC shall submit an annual monitoring report to the CPUC and the applicable resource agency or agencies having jurisdiction ~~CDFW~~ during each year of revegetation.

- The revegetation shall be considered successful when, after at least 5 years of monitoring (including at least 3 years without supplemental irrigation), each category of plantings (e.g., herbs, shrubs) has a minimum of 85 percent survival, and restoration areas have attained a relative native cover of 70 percent after 3 years and 75 percent after 5 years, unless approved in writing by the applicable resource agency or agencies having jurisdiction ~~CDFW~~. Survival and cover criteria shall both be required unless the herbaceous or spreading plants cannot be differentiated by individual, in which case the cover success criteria alone may be sufficient if determined in writing by the applicable resource agency or agencies having jurisdiction ~~CDFW~~.

O1-17 CCCR notes that any restoration and revegetation plan must be reviewed and approved by all the appropriate regulatory and resource agencies and not just the CPUC and CDFW. Also, CCCR notes that sign-off on the achievement of final success criteria should be reviewed and approved by all appropriate regulatory and resource agencies, and that successful restoration must also include evidence that the hydrological regime or aquatic resource(s) has been restored. As noted in the response to Comment O1-15 above, coordination with wildlife agencies would occur during the resource permitting process for the Project, prior to mobilization for construction. Federal and state permits for impacts to waters of the U.S. and of the state, and to streambeds, require coordination and permitting, where applicable, for listed and special-status species potentially affected by the Project. No construction would begin until all required federal and state agency permits are issued and permit conditions are known.

O1-18 CCCR suggests that equipment passage across vernal pool habitat could alter the hydroperiod of the pools. For unavoidable movement across vernal pools, the use of mats would protect the vegetation and underlying soils by spreading the weight of construction equipment across a wide area, in accordance with USACE standard practice (e.g., construction mat best management practices). The movement of equipment on mats would not alter the hydroperiod of the pools, which is determined by the underlying hardpan layer supporting the pool. As no construction would occur in vernal pools, the hardpan layer would not be impacted.

O1-19 CCCR suggests that the future requirement of an ITP or coverage under the Santa Clara Valley Habitat Conservation Plan (HCP) is improper deferral of mitigation, and that the Draft EIR should provide performance standards to offset potential impacts to listed species.

The section of text to which CCCR refers is not a mitigation measure (Draft EIR page 3.4-57 and 3.4-58). However, as discussed throughout *Impact Assessment* within Draft EIR Section 3.4.6.1, the Project would implement **APM BIO 16: Special-Status Invertebrate Surveys**, involving the implementation of protocol surveys within all proposed impact areas and the implementation of appropriate buffers within potentially suitable habitat areas. The results of these surveys would help inform the demarcation of sensitive areas, the appropriate types of permitting or coverage needed (e.g., ITP, HCP), and/or the construction equipment and activities allowed in certain Project sites.

Under CEQA, the "specific details of a mitigation measure may be developed after project approval when it is impractical or infeasible to include those details during the project's environmental review…" (CEQA Guidelines Section 15126.4). The Project would implement Mitigation Measure 3.4-1b, which would require LSPGC to obtain all required environmental permits and to prepare a Restoration Plan that would detail compensatory mitigation for permanent impacts, including performance standards.

Further, the Project would implement Mitigation Measure 3.4-1d, which includes preconstruction surveys prior to the start of construction activities and daily clearance surveys to avoid impacts to special-status species; in the event that special-status species are discovered in a work area, the area would be avoided or protective action would be taken as authorized by the Santa Clara Valley HCP or a species-specific ITP, in coordination with USFWS and/or CDFW.

O1-20 CCCR asserts that the Draft EIR failed to provide information crucial to inform the public's understanding of the direct and indirect impacts that may occur if the Project is implemented as described. CCCR further asserts that certain mitigation measures are inconsistent in their language and insufficient as written. While this comment does not address the adequacy or accuracy of the environmental analysis, nor does it identify or raise any significant environmental issues related to the Draft EIR under CEQA, the CPUC acknowledges CCCR's input, and it will be considered as part of the decision-making process.

July 24, 2025

Sent via email

California Public Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102
Attn: Power the South Bay Project (A.24-05-014)
tommy.alexander@cpuc.gov

Re: Comments on the Draft Environmental Impact Report for the Power the South Bay Project (State Clearinghouse No. 2024071095)

Dear Mr. Alexander:

This letter is submitted on behalf of the Center for Biological Diversity ("Center") and Santa Clara Valley Bird Alliance regarding the Draft Environmental Impact Report ("DEIR") for the Power the South Bay Project, State Clearinghouse No. 2024071095. We have reviewed the Draft Environmental Impact Report closely and have found that the DEIR's analysis of and mitigation for the Project's impacts to biological resources, water quality and water supply, greenhouse gas emissions, air quality, noise, energy, and other public resources are inadequate. We urge the California Public Utilities Commission, at a minimum, to correct the deficiencies identified below to ensure adequate and informed public review of the Project.

The Center is a non-profit, public interest environmental organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 1.7 million members and online activists throughout California and the United States. The Center has worked for many years to protect imperiled plants and wildlife, open space, air and water quality, and overall quality of life for people throughout Alameda and Santa Clara Counties. The Center frequently participates in environmental review for industrial development projects in Santa Clara and Alameda Counties, and frequently reviews and submits comment letters on DEIRs prepared pursuant to CEQA for development projects throughout the state.

O2-1

The Santa Clara Valley Bird Alliance promotes the enjoyment, understanding, and protection of birds and other wildlife by engaging people of all ages in birding, education, and conservation.

I. The Draft EIR Fails to Adequately Assess the Project's Reasonably Foreseeable Impacts.

The Draft EIR is inadequate because it fails to adequately disclose, assess, and mitigate the Project's reasonably foreseeable impacts on an expanded data center industry in the San José area. CEQA requires that an EIR consider an entire "project." And "Project" is defined as "the whole of the action, which has a potential for resulting in either a direct physical change in the environment, *or a reasonably foreseeable indirect physical change in the environment*." (CEQA Guidelines, § 15378 [emphasis added].) "Project"" is interpreted broadly to maximize protection of the environment and ensure that environmental review is "prepared as early as feasible in the planning process." (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 395.)

When considering whether a future indirect activity that may follow from an agency's approval is part of the "whole of the action," such as data center development here, reviewing courts follow the California Supreme Court's decision in *Laurel Heights Improvement Assn. v. Regents of University of California (Laurel Heights)*:

> [A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.
>
> (*Laurel Heights* (1988) 47 Cal.3d 376, 396.)

O2-1 cont.

The rule "is consistent with the principle that 'environmental considerations do not become submerged by chopping a large project into many little ones - each with a minimal potential impact on the environment - which cumulatively may have disastrous consequences.'" (*Id*., quoting *Bozung v. Local Agency Formation Com*. (1975) 13 Cal.3d 263, 283-284.)

Analysis requires consideration of all relevant facts: "the facts of each case will determine whether and to what extent an EIR must analyze future expansion or other action." (*Laurel Heights*, supra, 47 Cal.3d at 396.) However, it is *not* a factor that the indirect activity might later be subject to its own environmental review. Courts recognize an EIR should be prepared for foreseeable future activity at the *earliest stage*, even when subsequent review may or even will be required because the later activity is not yet clearly defined. (*City of Carmel-by-*

the-Sea v. Board of Supervisors (1986) 183 Cal.App.3d 229, 250; *City of Antioch v. City Council* (1986) 187 Cal.App.3d 1325.) Further, no evidence of a plan, formal or otherwise, is required before later activity may be considered a reasonably foreseeable consequence. (*Laurel Heights*, 47 Cal.3d at 397-398.)

Here, this failure to address data center impacts of a project intended to power data centers violates CEQA. The Draft EIR itself describes the Project's purpose as to "[r]eliably serve the long-term forecasted electricity demand in the San José area, which is expected to increase substantially, *mostly due to new data center loads*." (DEIR at 1-2.) It goes on to list six data center projects in Santa Clara and San Jose that the Project will power, which will result in cumulative impacts on the environment and surrounding communities. (DEIR at 3-10-20.) Nevertheless, despite admitting that the Project's purpose largely is to power data centers, the Draft EIR overlooks their significant impacts on air quality, GHG emissions, biological resources, noise levels, water quality and supply, and energy demand.

O2-1 cont.

If the project is intended to support large-scale data center expansion, as now stated in the objectives, the Final EIR must consider:

- The **land use, water use, energy demand, and greenhouse gas emissions** associated with this class of foreseeable data center development;
- The potential for **induced growth**, particularly in rural or undeveloped areas, that would result from expanded electricity infrastructure; and
- The **cumulative environmental burden** when considered with other infrastructure expansions across the South Bay and the myriad of data centers proposed.

In other words, the Draft EIR isolates the project from the very development it claims to support, creating a disconnect between purpose and analysis. This renders the EIR incomplete and out of compliance with CEQA's mandate for full disclosure of environmental impacts and the relationship between project need and foreseeable consequences.

A. The Project Will Contribute to Data Centers' Soaring Energy Demand.

Data centers represent one of the most energy- and water-intensive sectors in the United States. As of March 2025, the United States housed 5,426 recorded data centers, (Taylor, 2025) and in 2023, these facilities consumed 176 terawatt-hours (TWh) of electricity, or 4.4 percent of the country's total electricity use—more than the total energy consumption of Ohio in 2022. (Shehabi, 2024.) Their round-the-clock operation requires substantial electricity for both computational processes and cooling systems, often drawing from regional power supplies already operating near capacity. The energy demands of artificial intelligence (AI) applications exacerbate this impact: while a conventional data center rack uses an average of 7 kilowatts (kW), AI data center racks can require up to 50 kW. (Loten, 2023.) In 2023, AI workloads

O2-2

represented about 20 percent of total data center capacity, and projections indicate a tenfold increase in AI-related electricity consumption by 2026. (Ramachandran, 2024.)

The energy footprint of the AI and data center industries is expected to grow exponentially in the coming years and decades, posing significant risks to the stability of the electric grid and undermining national efforts to reduce greenhouse gas emissions. Current trend analysis shows that global demand for data center capacity could grow by 19 to 27 percent annually through 2030, reaching as much as 171 to 298 gigawatts (GW) per year by the end of the decade. (Srivathsan, 2024.) The demand for AI-compatible data center capacity alone is anticipated to grow at an average annual rate of approximately 33 percent through 2030. (*Id*.) By the end of the decade, it is projected that roughly 70 percent of the *total* demand for data center capacity will be directed toward facilities specifically designed to accommodate advanced artificial intelligence workloads. (*Id*.)

O2-2 cont.

As more data centers and AI systems come online in Santa Clara and Alameda counties, they will draw substantial power from regional grids that are, as evidenced by this Project, already facing capacity, transmission, and reliability constraints. This rising demand can contribute to several negative outcomes including grid instability and blackout and brownouts, rising energy prices, delayed grid modernization, resource competition, and negative environmental and equity impacts.

B. Data Centers that Are Developed as a Result of the Project Will Result in Air Quality Degradation.

Although the Draft EIR acknowledges that the Project's construction emissions may exceed Bay Area Air Quality Management District (BAAQMD) thresholds and contribute to a significant cumulative impact on regional air quality, it fails to include emissions associated with the reasonably foreseeable operation of new data centers. Data centers constructed as a result of this Project will also degrade air quality in surrounding communities, largely due to use of diesel backup generators. Since 2017, more than one gigawatt of diesel-based energy—enough to power at least 161,969 households for a year—has been approved as emergency power for California data centers alone. (Capital & Main, 2025.) The California Energy Commission has found that the diesel generators, operating for only 20 hours a year for maintenance and testing, still emit as much pollution as 428 gas-powered cars driven for a year. (*Id*.) Beyond greenhouse gas emissions, these generators harm public health through emitting nitrogen oxide and particulate matter.

O2-3

Researchers at UC Riverside and Caltech found that an increase in permits for diesel generators at data centers in Virginia since 2023 may have resulted in 14,000 asthma symptom cases and caused as much as $300 million in health care costs. (Capital & Main, 2025.) By 2030 and accounting for impacts from fossil fuel-generated electricity and domestic chip

manufacturing, researchers found the health burdens of data centers could amount to $20 billion by 2030. (Capital & Main, 2025.) The adverse environmental effects, particularly in terms of air quality degradation associated with data center operations, pose significant risks to nearby communities.

Currently, numerous proposed or operational data centers in Santa Clara County, including those listed in the EIR's cumulative projects list, are pursuing or have obtained approval through the California Energy Commission (CEC) Small Power Plant Exemption (SPPE) process. This process allows projects between 50–100 MW to bypass full CEC certification and instead seek local permits—often without full CEQA review or cumulative impact disclosure. According to the CEC, 11 of the 13 SPPE-approved data centers in California are located in Silicon Valley, including San José and Santa Clara. The CEC has estimated that their diesel-based generation will produce greenhouse gas emissions equivalent to the annual output of 284,390 gasoline-powered cars (Fast Company, 2024).

O2-3 cont.

The Draft EIR's analysis of air quality impacts is inadequate under CEQA because it fails to assess the reasonably foreseeable air quality impacts from diesel and natural gas backup generation associated with the data centers that the Project is designed to support. This is a critical omission in a region already designated as nonattainment for multiple pollutants and facing documented environmental justice concerns.

1. BAAQMD and Environmental Justice Concerns Ignored

The Draft EIR fails to adequately assess and mitigate air quality impacts on sensitive receptors, incorrectly stating that there are "no sensitive receptors" in the vicinity of the Project. This is contradicted by the project's location in urbanized areas of San José and Alviso, near homes and schools, and by prior agency findings. In a February 7, 2022 letter on the Microsoft San José Data Center—located within two miles of the Project site—BAAQMD specifically highlighted that:

O2-4

> "The project site is located in the Alviso neighborhood, an area with high cumulative environmental burdens as identified through CalEPA's CalEnviroScreen 4.0. As such, the Air District is concerned about air pollution emissions or exposures impacting the nearby community."

The Draft EIR does not acknowledge or assess these types of foreseeable public health impacts described above, nor does it analyze the regional and cumulative air quality consequences of diesel generator proliferation in proximity to disadvantaged communities.

2. CEQA Violations and Required Revisions

The Draft EIR's omission of indirect and cumulative air quality impacts violates several CEQA requirements:

- Failure to analyze reasonably foreseeable indirect impacts (CEQA Guidelines §§15064(d), 15126.2(a));
- Failure to assess cumulative impacts from related projects in the area (CEQA §15130); and
- Failure to identify and assess sensitive receptors, particularly in areas with known environmental health vulnerabilities (CalEnviroScreen, BAAQMD).

3. Recommended Revisions and Mitigation Measures

To bring the EIR into compliance with CEQA, the Final EIR must:

- Include an air quality analysis of diesel and gas generator emissions from foreseeable data center development, including NOx, PM2.5, PM10, and other criteria pollutants;
- Identify sensitive receptors using CalEnviroScreen 4.0, census data, and BAAQMD guidance;
- Consult with BAAQMD regarding thresholds, cumulative burdens, and localized impacts;
- Quantify cumulative emissions using published generator emissions factors from the CEC and data center permitting records; and
- Adopt feasible mitigation measures, including:
    - Prohibiting or limiting diesel backup generation for new connected facilities;
    - Requiring electrification or alternative energy backup systems;
    - Offsetting diesel-related emissions through verified emissions reduction projects; and
    - Implementing construction best practices for particulate control and NOx reduction.

In sum, the Draft EIR's failure to assess the reasonably foreseeable air quality impacts from associated data center diesel and gas generators renders the analysis legally inadequate under CEQA. Given the Bay Area's nonattainment status, the documented presence of sensitive populations, and the project's potential role in facilitating emissions-intensive infrastructure, the Final EIR must include a revised, comprehensive air quality analysis and enforceable mitigation measures in consultation with BAAQMD.

O2-4 cont.

C. Data Centers' Immense Water Demand Will Hamper Regional Water Supply.

The Draft EIR also fails to adequately analyze the Project's potential to significantly affect groundwater resources, both directly during construction and indirectly through induced development. This omission violates CEQA's requirements for substantial evidence, full disclosure, and analysis of cumulative and indirect impacts. (CEQA Guidelines §§15064, 15126.2, and 15130.)

1. Inadequate Evaluation of Direct Construction Water Use

The Draft EIR concludes that the estimated use of 8 million gallons of water during construction would not substantially decrease groundwater supplies or interfere with recharge. (DEIR, at Impact 3.10-2: Less than Significant.) However, this conclusion is unsupported for several reasons, including the following:

- The source of the water is described only as a "local water source" (DEIR at 3.10-17), with no identification of whether this source is surface water, groundwater, or recycled water;
- No quantitative capacity analysis or verification of water availability is provided for any potential supplier; and
- The Project area crosses the Santa Clara Subbasin and Niles Cone Subbasin, both of which are designated as high and medium priority under California's Sustainable Groundwater Management Act (SGMA), due to chronic overdraft and high groundwater dependency.

O2-5

Without identifying the water source or evaluating the sustainability of withdrawal, the Draft EIR lacks substantial evidence to support its conclusion, as required by CEQA.

2. Omission of Indirect and Induced Water Use from Data Centers

The EIR acknowledges that the Project is driven by projected load increases from new data centers (DEIR, p. 1-2), yet entirely fails to evaluate the reasonably foreseeable increase in long-term water demand associated with that development. Data centers that will result from this Project will also impact the environment through their massive water demand. A mid-sized data center consumes on average around 300,000 gallons of water a day, about as much as 1,000 U.S. households (Copley), while a large data center uses 1-5 million gallons per day. (Osaka.) This is because data centers produce a considerable amount of heat, requiring air conditioning to cool the servers or water for evaporative cooling. (*Id*.) Indeed, data centers rank among the top 10 water-consuming commercial industries in the United States. (Siddik.) And with the advent of artificial intelligence, each year they require even more: Google's data centers used 20 percent more water in 2022 than in 2021, while Microsoft's water use rose by 34 percent. (Berreby.) Numerous data centers in Santa Clara County are known to draw from groundwater or place

strain on recycled water systems. This is a well-documented issue nationally and regionally, yet the Draft EIR omits it entirely from its analysis of long-term or cumulative water demand.

Additionally, according to Lawrence Berkeley National Laboratory's 2024 United States Data Center Energy Usage Report (escholarship.org/uc/item/32d6m0d1), U.S. data centers' direct water consumption could reach between 145 to 275 billion liters per year by 2028, up from 66 billion liters in 2023. Hyperscalers alone could account for 60 to 124 billion liters of direct consumption annually. But this represents just a quarter of data centers' water use, only covering their direct, on-site water consumption, predominantly for cooling IT equipment. Because they draw electricity from the grid, data centers also have off-site, or source, water needs (indirect use) that are determined by the water intensity of the local electrical grid mix. In 2023, the total indirect water footprint of U.S. data centers was nearly 800 billion liters. Neither of these figures includes the water needed to manufacture data center equipment and construct the facilities.

Many data centers draw from public water supplies and aquifers, which can add to regional water stress, especially for facilities built in the West and Southwest. According to a 2021 study (https://iopscience.iop.org/article/10.1088/1748-9326/abfba1), as of 2018, one-fifth of U.S. data centers met their direct water needs from sources in moderately to highly water-stressed watersheds, while nearly half were partially or fully powered by power plants in water-stressed regions. The same study found that the data center industry already directly or indirectly draws water from 90% of U.S. watersheds. California is #2 on the list of states with the most data centers in highly water-stressed areas (https://www.businessinsider.com/how-data-centers-are-deepening-the-water-crisis-2025-6).

O2-5 cont.

3. Flawed Cumulative Impact Analysis

The Draft EIR's conclusion that the Project's cumulative groundwater impacts are "less than significant" (Impact C.3.10-2) is also not supported by quantitative analysis. Specifically, the analysis is insufficient in the following ways:

- The Draft EIR concedes that "other projects in the vicinity may contribute to impacts that would decrease groundwater supplies," but provides no meaningful assessment of those projects' combined demands;
- The Draft EIR does not incorporate or reference SGMA Groundwater Sustainability Plans (GSPs) for either basin or analyze the consistency of project-related and induced groundwater demands with basin-wide sustainable yield targets; and
- No consideration is given to cumulative impacts from induced data center development, even though these facilities are known to be water-intensive and are expressly cited in the EIR as a major driver of the project.

This omission directly conflicts with CEQA Guidelines §15130, which requires cumulative impact analysis when a project may contribute to an impact in conjunction with other past, present, or probable future projects.

4. Recommendations for Final EIR

To comply with CEQA, the Final EIR must:

- Disclose and identify the proposed construction water source, and evaluate the availability and sustainability of that supply in both normal and drought years;
- Analyze indirect and cumulative water impacts from foreseeable data center development enabled by the Project, using actual water use data from comparable facilities;
- Include a basin-wide cumulative impact analysis for both the Santa Clara and Niles Cone Subbasins, incorporating SGMA data and local GSPs; and
- Consider whether long-term induced development may impair the ability of groundwater basins to meet sustainability targets;

O2-5

If significant cumulative impacts are identified based on this analysis, the Final EIR must include feasible mitigation measures, such as water demand offsets, use of recycled water, or coordination with GSP implementation plans.

D. Chronic Noise Exposure from Data Centers is an Emerging Public Health Risk

Data centers that this Project will support will also impact surrounding communities through constant noise pollution, well documented by residents living near data centers throughout the United States. Data centers create noise through generators, cooling systems, and energy drawn from the power grid. Data centers also impact surrounding communities through constant noise, well documented by nearby residents throughout the United States. (Olivo, 2023; Bosker, 2019; Cary, 2023.) Data centers create noise through generators, cooling systems, and energy drawn from the power grid. Noise is the second largest environmental cause of health problems, just after the impact of air pollution. (Angelo 2023; Harvard 2022.) Large-scale studies show that over time noise exposure increases the risk of high blood pressure, type 2 diabetes, coronary heart disease, and heart attacks, as well as strokes, diabetes, dementia, sleep disturbances, memory impairment, and depression. (Bosker, 2019; Vermeer 2000; Minho 2012; Park 2018; Harvard 2022.) Chronic noise exposure contributes to about 48,000 new cases of heart disease in Europe each year and disrupts the sleep of 6.5 million people. (Harvard 2022.) For children, noise pollution interferes with behavioral and cognitive development and speech and language development, and it decreases concentration, impairs memory retention, and increases blood pressure. (Angelo, 2023; Ferguson, 2013; Raess, 2022.) For adolescents, it can interfere with mental health. (Lim, 2018.)

O2-6

Beyond public health, data center noise can harm wildlife. (*See, e.g., Keep Our Mountains Quiet v. Cty. of Santa Clara*, 236 Cal. App. 4th 714 (2015) [requiring an EIR before authorizing an event because substantial evidence indicated that noise may impact surrounding residents and biological resources, even if the project would not generate noise in excess of the county's noise ordinance and general plan].) Impacts from noise include altered vocal behavior to mitigate masking, changes in vigilance and foraging behavior, and impacts on individual fitness and the structure of ecological communities. (Shannon et al., 2016.) In particular, noise can significantly degrade habitat value for migrating songbirds, decreasing feeding behavior and duration. (Ware et al., 2015.) Another study found a 28% decrease in bird abundance in areas when traffic noise was present compared to when there was no traffic noise. (McClure et al., 2013.) And these impacts do not always improve over time: researchers have postulated that some species in areas with chronic noise pollution may become *more* sensitive to noise stressors instead of becoming habituated or less sensitive to them. (Goudie & Jones, 2004.) Therefore, special-status and sensitive species and other native wildlife in and around the project site could be significantly adversely affected by ongoing noise.

O2-6 cont.

E. Data Center Operations Greatly Contribute to the Escalating Climate Emergency.

The Draft EIR's analysis of greenhouse gas emissions (GHGs) is fundamentally incomplete. The rapid expansion of data center infrastructure that will result from this Project will also emit a significant amount of greenhouse gases (GHG). Storing data on servers requires a massive amount electricity, currently totaling two percent of electricity nationwide — approximately the same amount as the entire state of New Jersey. (Siddik et al.) And with the advent of Artificial Intelligence, these energy demands will only grow: Data centers could consume as much as 17 percent of all U.S. electricity by 2030, according to research from Bloomberg Intelligence, nearly quadruple what they consume today. (Bloomberg, 2024.) New solar and wind energy may meet up to 40 percent of that new power demand; however, experts predict the rest will come from a vast expansion in natural gas, comparable to adding 15.7 million gas-powered cars on the road. (Halper, 2024.)

O2-7

The proposed gas expansion directly contradicts experts' warnings that the world cannot preserve a livable climate unless it stops building new fossil fuel infrastructure. Currently, the world's data centers account for 2.5 to 3.7 percent of global greenhouse gas emissions, exceeding even those of the aviation industry. (Cho.) However, considering the energy demands of artificial intelligence, Morgan Stanley projects that greenhouse gas emissions by the global data center industry will amount to about 40% of what the entire U.S. emits in a year by 2030. (Reuters, 2024.) Altogether, S&P Global Ratings estimates that data centers will lead to additional demand of between 3 to 6 billion cubic feet of gas per day by 2030—equivalent to the gas consumption of the entire state of Florida. (Samuelson, 2024.)

Specifically, the Draft EIR fails to consider reasonably foreseeable GHG emissions from diesel and natural gas backup generators associated with data centers that the Project is designed to support. This omission undermines the conclusions of:

- Impact 3.8-1: "The Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment" (Less than Significant), and
- Impact 3.8-2: "The Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases" (Less than Significant).

1. Failure to Analyze GHGs from Data Center Backup Generation

The EIR narrowly defines project emissions to include only construction and operation of the transmission infrastructure itself. However, the purpose of the Project is to serve new data centers, many of which rely on backup generation using diesel or natural gas. This includes:

- Fossil-fuel generators permitted through the California Energy Commission Small Power Plant Exemption process;
- Significant stationary source emissions of CO_2, NO_x, and particulate matter, often exceeding thresholds set by BAAQMD and local climate action plans.

O2-7 cont.

These indirect emissions are reasonably foreseeable, directly tied to the Project's implementation, and must be included under CEQA's requirement to assess both direct and indirect environmental effects. (CEQA Guidelines §15126.2, §15064(d).)

2. Failure to Incorporate New Data on Climate Impacts of Data Centers

Additionally, the GHG section is outdated and fails to incorporate recent findings and studies since the release of California's Fourth Climate Change Assessment (2018). The Final EIR must consider:

- More recent reports and scientific literature on energy use and emissions from hyperscale data centers, including cooling water demands, backup power reliance, and lifecycle emissions; and
- Local and regional climate vulnerability assessments, including those by Santa Clara County, BAAQMD, and Bay Area local governments, which document anticipated GHG increases from digital infrastructure.

3. Lack of Project Consistency with Local and State GHG Policies

The Draft EIR's conclusion that the Project would not conflict with GHG-reduction plans is not supported by analysis. The EIR fails to:

- Evaluate the Project's consistency with local General Plans, Climate Action Plans, and county-level decarbonization goals;
- Consider applicable thresholds of significance for GHGs under BAAQMD guidelines, especially given the additional emissions from associated fossil-fuel-powered infrastructure;
- Apply the 2022 California Scoping Plan directive to electrify all off-road construction equipment by 2035, which may be feasible for this project and should be adopted as mitigation.

4. Required Revisions to Comply with CEQA

To meet CEQA requirements for GHG impact disclosure and mitigation (CEQA Guidelines §15126.4(c)), the Final EIR must:

- Include a revised GHG analysis that quantifies or qualitatively evaluates emissions from associated backup generation and data center operations;
- Evaluate the Project's consistency with recent state, regional, and local climate mitigation and adaptation plans;
- Adopt feasible mitigation measures, including but not limited to:
    - Commitment to electrification of construction equipment per the 2022 Scoping Plan;
    - Prohibition or limitation of diesel generator capacity in new end-use facilities; and
    - Carbon offset or emissions monitoring requirements for associated facilities.

In sum, the Project is part of a regional digital infrastructure buildout with substantial and growing greenhouse gas implications. By failing to assess backup generation and induced emissions from foreseeable data center use, the Draft EIR does not satisfy CEQA's requirements for meaningful GHG analysis. Impacts 3.8-1 and 3.8-2 must be revised to reflect these foreseeable effects, and enforceable mitigation must be incorporated.

O2-7 cont.

F. Inadequate Evaluation of Induced Use of Nonrenewable Energy

Relatedly, the Draft EIR incorrectly states that "The Project would not add capacity for the purpose of serving a nonrenewable energy resource" and concludes there would be no impact. (DEIR at Section 3.6.7.) However, this conclusion is not supported by substantial evidence. Rather, the Project is expressly designed to support new electric loads, particularly

O2-8

large-scale data centers, as stated in the revised project objective. (DEIR at 1-2.) Many new and proposed data centers in the region rely on or are expected to rely on diesel and gas-fired back-up generators, which are nonrenewable energy sources. Several of these facilities are using or seeking approval through the California Energy Commission's (CEC) Small Power Plant Exemption (SPPE) process, bypassing the full CEC licensing process for smaller but still significant fossil fuel generation facilities.

The Draft EIR fails to assess the indirect and cumulative increase in nonrenewable energy use that would likely result from facilitating or inducing this category of load growth. If the Project is enabling infrastructure for development that relies on nonrenewable energy (even as backup), this constitutes an indirect impact under CEQA and must be analyzed regarding both air quality impacts and GHG emission impacts. (CEQA Guidelines §15064(d), §15126.2(d).) O2-8 cont.

The Final EIR should be corrected in the following ways:

- Revise Impact 3.6-7 to acknowledge and analyze the potential for the Project to indirectly increase nonrenewable energy use by facilitating fossil-fuel-dependent development (e.g., data centers with diesel/gas backup generation);
- Include a discussion of the SPPE process and the extent to which new data centers are relying on this mechanism to install nonrenewable energy sources; and
- Evaluate whether the cumulative use of fossil fuel-based backup power triggered by the Project is significant under CEQA, and identify feasible mitigation measures or policy-level responses.

G. Data Centers Constructed as a Result of the Project Will Negatively Impact Special Status Species and Other Wildlife.

Beyond noise impacts, data centers built as a result of the Project will impact wildlife by contributing to habitat loss and fragmentation. As detailed in a 2021 Center Report (Yap, 2021), development creates barriers that can affect wildlife behavior, movement patterns, reproductive success, and physiological state, resulting in significant impacts on individual wildlife, populations, communities, landscapes, and ecosystem function. (Ceia-Hasse, 2018; Haddad, 2015; Mitsch, 1996; Trombulak, 2001; van der Ree, 2011.) For example, habitat fragmentation from roads and development has been shown to cause mortalities and harmful genetic isolation in Central Coast and Southern California mountain lions (Benson, 2019; Gustafson, 2021) increase local extinction risk in amphibians and reptiles (Cushman, 2006; Brehme, 2018), cause high levels of avoidance behavior and mortality in birds and insects, (Benítez-López, 2010; Kantola, 2019; Loss, 2014) and alter pollinator behavior. (Aguilar, 2008; Goverde, 2002; Trombulak, 2000.) Habitat fragmentation also severely impacts plant communities: an 18-year study found that reconnected landscapes had nearly 14% more plant species compared to fragmented habitats, and that number will likely rise as time passes. (Damschen, 2019.) O2-9

Further, edge effects of data center development, such as traffic, light, and noise pollution, in and adjacent to open space will likely impact both key, wide-ranging predators, for example, mountain lions and bobcats, (Barrientos, 2023; Collins, 2022) as well as smaller species with poor dispersal abilities, such as song birds, small mammals, and reptiles. (Benítez-López, 2010; Cushman, 2006; Delaney, 2021; Kociolek, 2011; Slabbekoorn, 2008.) Development that limits movement and dispersal can affect species' ability to find food, shelter, mates, and refugia after disturbances like fires or floods. Individuals can die off, populations can become isolated, sensitive species can become locally extinct, and important ecological processes like plant pollination and nutrient cycling can be lost. Negative edge effects from human activity, such as traffic, lighting, noise, and pollutants have been found to be biologically significant up to 300 meters (~1000 feet) away from anthropogenic features in terrestrial systems. (Environmental Law Institute, 2003.)

O2-9 cont.

H. Inadequate Analysis of Cumulative Impacts

The Draft EIR's cumulative impacts analysis is also inadequate under CEQA because it applies an arbitrary 2-mile radius limitation, rather than analyzing all reasonably foreseeable projects and infrastructure that the Project would enable—particularly the data center growth in San José that is expressly cited as the Project's justification. (DEIR, at 1-2.)

O2-10

1. Geographic Scope Arbitrarily Limited

CEQA requires a cumulative impact analysis to evaluate the combined effects of the project with other past, present, and reasonably foreseeable future projects, regardless of strict geographic boundaries. (CEQA Guidelines §15130(b).) Here, by restricting the analysis to a 2-mile radius, the EIR omits significant foreseeable development that the Project would support, particularly data centers in San José that will rely on this new transmission infrastructure. The purpose of the Project itself is to meet electric load growth in San José, and the cumulative analysis must account for that growth.

2. Known Data Centers Omitted from the Cumulative Projects List

Several proposed or approved data centers within or near the 2-mile radius are missing from the cumulative projects list (Appendix B), including:

O2-11

- Westbank's "The Orchard" Project (mixed-use including data center), Downtown San José;
- Terra Natural Gas Data Center;
- AWS Mission Road Data Center;
- Microsoft San José Data Center (noted for using natural gas backup generators but not identified as such in the EIR list).

In addition, the list fails to clearly identify whether individual projects include diesel or gas backup generators, even though this is a primary driver of air quality and greenhouse gas impacts. The inconsistent or incomplete disclosure of fuel types for backup generation across the cumulative list is a serious omission. O2-11 cont.

3. Failure to Consider Cumulative Load from PG&E and Silicon Valley Power Pipelines

Beyond the identified projects, the Draft EIR fails to assess pipeline load growth from PG&E and Silicon Valley Power (SVP)—despite these entities playing a central role in regional energy supply:

- PG&E Cluster Study: According to PG&E, its current data center project pipeline includes 8.7 GW, with an additional 21 new data center project applications totaling another 4.1 GW under review as part of its interconnection queue (Daily Energy Insider, 2024).
- SVP Pipeline Constraints: Reports confirm that Silicon Valley Power has reached capacity constraints due to rapid data center growth (San José Spotlight, 2024). The implications of power-limited service areas are directly relevant to this Project's justification and scope and must be addressed in a meaningful cumulative analysis.

O2-12

Failure to incorporate these additional foreseeable data centers and energy demands undermines the integrity of the EIR's cumulative analysis for air quality, greenhouse gas emissions, energy consumption, and water resources.

4. Legally Inadequate Cumulative Findings Must Be Reassessed

Because the EIR omits reasonably foreseeable projects and fails to fully disclose their environmental impacts, several conclusions in the cumulative analysis are unsupported by substantial evidence and must be revised. For example:

- Impact C.3.8-2 (GHG): "The Project would not cumulatively conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of greenhouse gases. (Less than Significant)"
- Impact C.3.10-2 (Water): "The Project's impact associated with decreased groundwater supplies or interference with groundwater recharge would not be cumulatively considerable. (Less than Significant)"

O2-13

These findings are unsupported absent a revised cumulative projects list and updated emissions, energy, and water demand modeling that reflects data center-related load growth and backup generation practices.

5. Recommended Revisions to Comply with CEQA

To correct the deficiencies in the cumulative analysis, the Final EIR must:

- Expand the cumulative project list to include all known or foreseeable data centers the Project would serve, including those using diesel or natural gas backup generation;
- Review updated PG&E interconnection queues, the CEC SPPE docket, and SVP's project pipeline to inform a comprehensive cumulative energy and infrastructure forecast;
- Clearly identify the presence and fuel type of backup generators associated with each cumulative data center project;
- Reassess cumulative impacts to air quality, greenhouse gas emissions, water resources, and energy use, and apply mitigation as needed; and
- Update cumulative findings across relevant chapters to reflect the expanded, accurate cumulative project context.

O2-13 cont.

In sum, by restricting the cumulative impact analysis to a narrow 2-mile radius and omitting known data centers and infrastructure projects, the Draft EIR violates CEQA's requirement to assess all reasonably foreseeable development enabled by the Project. The Final EIR must include a comprehensive cumulative analysis informed by updated project lists, energy demand forecasts, and emissions data, and revise all related findings accordingly.

II. The Draft EIR Fails to Adequately Assess and Mitigate Direct Impacts to Biological Resources from the Project Itself.

A. Impact 3.4-7: Bird and Bat Collision and Electrocution Risk

First, the Draft EIR fails to adequately support its conclusion that bird and bat collision and electrocution impacts would be less than significant. While it acknowledges potential impacts, it lacks the site-specific analysis, risk segmentation, and biological modeling required to substantiate this claim. The EIR includes no collision risk modeling, no avian flight path surveys, and no impact probability estimates based on proximity to sensitive habitats and migratory corridors, contrary to CEQA's standards for substantial evidence and disclosure. (CEQA Guidelines §§15064, 15151.)

O2-14

1. Failure to Incorporate CDFW Scoping Input and APLIC Guidance

The EIR does not adequately respond to scoping input from the California Department of Fish and Wildlife (CDFW). In its NOP letter dated October 4, 2022, CDFW explicitly requested that the EIR analyze and mitigate for avian collision and electrocution risk, referencing the Avian Power Line Interaction Committee (APLIC) 2012 best practices:

"To avoid or minimize potential Project impacts on special-status and other birds, CDFW recommends that the DEIR incorporate avoidance and minimization measures consistent with the APLIC's 2012 guidance document *Reducing Avian Collisions with Power Lines: State of the Art in 2012*."

Nevertheless, the EIR fails to demonstrate compliance with APLIC standards or evaluate whether the project design for overhead powerlines meets these best practices, including:

- Installation of avian flight diverters or line-marking where lines cross wetland corridors or migratory flyways,
- Use of raptor-safe pole configurations to reduce electrocution risk,
- Avoidance of high-risk habitat spans, such as across Coyote Creek or near wetland edges; and
- Post-construction monitoring and adaptive management protocols to detect and respond to mortality events.

O2-14 cont.

2. Failure to Address Sensitive Location, Migratory Pathway, and Nocturnal Risk.

Additionally, the Draft EIR fails to adequately assess whether proposed lighting on poles or structures could attract or disorient birds flying at night—another risk commonly identified in collision studies. The project alignment crosses ecologically critical habitat adjacent to Coyote Creek, Newby Island, and the South Bay shoreline, including restored wetlands and riparian areas that host dense bird populations and key migratory stopover habitat. These areas are within the Pacific Flyway, used heavily by both diurnal and nocturnal migrants, the latter of which are especially vulnerable to low-visibility powerlines.

The Coyote Creek Field Station (CCFS) operated by the San Francisco Bay Bird Observatory (SFBBO) has monitored birds in this location for over 40 years. Banding data and observations from CCFS document the presence of a wide diversity of resident and migratory birds that are vulnerable to collisions and electrocutions. Data from CCFS and eBird provide clear evidence that this corridor is of high ecological value and should have been evaluated as such in the EIR.

O2-15

We strongly believe that all power lines should be placed underground in habitat-sensitive segments. Where undergrounding is infeasible, the project must incorporate meaningful mitigation such as line-marking, diverters, raptor-safe configurations, and mandatory post-construction monitoring to track collision or electrocution incidents over time.

Specifically, the EIR should be revised to include the following mitigation measures:

- Incorporate avian use data from SFBBO's CCFS and other regional monitoring sources (e.g., eBird),
- Provide an Avian Collision Risk Assessment including quantitative or modeled collision and electrocution risk assessment, consistent with APLIC (2012) guidance,
- Respond substantively to CDFW's scoping recommendations for analysis and mitigation,
- Include specific, enforceable mitigation measures consistent with CEQA Guidelines §15126.4 and best available science,
- Address lighting impacts and risks to nocturnal migrants; and
- Reassess the finding of "less than significant impact," which is not currently supported by substantial evidence as required under CEQA.

O2-15 cont.

B. Impact 3.4-6: Western Burrowing Owl and Noncompliance with the Santa Clara Valley Habitat Plan (SCVHP)

Second, the Draft EIR fails to adequately analyze or mitigate the Project's potentially significant impacts to Western Burrowing Owl (*Athene cunicularia*) and its grassland habitat, particularly in light of the mandatory requirements of the Santa Clara Valley Habitat Plan (SCVHP). The burrowing owl is a Candidate species under the California Endangered Species Act (CESA) and a Covered Species under the SCVHP, which applies to this project within Santa Clara County for all impacts to burrowing owl and its nesting and foraging habitat.

1. Grassland Impacts and Encroachment into Conservation Easement Lands

O2-16

As a threshold matter, this Project would significantly impact burrowing owl habitat. The Draft EIR identifies up to 79.85 acres of temporary impacts to annual grasslands that provide suitable nesting and foraging habitat for burrowing owls (DEIR, p. 3.4-51). A substantial portion of these impacts occur within or adjacent to the San José–Santa Clara Regional Wastewater Facility (RWF), including areas protected by a 201-acre SCVHP Burrowing Owl Conservation Easement. Further, the Project's Staging Area 9 appears to encroach directly into the conservation easement, while Staging Areas 7, 8, 10, and 11 are likely within ½ mile of known 2025 nest locations, based on current monitoring. These areas are within designated burrowing owl core habitat and must be treated accordingly under the SCVHP.

Despite this, the EIR fails to establish an adequate baseline because it neglects to quantify the portion of grassland impacts occurring within the SCVHP permit area. This fails to satisfy CEQA's requirement to establish an adequate baseline. Relatedly, it fails to commit to the required payment of SCVHP habitat impact fees for these disturbances, including temporary impacts, which the SCVHP defines as potentially ecologically significant.

2. Improper Deferral of SCVHP Mitigation Obligations

The Draft EIR also incorrectly concludes that the project would not conflict with the SCVHP, stating (DEIR, p. 3.4-76):

> "Project construction activities would occur mostly within the planning limits of urban growth and may be covered activities... If impacts on these species are identified and cannot be avoided, LSPGC would coordinate with the Santa Clara Valley HCP stakeholders... LSPGC APMs align with the HCP measures, so no conflicts... are anticipated."

This conclusion is legally and factually flawed. CEQA requires that mitigation measures not be deferred, and feasibility findings should not be delegated to staff. (CEQA Guidelines, §§ 15126.4(a)(1)(B), 15025(b)(2).) But instead the Draft EIR defers mitigation and fails to demonstrate compliance with the SCVHP's explicit requirements. The SCVHP Section 6.8.2 defines temporary impacts as:

> "Impacts that temporarily remove or alter habitat but do not result in permanent conversion. These impacts still require mitigation because they degrade habitat quality, displace covered species, and may interfere with breeding or foraging during critical life stages."

Furthermore, SCVHP Table 6-1 requires the payment of habitat impact fees for all grassland impacts, including temporary impacts lasting one full construction season or more. The EIR fails to acknowledge or apply this requirement.

O2-17

3. Scientific Basis for the Significance of Temporary Disturbance

The Draft EIR also fails to adequately take into account a growing body of scientific literature—including studies cited in the SCVHP—shows that temporary construction activities can result in:

- Avoidance of nesting sites or breeding failure due to noise and human presence (Trulio 1995; Gervais et al. 2008);
- Loss of prey base due to soil compaction and heavy equipment traffic (Klute et al. 2003); and
- Disruption of critical life stages, especially if disturbance occurs during the February–August breeding season.

Even where physical habitat restoration occurs post-construction, temporary disturbance during sensitive seasons can result in complete reproductive failure, which constitutes a biologically and

O2-18

legally significant impact under CEQA and the SCVHP that the Draft EIR should have disclosed, assessed, and mitigated.

O2-18 cont.

4. Legal Requirement to Comply with SCVHP under CEQA

The SCVHP is a legally adopted Habitat Conservation Plan/Natural Community Conservation Plan. Under CEQA:

- Lead agencies must evaluate whether a project would conflict with an adopted HCP or NCCP (CEQA Guidelines §§15065(a)(4), 15125(d), 15126.2(a));
- Agencies must apply all feasible mitigation for significant biological impacts (Pub. Res. Code §21002); and
- Deferred mitigation is disfavored and only permissible where specific performance standards and binding commitments are provided (CEQA Guidelines §15126.4(a)(1)(B)).

The Draft EIR fails to meet these legal standards. It does not demonstrate that the project complies with the SCVHP's fee structure, avoidance and minimization protocols, or consultation requirements, particularly in areas known to contain active burrowing owl habitat and designated conservation lands.

In sum, to bring the Draft EIR into compliance with CEQA and the SCVHP, the Final EIR must accomplish the following:

O2-19

- Quantify all grassland impacts within Santa Clara County and the SCVHP permit area, including temporary impacts;
- Require SCVHP compliance, including:
    - Formal consultation with the Santa Clara Valley Habitat Agency;
    - Acquisition of an encroachment permit for activity within the SCVHP conservation easement;
    - Payment of impact fees for both temporary and permanent disturbance to burrowing owl habitat; and
    - Implementation of mitigation measures consistent with the SCVHP Conservation Strategy, including:
        - Qualified pre-construction surveys;
        - Seasonal avoidance buffers;
        - Delineated work exclusion zones; and
- Revise Impact 3.4-6 and related significance findings to reflect the required mitigation for temporary grassland impacts.

In sum, the Western Burrowing Owl is a declining, high-conservation-priority species in the South Bay, and the SCVHP represents a legally binding, science-based strategy for its

conservation. The Draft EIR's dismissal of temporary grassland impacts as "less than significant" is unsupported by evidence, inconsistent with SCVHP requirements, and legally insufficient under CEQA. The Final EIR must acknowledge all project-related impacts to burrowing owl habitat—including those deemed "temporary"—and commit to full compliance with the SCVHP's conservation and mitigation framework.

O2-19 cont.

C. Impact to Don Edwards San Francisco Bay National Wildlife Refuge Not Adequately Evaluated

Third, the Draft EIR fails to meaningfully evaluate or mitigate the project's potential impacts to the **Don Edwards San Francisco Bay National Wildlife Refuge (Refuge)**—a federally protected ecological reserve directly adjacent to portions of the proposed transmission line alignment, access roads, and staging areas. Although the EIR briefly mentions the Refuge, it incorrectly asserts that the project will not result in direct impacts and fails to analyze indirect or cumulative effects on the Refuge's sensitive habitats and species. This omission violates CEQA's requirement to evaluate the full environmental context of a project, including adjacent sensitive resources and foreseeable indirect impacts. (CEQA Guidelines §15125(a), §15126.2(a), and §15130.)

O2-20

1. Proximity to Refuge Resources and Known High-Use Bird Habitat

The proposed transmission alignment and staging areas, particularly along Segment C1 and near Coyote Creek, run adjacent to the Refuge boundary. This includes habitat used by federally listed species (e.g., Ridgway's Rail, Salt Marsh Harvest Mouse), as well as critical migratory stopover habitat for shorebirds, waterfowl, and songbirds along the Pacific Flyway. The Refuge also supports public wildlife viewing areas, which could be adversely affected by the visual and acoustic impacts of construction.

O2-21

Despite this proximity, the EIR states only that the Project "is not expected to directly impact" the Refuge and provides no mapping, biological inventory, or impact discussion to substantiate this claim.

2. Failure to Address Indirect and Cumulative Impacts

The Draft EIR's failure to adequately assess impacts to the Refuge is a major oversight. Construction of overhead powerlines, use of staging areas, and vehicular access adjacent to Refuge lands may result in:

O2-22

- Disturbance of nesting and foraging birds due to noise, dust, and human activity;
- Altered hydrology, sedimentation, or dust deposition in adjacent tidal wetlands and mudflats;

- Disorientation or mortality of birds due to line collisions, especially during fog, nocturnal migration, or low-light conditions;
- Visual and auditory degradation of the Refuge's visitor experience and scenic values.

These effects are potentially significant and must be evaluated under CEQA. In particular, migratory and sensitive species may experience functional habitat loss even without direct construction inside Refuge boundaries. The EIR also does not assess cumulative impacts alongside other regional infrastructure, restoration, or sea-level rise adaptation projects, as required by CEQA §15130. O2-22 cont.

3. Lack of Coordination with U.S. Fish and Wildlife Service and Refuge Staff

The Don Edwards Refuge is managed by the U.S. Fish and Wildlife Service (USFWS) and governed by the National Wildlife Refuge System Improvement Act of 1997, which prioritizes the conservation of fish, wildlife, and plant resources. However, the EIR fails to indicate whether USFWS or the Refuge Manager were consulted during preparation of the Draft EIR, despite the project's proximity and potential to affect Refuge management goals and species under federal protection. CEQA Guidelines §15086(a)(2) requires consultation with agencies having jurisdiction over affected natural resources. This obligation is especially relevant for Refuge lands under federal jurisdiction and critical habitat for ESA-listed species. The Commission must consult, and the Final EIR must include this information. O2-23

4. Recommended Revisions and Mitigation Measures

To comply with CEQA and protect the ecological integrity of the Don Edwards Refuge, the Final EIR must:

- Map and disclose the distance and alignment of all poles, staging areas, and access routes relative to the Refuge boundary and associated sensitive habitat;
- Evaluate indirect and cumulative impacts to listed species, migratory birds, and wetland systems;
- Consult the U.S. Fish and Wildlife Service and Refuge Manager and include their recommendations in the EIR record; and
- Incorporate enforceable mitigation measures, including:
    - Construction buffers (e.g., 500 feet minimum from tidal marsh and active nests),
    - Seasonal restrictions on work (avoidance of February–August breeding season),
    - Dust, noise, and light controls (including full shielding and downward-directed lighting),
    - Flight diverters or line marking where overhead lines cross migratory corridors or marsh edges,
    - Post-construction avian mortality monitoring and adaptive management.

O2-24

In sum, the Don Edwards National Wildlife Refuge is a nationally important bird habitat and a public trust resource that must be considered in full under CEQA. The Draft EIR's failure to analyze or mitigate potential impacts to the Refuge—whether through habitat degradation, bird collisions, or visual and acoustic disturbances—renders the analysis legally deficient. The Final EIR must include thorough assessment and reduce these foreseeable impacts, and to ensure the protection of sensitive species and habitats under both state and federal law.

O2-24 cont.

D. Impact 3.4-6: Adverse Effects on Special-Status Wildlife Species – Inadequate Mitigation and Overreliance on APMs

Impact 3.4-6 of the Draft EIR concludes that potential adverse effects on special-status wildlife species—including Western Burrowing Owl, California red-legged frog, and tricolored blackbird—would be less than significant with implementation of Applicant-Proposed Measures (APMs). However, this conclusion is not supported by substantial evidence, and the EIR improperly relies on APMs in lieu of CEQA-defined mitigation measures.

1. Failure to Apply Enforceable, Project-Specific Mitigation Measures

The EIR does not include or adopt enforceable mitigation measures under CEQA Guidelines §15126.4. Instead, it defers entirely to APMs prepared by the applicant, which lack:

O2-25

- Specific performance standards;
- Clear implementation triggers;
- Binding commitments to habitat agencies or resource regulators.

Under CEQA, lead agencies must adopt mitigation measures that are fully enforceable through permit conditions, agreements, or other legally binding instruments (§15126.4(a)(2)). APMs may inform mitigation development, but they do not substitute for formal mitigation unless adopted and enforced as such.

> **Example**: APM-BIO-4.1 requires pre-construction surveys for burrowing owls but does not specify protocols aligned with the Santa Clara Valley Habitat Plan (SCVHP), nor does it commit to fee payments, avoidance buffers, or seasonal work restrictions. These omissions violate CEQA's requirement to ensure all feasible mitigation for significant impacts (Pub. Res. Code §21002).

2. Improper Deferral of Mitigation and Lack of Site-Specific Analysis

O2-26

Several APMs state that the applicant "would consult" with agencies or "would implement measures" only if species are found or if impacts "cannot be avoided." This language constitutes improper deferral because:

- It lacks enforceable thresholds and contingencies;
- It assumes, without analysis, that impacts will be avoided; and
- It postpones impact determination and mitigation until after project approval, violating CEQA's requirement for upfront disclosure and analysis.

For example, the EIR states: "If impacts on these species are identified and cannot be avoided, LSPGC would coordinate with the Santa Clara Valley HCP stakeholders…" (Draft EIR, p. 3.4-76.) This vague conditional language undermines CEQA's mandate to evaluate, disclose, and mitigate potentially significant impacts before project approval—not later through uncertain coordination processes. (CEQA §15126.2(a), §15126.4(a)(1)(B).)

E. APMs Do Not Substitute for Compliance with Applicable Plans

Many of the species potentially affected by the project—particularly burrowing owl and California red-legged frog—are covered under the Santa Clara Valley Habitat Plan (SCVHP). However, the Draft EIR fails to:

- Clearly state which project elements fall within the SCVHP permit area;
- Quantify grassland and aquatic impacts requiring mitigation under the SCVHP; and
- Commit to required fee payments and compliance with SCVHP survey and buffer protocols.

Instead, the EIR assumes APMs are consistent with SCVHP protocols, but does not adopt SCVHP conservation requirements as enforceable mitigation measures. This omission risks noncompliance with both CEQA and the SCVHP's regulatory framework. To bring the EIR into compliance with CEQA, the Final EIR should accomplish the following:

- Replace or supplement APMs with clearly defined mitigation measures that include specific performance standards, implementation timing, and enforcement mechanisms;
- Explicitly adopt applicable SCVHP requirements—including payment of fees, pre-construction surveys, habitat buffers, and seasonal restrictions—as enforceable mitigation for all species and habitat types within the permit area;
- Avoid deferral by requiring species-specific measures up front, and ensure commitments to agency consultation are accompanied by clear outcomes and timelines; and
- Revise the significance conclusion for Impact 3.4-6 to reflect the current lack of adequate mitigation and require mitigation consistent with CEQA §15126.4.

O2-26 cont.

In sum, the EIR's conclusion that Impact 3.4-6 would be less than significant is not supported by substantial evidence and violates CEQA's requirements for enforceable mitigation, non-deferral, and consistency with regional conservation plans. The CPUC must revise the EIR to incorporate formal, enforceable mitigation for special-status wildlife species and their habitats and ensure that APMs are not used as a substitute for legally required mitigation under CEQA and the SCVHP.

O2-26 cont.

F. Lack of Defined Seasonal Restrictions and Enforceable Timing Measures

The Draft EIR also fails to clearly define or consistently apply seasonal restrictions necessary to avoid or reduce impacts to sensitive biological resources. This omission undermines the document's ability to support a conclusion of less-than-significant impacts and violates CEQA's requirement for full disclosure and enforceable mitigation. (CEQA Guidelines §§15126.2, 15126.4, and 15125.)

1. No Defined Nesting or Breeding Season Windows

Throughout the Draft EIR's mitigation program (particularly APMs BIO-2.2, 4.1, 5.1, and 6.1), the term "nesting season" is referenced without definition. For example:

- APM-BIO-2.2 requires pre-construction nesting bird surveys "during the nesting season" but does not specify dates.
- APM-BIO-4.1 requires burrowing owl surveys in accordance with CDFW protocol but fails to state avoidance windows or indicate when construction would be restricted.
- APMs for Swainson's Hawk and Tricolored Blackbird similarly refer to nesting season constraints but lack defined timeframes.

O2-27

The absence of specific dates makes it impossible to determine whether impacts can be avoided or whether compensatory mitigation is necessary. This violates CEQA, which requires that mitigation measures be "fully enforceable through permit conditions, agreements, or other legally binding instruments." (§15126.4(a)(2).)

2. No Consolidated Construction Timing Plan

The Draft EIR also fails to provide project-wide construction timing plan or a summary table that cross-references species-specific sensitive periods with proposed project phases (e.g., pole installation, grading, vegetation clearing, staging). While some APMs imply dry-season work (generally May through October), this is neither clearly committed nor linked to the biology of affected species.

This omission is particularly problematic given the presence of:

- Ground-nesting birds (e.g., Western Burrowing Owl, Tricolored Blackbird)
- Raptors (e.g., Swainson's Hawk, White-tailed Kite)
- Marsh-nesting species (e.g., Ridgway's Rail)
- Amphibians and reptiles that may be active or breeding during specific times

O2-27 cont.

Without clear construction windows and avoidance periods, it cannot be determined which impacts are avoidable and which require compensatory mitigation, failing to meet CEQA's informational requirements.

3. Improper Deferral and Non-Enforceable Language

Many APMs use language such as "if feasible," "would consult," or "to the extent practicable," without providing enforceable commitments or biological performance standards. CEQA prohibits deferring mitigation until after project approval unless specific performance criteria and a clear process are described (CEQA Guidelines §15126.4(a)(1)(B); *POET, LLC v. State Air Resources Bd.* (2013) 218 Cal.App.4th 681.)

O2-28

4. Recommendations for Final EIR

To comply with CEQA and ensure meaningful biological avoidance, the Final EIR must include:

- A clearly defined nesting season for birds: typically February 1 through August 31 (consistent with CDFW guidance);
- Species-specific breeding seasons for listed or sensitive species (e.g., Swainson's Hawk, Ridgway's Rail);
- A project-wide construction timing and restriction table, summarizing:
    - Activity type (e.g., vegetation removal, trenching, pole installation),
    - Sensitive species/habitats potentially affected,
    - Avoidance windows and survey requirements, and
    - Applicable buffer distances and timing constraints; and
- Revisions to all APMs to convert them into mitigation measures with enforceable dates and standards.

O2-29

In sum, the lack of defined seasonal restrictions and enforceable work windows in the Draft EIR creates uncertainty regarding avoidance feasibility and undermines the biological impact analysis. The Final EIR must provide clear, enforceable seasonal avoidance and mitigation measures to comply with CEQA and to ensure the protection of sensitive species and habitats.

III. Conclusion

Thank you for the opportunity to submit comments on the Draft Environmental Impact Report for the Power the South Bay Project. We urge the Commission to correct these errors and recirculate an EIR that complies with CEQA.

Given the possibility that the Center will be required to pursue legal remedies in order to ensure that the Commission complies with its legal obligations including those arising under CEQA, we would like to remind the Commission of its statutory duty to maintain and preserve all documents and communications that may constitute part of the "administrative record" of this proceeding. (§ 21167.6(e); *Golden Door Properties, LLC v. Superior Court* (2020) 53 Cal.App.5th 733, 762.) The administrative record encompasses any and all documents and communications that relate to any and all actions taken by the Commission with respect to the Project, and includes "pretty much everything that ever came near a proposed [project] or [] the agency's compliance with CEQA . . . ." (*County of Orange v. Superior Court* (2003) 113 Cal.App.4th 1, 8.) The administrative record further includes all correspondence, emails, and text messages sent to or received by the Commission's representatives or employees, that relate to the Project, including any correspondence, emails, and text messages sent between the Commission's representatives or employees and the Applicant's representatives or employees. Maintenance and preservation of the administrative record requires that, inter alia, the Commission (1) suspend all data destruction policies; and (2) preserve all relevant hardware unless an exact replica of each file is made. O2-30

Please add the contacts below to your notice list for all future updates to the project and do not hesitate to contact the Center with any questions at the email addresses listed below.

Sincerely,

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Letter O2: Center for Biological Diversity & Santa Clara Valley Bird Alliance

O2-1 The Center for Biological Diversity (CBD) and SCVBA jointly express concerns that the Draft EIR fails to adequately assess the Project's reasonably foreseeable impacts involving data centers; that the Project has been improperly piecemealed, or segmented, into separate projects; and that the cumulative impacts analysis is incomplete and fails to consider the full range of cumulative projects that will contribute to significant impacts in the vicinity of the Project.

CBD and SCVBA initially state that data center development should be considered in the EIR as part of the "whole of the action." Citing *Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47 Cal.3d 376, 395, the commenters state that:

> [A]n EIR must include an analysis of the environmental effects of future expansion or other action if: (1) it is a reasonably foreseeable consequence of the initial project; and (2) the future expansion or action will be significant in that it will likely change the scope or nature of the initial project or its environmental effects.
>
> (*Laurel Heights* (1988) 47 Cal.3d 376, 396.)

CBD and SCVBA indicate that this "is consistent with the principle that 'environmental considerations do not become submerged by chopping a large project into many little ones - each with a minimal potential impact on the environment - which cumulatively may have disastrous consequences.'" (*Id., quoting Bozung v. Local Agency Formation Com.* [1975] 13 Cal.3d 263, 283-284.) CBD and SCVBA go on to state that "it is not a factor that the indirect activity might later be subject to its own environmental review" and that "no evidence of a plan, formal or otherwise, is required before later activity may be considered a reasonably foreseeable consequence. (*Laurel Heights*, 47 Cal.3d at 397-398.)" Failure to address the impacts of data centers, the comment continues, violates CEQA's prohibition against piecemealing because the Draft EIR indicates that one of the Project's purposes is to "[r]eliably serve the long-term forecasted electricity demand in the San José area, which is expected to increase substantially, mostly due to new data center loads" (Draft EIR, page 1-2).

Though the Draft EIR indicates that the long-term forecasted electricity demand is expected to increase substantially, "mostly due to new data center loads," the Project would serve to alleviate electrical grid issues with respect to all users of the grid, not just data centers. Increases in population and use of the electrical grid by all users would strain the service territories of PG&E and SVP throughout the South Bay, and the CAISO, which manages transmission systems and oversees transmission planning through regional grid reliability requirements, determined the need for additional upgrades to the transmission system in the South Bay to maximize the efficiency and reliability of the grid for all users. In conclusion, this electricity demand is already expected to increase with or without implementation of the Project, and therefore, it

cannot logically be caused by the implementation of the Project or be contingent upon the transmission line proposed by the Project. Additionally, the CAISO identified the need for a new transmission line in this location in its 2021-2022 transmission plan, before the increased data center load was forecasted.

The cases cited by CBD and SCVBA in support of their contention that the Draft EIR improperly piecemeals related project components are inapplicable to the Project. At issue in *Laurel Heights* was the university's use of the entirety of a building, when the EIR had analyzed only its use of a fractional portion of the building. The comment suggests that the proliferation of data centers is a planned component of the Project that should be analyzed fully in the EIR. However, this overlooks case law holding that "two projects may properly undergo separate environmental review (i.e., no piecemealing) when the projects have different proponents, serve different purposes, or can be implemented independently." (*Banning Ranch Conservancy v. City of Newport Beach* [2012] 211 Cal.App.4th 1209, 1223 [150 Cal.Rptr.3d 591].)

Here, any future data centers would have different project proponents than the Project and would serve different purposes than the Project. The Project's objectives are centered on meeting the CAISO's reliability-driven need by addressing multiple near-, mid-, and long-term reliability issues in the existing San José 115 kV system. Any future data center projects would be implemented independently of the Project, and would not depend or rely upon the approval and implementation of the Project.

Additionally, the No Project Alternative analysis in the Draft EIR at page 4-13 explains, "The transmission capacity that serves the South Bay of San Francisco Bay region would remain unchanged [under the No Project scenario]. In the absence of the Project, the CAISO would need to reassess the system needs and develop additional action(s) in place of the Project and would need to develop further enhancements to the local 115 kV system to address the overloads identified in the system. Further, the distribution system would experience increased system-wide power flow and reliability problems due to overloading the existing source lines as new demand is added to the system, primarily driven by increased data center load requirements. This could result in thermal overload and blackouts. Furthermore, improved system reliability needed within the San José area would not be achieved." This demonstrates that the data center power demand would exist whether or not the Project is constructed.

This Project is analogous to the project at issue in *Banning Ranch*, in which the court found that a proposed park project and associated access road was separate from a related residential development that would use the same access road. Two projects, the court held, are separate actions if they serve different purposes and the project at issue can be implemented with or without the second project or projects. In other words, the impacts of a future action that might be facilitated by the project need not be included in the analysis if project approval does not commit the agency to the future action or if the timing and scope of the future action is speculative. (*Banning Ranch*, 211 Cal.App.4th at 1223; see also *Planning & Conserv. League v Department of Water Resources* [2024]

98 Cal.App.5th 726, 756 [EIR for amendments to California Department of Water Resources water contracts need not consider a potential future Delta conveyance because the amendments served "an independent purpose from a Delta conveyance"]; *Communities for a Better Env't v. City of Richmond* [2010] 184 Cal.App.4th 70 [refinery upgrade and construction of a pipeline that would export excess hydrogen from the refinery were separate projects because, in part, the refinery upgrade did not depend on the pipeline and the two projects were "independently justified" and would serve distinct purposes]; *Del Mar Terrace Conservancy, Inc. v. City Council* [1992] 10 Cal.App.4th 712, 736 [EIR for one section of a proposed state highway need not include a potential later extension of the highway in part because the proposed highway section had "substantial independent utility."].)

Furthermore, many of the "cumulative" data center projects that CBD and SCVBA reference have already been approved, and some are already under construction. Therefore, these projects cannot be "caused" by the Project. (See Table 3.01-2, Cumulative Map Nos. 50, 70, 74, and 75). The Project is needed, in part, to meet upcoming new loads from approved, but not yet operational, projects, but only as part of the overall projected electricity demand in the South Bay area.

The scope of an EIR's analysis of potential future environmental consequences is guided by standards of reasonableness and practicality under which lead agencies need not undertake a premature evaluation of the environmental consequences of undefined possible future actions. See *Sierra Watch v County of Placer* (2021) 69 Cal.App.5th 86; *California Coastkeeper Alliance v State Lands Comm'n* (2021) 64 Cal.App.5th 36, 61; *Environmental Council of Sacramento v City of Sacramento* (2006) 142 Cal.App.4th 1018; *Towards Responsibility in Planning v City Council* (1988) 200 Cal.App.3d 671. See also *Citizens for a Sustainable Treasure Island v City & County of San Francisco* (2014) 227 Cal.App.4th 1036, 1058. For these reasons, in-depth analysis of impacts resulting from possible increases in data centers is beyond the scope of the EIR prepared for the Project.

O2-2 CBD and SCVBA note that the Project will contribute to data centers' soaring energy demand. Then, CBD and SCVBA explain that data centers represent one of the most energy- and water-intensive sectors in the United States due to round-the-clock operations. Further, CBD and SCVBA state that, as more data centers and artificial intelligence systems come online in Santa Clara and Alameda counties, the rising demand can contribute to several negative outcomes including grid instability and blackout and brownouts, rising energy prices, delayed grid modernization, resource competition, and negative environmental and equity impacts.

As discussed above in response to Comment O2-1, the electricity demand in the area is already expected to increase with or without the Project, and therefore, cannot logically be caused by or be contingent upon the new transmission line. The Project's objectives are centered on meeting the CAISO's reliability-driven need by addressing multiple near-, mid-, and long-term reliability issues in the existing San José 115 kV system. The

Project would help alleviate electrical grid issues with respect to all users of the grid, not just data centers. Additionally, any future data centers would have different project proponents than the Project, would serve different purposes than the Project, would be implemented independently of the Project, and would not depend or rely upon approval and implementation of the Project. Therefore, the construction and operation of new data centers, including impacts relating to the increased energy demand associated with such facilities, is outside the scope of this EIR, as noted above in response to Comment O2-1.

O2-3 CBD and SCVBA state that the Draft EIR does not adequately address emissions associated with the reasonably foreseeable operation of new data centers and that data centers that are developed as a result of the Project will result in air quality degradation that the EIR fails to analyze. The comment also argues that the EIR is inadequate because it "fails to assess the reasonably foreseeable air quality impacts from diesel and natural gas backup generation associated with the data centers that the Project is designed to support."

The CPUC acknowledges this comment. However, emissions associated the operation of new data centers are outside the scope of the EIR, as noted above in response to Comment O2-1. Additionally, as discussed in the responses to comments O2-1 and O2-2, any new data centers in the area would not be developed as a result of the Project or otherwise be contingent upon construction of the Project.

O2-4 CBD and SCVBA state that the Draft EIR fails to adequately assess and mitigate air quality impacts on sensitive receptors and does not acknowledge or assess foreseeable public health impacts resulting from regional and cumulative air quality consequences of diesel generator proliferation in proximity to disadvantaged communities. Then, CBD and SCVBA indicate that to bring the EIR into compliance, the Final EIR should include an air quality analysis of diesel and gas generator emissions; identify sensitive receptors using CalEnviroScreen 4.0, census data, and BAAQMD guidance; consult with BAAQMD; quantify cumulative emissions; and adopt feasible mitigation measures.

The reference made by CBD and SCVBA to the statement in the Draft EIR that "there are 'no sensitive receptors' in the vicinity of the Project" is taken out of context. Draft EIR Section 3.3.1.4, *Sensitive Receptors*, addresses the topic of sensitive receptors, including a table (Table 3.3-2) that summarizes the locations of sensitive receptors near various Project components (e.g., approximate distance to nearest sensitive receptor). Specifically, Draft EIR page 3.3-4 states:

> There are no sensitive receptors within 1,000 feet of the existing PG&E Newark 230-kilovolt (kV) Substation, and the nearest sensitive receptors are residences approximately 0.3 mile to the northwest. The nearest sensitive receptors to the existing SVP Northern Receiving Station (NRS) 230 kV Substation are residences approximately 82 feet to the south and approximately 227 feet to the east. Scattered residences are also present along the alignment of the proposed transmission lines, with the closest being approximately 20 feet from the

proposed underground Newark to NRS 230 kV transmission line near the NRS Substation. The nearest sensitive receptors to the staging areas are residences approximately 660 feet north of Staging Area 1.

For detailed assessment in the Draft EIR of air pollution emissions or exposure impacts to the nearby community, refer to Draft EIR Impact 3.3-3, *The Project would expose sensitive receptors to substantial pollutant concentrations* (Draft EIR page 3.3-31 through page 3.3-33). The discussion under Impact 3.3-3 describes in detail the potential impacts on sensitive receptors that would occur due to Project-related air pollutant exposure. The discussion describes the Health Risk Assessment that was conducted to evaluate the potential health risks associated with temporary toxic air contaminant emissions from Project construction activities, particularly those risks posed to sensitive receptors at the NRS Substation, which would be exposed to Project pollutant concentrations for an extended period.

The Draft EIR air pollutant emissions estimated for construction of the Project to inform the regional and cumulative impact analyses described in Impact 3.3-2, Impact 3.3-3, Impact C.3.3-2, and Impact C3.3-3 include emissions from the proposed use of diesel generators. Diesel generators are not proposed for long-term operations that would be associated with the Project and therefore are not evaluated in the Draft EIR as part of the Project; however, as discussed under Impact C.3.3-3, the cumulative health risk analysis considers risk associated with the City of Santa Clara Gianera Storm Water Pump Station, which has a generator on-site; and RS Alameda LLC, which also has a generator on-site (see Draft EIR page 3.3-36 and page 3.3-37).

CBD and SCVBA also indicated that the Draft EIR should analyze the regional and cumulative air quality impacts of data centers and their potential use of diesel backup generators. Regarding the assessment of regional impacts associated with data centers, that is beyond the scope of the Project and is therefore not evaluated in the Draft EIR. As stated above in the response to Comment O2-1, the Project does not include the construction or operation of any data centers, and the Project is separate from and has utility independent of any data centers that may be constructed after the completion of the Project.

With regard to the cumulative impacts associated with the data center projects identified in Draft EIR Section 3.0, *Environmental Analysis*, the regional cumulative air quality impacts are evaluated in Impact C.3.3-2 and Impact C.3.3-2, and are based on the comparison of Project emissions to BAAQMD's thresholds of significance for criteria pollutants to determine whether the Project's individual emissions would have a cumulatively significant impact on air quality (see page 3.3-27).

Regarding cumulative impact on sensitive receptors, the geographic scope considered for that analysis is cumulative projects within 1,000 feet of sensitive receptors if the sensitive receptors are also within 1,000 feet of the Project. Since the data center projects identified in Draft EIR Section 3.0 are at least 1 mile from the Project (i.e.,

over 1,000 feet), the Project's contribution to any cumulative impacts associated with the data centers would be less than significant (see Draft EIR Section 3.0 and Section 3.3.6).

O2-5 CBD and SCVBA assert that the Draft EIR fails to adequately "analyze the Project's potential to significantly affect groundwater resources, both directly during construction and indirectly through induced development." CBD and SCVBA claim that the Draft EIR, on page 3.10-17, describes the source of water needed for construction of the Project only as a "local water source."

Draft EIR page 3.10-17 does not contain the text that CBD and SCVBA assert it contains (i.e., "local water source"), nor does the term "local water source" appear anywhere else in the Draft EIR. Draft EIR Section 3.19, *Utilities and Service Systems*, section states that "[w]ater would likely be obtained from water suppliers in the region, such as ACWD, the city of Milpitas, Valley Water, Muni Water, or SJW, all of which have an adequate water supply to serve the Project's water demand throughout the 26-month construction period" (page 3.19-22). Additionally, under Impact 3.19-2, the Draft EIR states that "water would originate from a local source that has the existing capacity to service the Project's needs; this may include the use of potable, recycled, or reclaimed water or groundwater sources" (page 3.19-26).

CBD and SCVBA also claim that "No quantitative capacity analysis or verification of water availability is provided for any potential supplier." This is inaccurate, as Section 3.19.1.1, *Regional Setting*, provides a detailed description of each of the potential utility providers for the Project, including those providing water to the Project's service area, along with a quantitative breakdown of their available and projected supplies. Under Impact 3.19-2, the Draft EIR states that Project construction would use up to approximately 8 million gallons of water, an amount which would be served by nearby potential water suppliers given projected excess water supplies of up to approximately 62,889 million gallons (Santa Clara Valley District).

The comment also expresses concern that the Draft EIR did not include any "direct and induced water use" by data centers. As explained above Response O2-1, data centers are not part of the Project, nor would they be caused by the Project, and therefore their water use does not warrant evaluation in the EIR. Again, the court's reasoning in *Banning Ranch*, *supra*, is instructive. There, the court concluded that an EIR for a park and access road project properly excluded analysis of the impacts of a proposed residential development that would also use the access road, even though the residential project was foreseeable and would also use and benefit from the access road. The residential development, the court found, could not be viewed as a "consequence" of the project's access road, and the two proposals would serve different purposes and the project under review was not dependent upon the residential development. Here, similarly, any increase in data centers that may occur after completion of the Project would be wholly independent of the Project, and any direct or indirect impacts resulting from those data centers are beyond the scope of this EIR.

CBD and SCVBA also contend that the EIR's analysis of cumulative impacts to groundwater is insufficient, specifically because, according to CBD and SCVBA, the EIR fails to adequately assess the contribution of other projects in the vicinity of the Project to decreases in groundwater supplies; fails to "incorporate or reference SGMA Groundwater Sustainability Plans (GSPs) for either basin or to analyze the consistency of project-related and induced groundwater demands with basin-wide sustainable yield targets"; and fails to consider cumulative impacts from induced data center development.

Contrary to these statements, the Draft EIR does address the cumulative contribution of the Project and other projects in the vicinity to impacts to groundwater. In Draft EIR Section 3.10.6, *Cumulative Effects Analysis*, the Draft EIR considered the GSPs for the relevant subbasins (e.g., Groundwater Management Plan for the Santa Clara and Llagas Subbasins) and assessed whether the Project, in combination with other projects in the vicinity, would contribute to a cumulatively considerable decrease in groundwater supplies. As discussed under Impact C.3.10-6, the Draft EIR concluded that, because the Project's incremental contribution to these impacts would not be cumulatively considerable, the resulting impact would be less than significant.

An EIR must discuss cumulative impacts when a project's incremental contribution is cumulatively considerable, and when the project's impacts cumulative impacts are significant (CEQA Guidelines Section 15130[a]). A project's incremental contribution is cumulatively considerable if the incremental effects of the project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects. (CEQA Guidelines Section 15065[a][3]; *Planning & Conservation League v. Department of Water Res.* [2024] 98 Cal.App.5th 726, 757.)

An EIR's discussion of cumulative impacts must provide a summary of the cumulative environmental effects that are expected and a reasonable analysis of the cumulative impacts of the relevant projects. See 14 California Code of Regulations Section 15130(b)(4)–(5). The analysis should focus on significant cumulative impacts to which the project will contribute; impacts that do not result at least in part from the project should not be evaluated in the EIR. See 14 California Code of Regulations Section 15130(a)(1).

The Draft EIR did consider other reasonably foreseeable projects in its analysis of cumulative effects (see Draft EIR Section 3.10.6). The lead agency's mere awareness of the possibility of cumulative development is not enough, however, to demonstrate that development should be treated as a probable future project (*Gray v County of Madera* [2008] 67 Cal.App.4th 1099, 1128.) A proposal that has not been developed to the point that it would be reasonable and practical to evaluate its cumulative impacts need not be treated as a probable future project (*City of Maywood v. Los Angeles Unified Sch. Dist.* [2012] 208 Cal.App.4th 362, 397).

O2-6 CBD and SCVBA express concern regarding the impacts of noise from data centers on surrounding communities, including sensitive species and wildlife. The comment is noted. However, any noise impacts resulting from the operation of the Project would be less than significant, and the construction of data centers is outside the scope of the Draft EIR, as noted above in response to Comment O2-1.

O2-7 CBD and SCVBA express concern about climate change and assert that the Draft EIR's analysis of Project impacts on GHG emissions is inadequate because it fails to consider reasonably foreseeable GHG emissions from diesel and natural gas backup generators associated with data centers.

As noted in response to Comment O2-1, an analysis of the impacts of data centers is outside the scope of this EIR, except to the extent that certain data center projects are considered in the cumulative impact analysis. An EIR is required to evaluate environmental impacts only to the extent that it is reasonably feasible to do so.

CBD and SCVBA also state that the Draft EIR fails to evaluate the Project's consistency with local general plans, climate action plans, and county-level decarbonization goals; consider applicable thresholds of significance for GHGs under BAAQMD guidelines; or apply the 2022 California Scoping Plan directive to electrify all off-road construction equipment by 2035.

The EIR does, in fact, consider applicable state, regional, and local guidance and regulations, including the California Air Resources Board's 2022 Scoping Plan; BAAQMD's Air Quality Guidelines, including the use of BAAQMD's recommended GHG emissions significance threshold for stationary-source threshold; the City of Fremont's General Plan and Climate Action Plan; the City of Milpitas' General Plan and Climate Action Plan; the City of San José's General Plan and Greenhouse Gas Reduction Strategy; and the City of Santa Clara's General Plan and Climate Action Plan. Pursuant to GO 131-D, local jurisdictions acting pursuant to local authority are preempted from regulating electric power line projects, distribution lines, substations, or electric facilities constructed by public utilities subject to the CPUC's jurisdiction. However, relevant local plans and regulations were nonetheless considered in the Draft EIR and serve as the basis for impact analysis. For example, refer to Draft EIR Section 3.8.2, *Regulatory Setting*; Impact 3.8-1, *The Project would not generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment*; and Impact 3.8-2, *The Project would not conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases*.

O2-8 CBD and SCVBA assert that Draft EIR Section 3.6.5.2, *Impact Assessment*, is incorrect in its conclusion that the Project would not add capacity for the purpose of serving a nonrenewable energy resource, and they argue that data center diesel backup generators would require a source of nonrenewable energy that the Project would serve. This conflates several ideas.

First, the Project would increase the capacity and reliability of the existing electrical grid in the San José 115 kV system. This would affect all users of the system, not only data centers that rely on nonrenewable energy sources. Second, if the grid experiences increased stability as a result of the Project, all users of the grid should expect to rely less often on backup electricity generation, potentially rendering the use of backup generators less necessary. Third, one of the Project's express objectives is to "[F]acilitate the deliverability of energy from existing and proposed renewable generation projects to the Greater Bay Area and corresponding progress toward achieving California's Renewable Portfolio Standard goals in a timely and cost-effective manner by California utilities." Finally, the Project would not be "serving" a nonrenewable energy resource. Rather, it would be serving users of the electrical grid by providing power to those users, not creating a scenario in which those users must rely on nonrenewable sources such as backup generators.

CBD and SCVBA also note that the Draft EIR "fails to assess the indirect and cumulative increase in nonrenewable energy use that would likely result from facilitating or inducing this category of load growth." The indirect impacts related to nonrenewable energy use associated with data centers are beyond the scope of this EIR, as noted in response to Comment O2-1. The Project has been identified by the CAISO based on long-term forecasted electricity demand in the area. That is, the Project has been planned to support grid reliability in response to forecasted load growth; it is not expected to "induce" load growth. The Project would alleviate electrical grid issues with respect to all users of the grid, not just data centers. The cumulative impacts resulting from potential nonrenewable energy use are likewise unrelated to the Project, as the Project itself would have a limited contribution, incremental or otherwise, to nonrenewable energy use. For these reasons, impacts related to nonrenewable energy use would not be cumulatively considerable.

O2-9 CBD and SCVBA express concern about the negative impacts of the Project on wildlife by referencing scientific research related to habitat fragmentation and edge effects of data center development. As noted in response to Comment O2-1, impacts associated with data centers are beyond the scope of this EIR, except to the extent that certain data center projects are considered in the cumulative impact analysis. As such, this is input that does not affect the substance of the Project's environmental analyses. However, the CPUC acknowledges this input and may consider it as part of the decision-making process.

O2-10 CBD and SCVBA express concerns about the geographic scope of the cumulative impacts analysis, asserting that a two-mile radius is too strict a limitation within which to evaluate the cumulative projects that will contribute to cumulative impacts. The comment is noted and specifically responded to in subsequent responses (e.g., O2-10), but it should be noted here that the geographic scope of the cumulative effects analysis for each resource area is tailored to the natural boundaries of the affected resource. The Draft EIR relies on a "list of projects" approach (CEQA Guidelines Section 15130[b]). Table 3.0-1, *Cumulative Projects List*, identifies the projects within a two-mile radius of

the Project alignment that could cause cumulative impacts that could combine with those of the Project, the locations of which are shown in Draft EIR Figures 3.0-1a through 3.0-1c, *Cumulative Projects*. Although the figure shows only those projects located within a two-mile radius of the Project site, the geographic area of cumulative consideration has been established on a resource-by-resource basis throughout Chapter 3 as dictated by relevant physical boundaries (such as the extent of the groundwater basin) and is not limited to the area shown in Figure 3.0-1.

O2-11 CBD and SCVBA indicate that several proposed or approved data centers within or near the 2-mile radius are missing from the cumulative projects list, including:

- Westbank's "The Orchard" Project (mixed-use including data center), Downtown San José;
- Terra Natural Gas Data Center;
- Amazon Web Services Mission Road Data Center;
- Microsoft San José Data Center (noted for using natural gas backup generators but not identified as such in the EIR list).

CBD and SCVBA also note that the Draft EIR's list of cumulative projects "fails to clearly identify whether individual projects include diesel or gas backup generators, even though this is a primary driver of air quality and greenhouse gas impacts."

Of the projects listed in the comment, one project, the Microsoft San José Data Center, is in fact included in the Draft EIR's list of cumulative projects (see #32 and #33 in Table 3.0-1). The Terra Natural Gas Data Center and AWS Mission Road Data Center are both planned projects located at 4701 N First Street, San José, CA 95134 and 2305 Mission College Boulevard, Santa Clara, CA 95054, respectively. While both projects are located within a two-mile radius of the Project, there are no specific details or other information readily available for appropriate CEQA-level analysis. Therefore, inclusion of these projects would not provide meaningful information and is beyond the scope of this EIR.

Westbank's "The Orchard" project is located in downtown San José and would be approximately 10 miles away from the nearest Project component (i.e., the proposed interconnection to the existing SVP NRS 230kV Substation). However, the EIR prepared for The Orchard project assumed a construction period lasting approximately 33 months beginning in 2022 and ending in 2025. It is unknown if construction of The Orchard project has been started, especially as coordination with the City of San José in October 2025 revealed that grading permits have not been issued for The Orchard project, and no further updates were available (Garg, pers. comm. 2025b). Therefore, inclusion of The Orchard project would not provide meaningful information and is beyond the scope of this EIR.

The lead agency's mere awareness of the possibility of cumulative development is not enough to demonstrate that development should be treated as a probable future

project (*Gray v. County of Madera* [2008] 167 Cal.App.4th 1099, 1127). A proposal that has not been developed to the point that it would be reasonable and practical to evaluate its cumulative impacts need not be treated as a probable future project (*City of Maywood v. Los Angeles Unified Sch. Dist.* [2012] 208 Cal.App.4th 362, 397). No fixed standards exist in CEQA regarding the geographic scope of cumulative impacts to be analyzed, and the lead agency has discretion to apply its expertise in selecting an appropriate assessment area. See *South of Mkt. Community Action Network v. City & County of San Francisco* (2019) 33 Cal.App.5th 321, 338; *City of Long Beach v. Los Angeles Unified Sch. Dist.* (2009) 176 Cal.App.4th 889; *Ebbetts Pass Forest Watch v. Department of Forestry & Fire Protection* (2004) 123 Cal.App.4th 1331, 1352.

In the case of the Draft EIR, an up-to-two-mile radius from the Project was determined to be adequate for a project to be included in the cumulative impact analysis, given the urban and development-dense nature of most of the project area. Additionally, as noted in response to Comment O2-9, while the Draft EIR assumes a two-mile radius for the geographic scope of cumulative analysis, the Draft EIR also clarifies that the geographic scope of the cumulative effects analysis is tailored to the natural boundaries of the affected resource (Draft EIR page 3-6). Thus, the Draft EIR in fact considers and evaluates the combined effects of the Project with other past, present, and reasonably foreseeable future projects, regardless of strict geographic boundaries.

O2-12 CBD and SCVBA express concern that the Draft EIR "fails to assess pipeline load growth from PG&E and Silicon Valley Power" and that this failure "undermines the integrity of the EIR's cumulative analysis for air quality, greenhouse gas emissions, energy consumption, and water resources." As discussed in responses to other comments above (e.g., response to Comments O2-1 and O2-10), the scope of an EIR's analysis of potential future environmental consequences is guided by standards of reasonableness and practicality under which lead agencies need not undertake a premature evaluation of the environmental consequences of undefined possible future actions. For these reasons, in-depth analysis of impacts resulting from increases in data centers and energy demands is beyond the scope of this EIR.

O2-13 CBD and SCVBA note that the Draft EIR omits reasonably foreseeable projects and fails to fully disclose their environmental impacts, leading to conclusions in the cumulative analysis that are unsupported by substantial evidence. CBD and SCVBA claim that "by restricting the cumulative impact analysis to a narrow two-mile radius and omitting known data centers and infrastructure projects, the Draft EIR violates CEQA's requirement to assess all reasonably foreseeable development enabled by the Project."

A discussion of cumulative impacts in an EIR "should be guided by the standards of practicality and reasonableness" (*Environmental Protection Information Center v. California Department of Forestry and Fire Protection* [2008] 44 Cal.4th 459, 525 [*EPIC*]). The discussion should "be prepared with a sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which

intelligently takes account of environmental consequences. The courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure" (*City of Maywood v. Los Angeles Unified School Dist.* [2012] 208 Cal.App.4th 362, 397 [*Maywood*], citing *Citizens to Preserve the Ojai v. County of Ventura* [1985] 176 Cal.App.3d 421, 429).

"In assessing the types of projects that should be included in a cumulative impacts analysis, our Supreme Court has clarified that an EIR need not discuss future action 'that is merely contemplated or a gleam in a planner's eye.'" (*Laurel Heights I, supra,* 47 Cal.3d at page 398.) "[M]ere awareness of proposed expansion plans or other proposed development does not necessarily require the inclusion of those proposed projects in the EIR. Rather, these proposed projects must become 'probable future projects.'" (*Gray v. County of Madera, supra,* 167 Cal.App.4th at page 1127.) "[W]here future development is unspecified and uncertain, no purpose can be served by requiring an EIR to engage in sheer speculation as to future environmental consequences." (*Maywood*, *supra*, 208 Cal.App.4th at page 397, citing *EPIC, supra*, 44 Cal.4th at page 503.)

Here, the Draft EIR has made a reasonable, good-faith attempt to include all projects in the vicinity with related impacts. If, as requested by CBD and SCVBA, the EIR were to include hypothetical projects with no readily available information (i.e., substantial evidence) by which to assess their contribution to cumulative impacts, this would be overly speculative and would go beyond the scope what is required—or possible—under CEQA.

O2-14 CBD and SCVBA express concern that the Draft EIR fails to adequately assess and mitigate direct impacts to biological resources from the Project. Specifically, CBD and SCVBA assert that the Draft EIR does not adequately respond to scoping input from CDFW requesting that the EIR analyze and mitigate for avian collision and electrocution risk and referencing the APLIC 2012 best practices.

In fact, the Draft EIR addresses and analyzes the incorporation of APLIC guidelines, specifically for appropriate methods to reduce the risks of avian collisions. For example, Draft EIR Section 2.6.2.3, *Design of Transmission Line Avian Protection*, states that:

> Appropriate methods to reduce the risks of avian collisions would be incorporated into the Project design, consistent with recommendations made by the Avian Power Line Interaction Committee (APLIC 2012), where appropriate. Conductors and ground wires would be spaced sufficiently far apart so that raptors would not be able to contact two conductors or one conductor and a ground wire, causing electrocution (APLIC 2006).

In EIR Section 3.4, *Biological Resources*, Impact 3.4-7 analyzes whether Project construction and operations would create a substantial collision or electrocution risk for birds or bats, and provides a conclusion that, with the implementation of LSPGC

APMs, PG&E BMPS and FPs, and Mitigation Measure 3.4-1e, impacts related to such collision or electrocution risk for birds or bats would be mitigated to a less-than-significant level. To further assure the implementation of best available science and information, revisions in the Final EIR, including revisions made in response to comments submitted by CDFW, reflect that the Project design would incorporate APLIC guidelines based on the most updated guidance available by the time of construction (see response to comment SA1-3).

O2-15 CBD and SCVBA argue that the Draft EIR fails to assess whether proposed lighting on poles or structures could attract or disorient birds flying at night, specifically noting the importance of the Coyote Creek corridor and adjacent sloughs to regional bird movement along the Pacific Flyway and the potential for birds flying at night to be disoriented by Project lighting.

The Project includes **APM BIO-10: Outdoor Lighting Measures,** and the CPUC would further require **Mitigation Measure 3.1-2: Minimize Fugitive Light from Temporary Sources Used for Construction** to limit night work and nighttime lighting to avoid times when wildlife are more active. Draft EIR Section 3.4.2.4, *Wildlife Movement and Corridors*, notes that the salt ponds and water treatment ponds and salt marsh fringe in the vicinity of the Project alignment provide overwintering and migratory stopover habitat for bird species. As stated in Response O2-14 above, the EIR's Project Description incorporates APLIC design criteria for protection of birds and would incorporate the most updated guidance available by the time of construction. The application of the best available criteria to reduce collision risk is the basis for reducing this impact to a less-than-significant level.

O2-16 CBD and SCVBA state that the Draft EIR fails to provide an adequate baseline for impacts to burrowing owl by not identifying the amount of habitat within the 201-acre SCVHP Burrowing Owl Conservation Easement. Additionally, CBD and SCVBA state that the Draft EIR fails to adequately analyze or mitigate the Project's potentially significant impacts to the burrowing owl and its grassland habitat, particularly in light of the requirements of the SCVHP.

The Draft EIR establishes the baseline for impacts to burrowing owl by noting numerous records of burrowing owl in the vicinity of the Project (page 3.4-28), which are as follows:

- Occurrence #481 (1971 and 2011), located at the PG&E Newark 230 kV Substation, which is surrounded by grazed annual grassland.
- Occurrence #680 (1981, 2003, 2006, 2008, 2015, and 2016), located in Don Edwards NWR around the Cushing Parkway viaduct and along the transmission line alignment.
- Occurrence #392 (2000, 2001, 2004–2006, 2008, 2009, and 2012–2016), overlapping part of Staging Area 9 and adjacent to the transmission line alignment between Los Esteros Road and Disk Drive on undeveloped lands southwest of the RWF.

- Occurrence #1932 (1999–2004), overlapping the transmission line alignment along Lafayette Street.
- Occurrence #345 (1998, 2001, 2004, 2013, and 2014), located around the SVP NRS 230 kV Substation.

APMs that address consistency and/or coverage with the SCVHP include APM BIO-3, APM BIO-11, APM BIO-16, and APM BIO-18. Specifically, APM BIO-11 states the following:

> "Protocol surveys following standard guidelines shall be conducted for California black rail, tricolored blackbird, California clapper rail, burrowing owl, golden eagle, and bald eagle and focused surveys shall be conducted for western snowy plover, white-tailed kite, and other raptors. In the event of the discovery of suitable habitats, nests, or live individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. If avoidance is not possible, USFWS and/or CDFW would be consulted. Tricolored blackbird and burrowing owl are covered species under the Santa Clara Valley HCP; if impacts are identified during species-specific protocol surveys, the take for this species shall be covered either under the HCP or covered under a State ITP in consultation with CDFW."

In implementing APM BIO-11, as it relates to the burrowing owl, LSPGC would conduct protocol surveys following standard guidelines, such as those recommended or required under the SCVHP. In the event of the discovery of suitable habitats, nests, or live individuals, the area and a suitable buffer shall be marked as a sensitive area and shall be avoided to the extent practicable. APM BIO-11 also acknowledges the need for LSPGC to pursue coverage under the SCVHP if impacts are identified during species-specific protocol surveys. Additional APMs discussed in the Draft EIR would further protect burrowing owl during construction by mandating worker training, restricting speed limits, and establishing nest buffers.

CBD and SCVBA also claim that the Draft EIR fails to commit to paying the SCVHP habitat impact fee for potential disturbances resulting from the Project, noting that the SCVHP defines temporary impacts as potentially ecologically significant. As it pertains to the burrowing owl, if impacts are identified during species-specific protocol surveys (prior to construction), the take for this species would be covered under the SCVHP or under a state ITP in consultation with CDFW. Additionally, implementation of **Mitigation Measure 3.4-1d: Protection of Special-status Wildlife** would ensure the necessary measures to avoid suitable habitat for burrowing owl and, if necessary, pursue coverage under the SCVHP. In order to obtain coverage under the SCVHP, LSPGC would have to consult with the Santa Clara Valley Habitat Agency and pay any applicable fees.

To further address this comment, text has been added under Impact 3.4-6 on pages 3.4-76 and 3.4-77 of the Final EIR, as follows:

> However, as noted in Section 3.4.3.3, the Project area is partially located in the Habitat Plan Permit Area. Portions of the Project area are located within fee zones and are subject to conditions identified in Chapter 6 of the SCVHCP. Specifically, the Project area is within the burrowing owl fee zone and could be subject to such fees, in addition to other land cover fees such as Zone A (Ranchlands and Natural Lands), wetland fees (Coastal and Valley Freshwater Marsh), and nitrogen deposition fees. If coverage under the SCVHCP is necessary for the Project, LSPGC would be required to adhere to avoidance and minimization measures to reduce potential impacts to special-status species and/or suitable habitat covered by the SCVHCP.

O2-17 CBD and SCVBA claim that the discussion of SCVHCP compliance on page 3.4-76 constitutes improper deferral of mitigation. This discussion of the potential applicability of the SCVHCP to the Project as a covered activity is not part of a mitigation measure. The APMs and mitigation measures proposed in the Draft EIR are designed to avoid the need for coverage under the SCVHCP for special-status species avoidance and minimization efforts; however, the APMs and mitigation measures also provide detail if such coverage is needed following protocol surveys. For example, as discussed above in response to Comment O2-16, in the event that impacts are identified to a species that cannot be avoided, LSPGC would pursue coverage, and the Project would adhere to all applicable HCP or ITP measures for that species, including mitigation requirements and payment of applicable fees.

CBD and SCVBA provide language supposedly included in SCVHCP Section 6.8.2. However, the language CBD and SCVBA quote does not appear in Section 6.8.2., *Item 2: Project Description and Map*, of the SCVHCP, nor does it appear in Section 4.2 where the SCVHCP defines "temporary impacts." After a good faith search for the text quoted by CBD and SCVBA, the CPUC has been unable to locate it in the SCVHCP.

CBD and SCVBA further state that payment of SCVHCP fees and mitigation requirements must be discussed in the Draft EIR. Table 6-1 of the SCVHCP lists covered activities exempt from fees. At this time, it is not yet known if the Project is a covered activity. If necessary, however, the fees and mitigation applicable to the Project would be determined at a later date. As stated in the Draft EIR for each type of biological resource, the Project would seek coverage under the HCP or a species-specific ITP in the event of unavoidable impacts. The HCP or ITP measures would require that any impacts to the resource be fully mitigated. See response to Comment O2-16 for additional discussion regarding SCVHCP fees.

O2-18 CBD and SCVBA state that temporary impacts to sensitive species may result in reproductive failure, a significant impact under CEQA. The Draft EIR provides protection for reproducing (i.e., nesting) birds in **APM BIO-1: Restoration of Disturbed Areas**, **APM BIO-3: Preconstruction Survey**, **APM BIO-4: Sensitive**

Area Demarcation, **APM BIO-6: Vehicle Cleaning Prior to Entering Natural Areas**, **APM BIO-9: Worker Environmental Awareness (WEAP) Training**, **APM BIO-11: Special-Status Bird Surveys, APM BIO-12: Nesting Bird Protection Measures**, **APM BIO-13: Raptor Surveys**, and **APM BIO-15: Nesting Bird Surveys**. Focused surveys and preconstruction sweeps (APM BIO-3, APM BIO-11, APM BIO-13, and APM BIO-15) would identify any trees or other vegetation that may house nests. These nests would be clearly marked with appropriate buffers and would be avoided by construction activities (APM BIO-4, APM BIO-12, APM BIO-13, and APM BIO-15). A qualified biological monitor would be present during all construction activities with the potential to affect nesting birds (APM BIO-11, APM BIO-13, and APM BIO-15). These measures are designed to prevent reproductive failure and minimize disturbance to nesting birds, reducing the impact to less than significant under CEQA.

O2-19 CBD and SCVBA state that the Draft EIR fails to comply with the SCVHP's fee structure, avoidance and minimization protocols, and consultation requirements, particularly in areas known to contain active burrowing owl habitat, designated conservation lands, and areas of temporary grassland impacts. As discussed in response to Comment O2-16, the Draft EIR notes the presence of burrowing owl and the areas of suitable habitat for this species and provides APMs and mitigation measures to protect the species and restore grassland habitat. As stated in Draft EIR page 3.4-67, LSPGC would seek HCP coverage in the event of unavoidable impacts. In such a case, the Project would comply with all applicable SCVHP fees and mitigation requirements and would be in full compliance with the SCVHP's conservation and mitigation framework.

O2-20 CBD and SCVBA state that the Draft EIR fails to evaluate or mitigate potential impacts to the Don Edwards National Wildlife Refuge. The Draft EIR notes the presence in Don Edwards National Wildlife Refuge of numerous special-status plant and wildlife species which occur there, as well as the importance of the Refuge for wildlife connectivity. In addition, the Don Edwards San Francisco Bay National Wildlife Refuge Comprehensive Conservation Plan is covered in detail on Draft EIR page 3.4-42. The Project evaluates and mitigates impacts to the Refuge in Section 3.4.6, *Direct and Indirect Effects*. **APM BIO-2: Rare Plant Surveys** requires avoiding rare plants if found and/or after consultation with USFWS or CDFW; APM BIO-4 includes demarcation of sensitive habitat areas; **APM BIO-5: Vehicle Cleaning Prior to Entering Natural Areas** would limit the spread of noxious weeds; **APM BIO-17: Wetland, Vernal Pool, and Waterway Construction Timing Restrictions** would restrict work in the vicinity of wetlands, including vernal pools, to the dry season for protection of rare species; and **Mitigation Measure 3.4-1a: Avoid Impacts to Rare Plants** would ensure rare plant protection or relocation. Additional APMs and mitigation apply to each class of wildlife species. Finally, Draft EIR page 3.4-76 explains that the Project is not an incompatible use within the Refuge because the installation of the proposed transmission line would be restricted entirely within existing public roadways or existing utility easements adjacent to Cushing Parkway.

O2-21 CBD and SCVBA note the proximity of the proposed transmission line to the Don Edwards National Wildlife Refuge and the habitat for salt marsh harvest mouse, Ridgway's rail and numerous species of migratory birds. CBD and SCVBA claim that the Draft EIR does not discuss impacts to these species in the Refuge. In fact, the Draft EIR includes impact analysis for salt marsh harvest mouse (Draft EIR pages 3.4-67 and 3.4-68), Ridgway's rail (Draft EIR page 3.4-63) and migratory birds (Draft EIR page 3.4-65 to 3.4-67), which includes discussions of these species relative to the Refuge. For example, each species' discussion includes habitats where they may be found within or near the Project area.

CBD and SCVBA claim the Draft EIR "states only that the Project 'is not expected to directly impact' the Refuge." In fact, the phrase "is not expected to directly impact [the Refuge]" does not appear in Draft EIR Section 3.4, *Biological Resources*, nor does it appear elsewhere in the Draft EIR. However, to clarify this point, the Project would not directly impact the Refuge, as the proposed transmission line would be outside the Refuge (aside from an existing utility easement within the Cushing Parkway), with most of the transmission line trenched within previously-developed streets or utility easements. Potential impacts of the Project along the Cushing Parkway bridge are discussed under Impact 3.4-1 (Draft EIR page 3.4-50 through page 3.4-69). The overhead portion of the transmission line and associated aboveground infrastructure (e.g., tubular steel poles) would be located beyond the boundaries of the Refuge. Potential impacts to migratory bird species from power lines are assessed under Impact 3.4-7 in Draft EIR page 3.4-76 to 3.4-77.

O2-22 CBD and SCVBA state that the Draft EIR fails to address indirect or cumulative impacts on the Refuge. As explained in the Draft EIR, the majority of the Project would be sited outside the Refuge, except for the segment along the Cushing Parkway bridge. Project construction may result in indirect effects associated with noise and vibration, dust, biological resources (e.g., lighting), hydrology and water quality, and other elements, which can impact neighboring areas, including the Refuge. These indirect impacts are discussed in the Draft EIR Section 3.4.6, notably for each type of special-status species, for sensitive habitat, and for wildlife corridors. In these cases, these potential indirect impacts would be temporary, would be avoided or mitigated by the Project's APMs, FPs, and mitigation measures, and would not rise to the level of "functional habitat loss."

Further, the Draft EIR assesses cumulative impacts to biological resources, in conjunction with other past, present and reasonably foreseeable future projects, in Section 3.4.7 (page 3.4-78 to 3.4-91). The cumulative impact analysis considers numerous other utility projects, residential and commercial developments, school projects, data centers, and concludes that, with applicable mitigation (e.g., **Mitigation Measure 3.4-1b: Habitat Restoration and Monitoring** and Mitigation Measure 3.4-1d) and protective design (e.g., incorporation of APLIC designs and guidelines) on the part of the Project and other projects considered, the Project's nominal contribution to cumulative impacts would not be cumulatively considerable.

O2-23 CBD and SCVBA request that any consultation with USFWS or Refuge be disclosed in the EIR. As of September 2025, LSPGC had met with the staff at the Refuge and USFWS on multiple occasions. Below is a summary of those meetings:

- July 30, 2024: USFWS shared historical survey data for vernal pool branchiopods in the Refuge immediately adjacent to Cushing Parkway - Warm Springs Unit.
- August 21, 2024: LSPGC met with USFWS to discuss the potential for listed branchiopods to occur in the Refuge adjacent to Cushing Parkway, as well as in the parcel of the PG&E Newark 230 kV Substation. USFWS shared details of their ongoing studies of vernal pools at Cushing Parkway.
- October 23, 2024: LSPGC met with USFWS to update USFWS on the PG&E Bay Area Habitat Conservation Plan data for the parcel of the PG&E Newark 230 kV Substation, and to notify USFWS that LSPGC would proceed with conducting protocol vernal pool branchiopod surveys.
- May 19, 2025: LSPGC submitted a request for information to USFWS Refuge staff regarding the blooming status of Contra Costa goldfields (*Lasthenia conjungens*) for the 2025 blooming period and known occurrence information in the Cushing Parkway - Warm Springs Unit. USFWS responded to the request on May 21, 2025, sharing results of the USFWS surveys for Contra Costa goldfields in the Warm Springs Unit.

O2-24 CBD and SCVBA request that the EIR include the distance and alignment of all poles, staging areas, and access routes relative to the Refuge boundary and associated sensitive habitat. The Draft EIR, in Figure 3.4-1A through Figure 3.4-1F, shows the proposed locations of poles, staging areas, and types of habitat present, including sensitive habitats. The Project alignment would pass through the Refuge along the Cushing Parkway (see Draft EIR Figure 3.4-1B).

CBD and SCVBA request evaluation of indirect and cumulative impacts to biological resources. As stated in response to Comment O2-22, the evaluation of direct and indirect and cumulative impacts is assessed in Draft EIR Section 3.4.6 and Section 3.4.7, respectively.

CBD and SCVBA request consultation with USFWS and the Refuge. Please see response to Comment O2-23 above for a summary of those consultations. Further, additional consultation would take place during Project permitting, as noted in APM BIO-2, APM BIO-3, APM BIO-7, APM BIO-11, APM BIO-14, APM BIO-15, APM BIO-16, and APM BIO-18, and as supplemented by Mitigation Measures 3.4-1a, 3.4-1b, and 3.4-1d.

CBD and SCVBA further request enforceable mitigation measures related to construction buffers, seasonal restrictions on work, dust, noise and light controls, flight diverters or line marking, and post-construction avian monitoring. These measures are included in

the Draft EIR through a combination of APMs and proposed mitigation measures, as follows:

- Construction buffers are addressed through APM BIO-7, APM BIO-11, APM BIO-13, APM BIO-14, APM BIO-15, APM BIO-16, and APM BIO-18.
- Seasonal restrictions on work are addressed through APM BIO-12 and APM BIO-15 for nesting birds, and APM BIO-17 for amphibians.
- Dust controls are provided under **Mitigation Measure 3.3-2a: Construction Fleet Minimum Requirements and Tracking – Tier 4 Final Emissions Controls** and **Mitigation Measure 3.3-2b: Use Best Management Practices for Construction-Related Fugitive Dust Emissions**.
- Noise mitigation is addressed through measures such as protective buffers and worker education (e.g., APM BIO-9 and Mitigation Measure 3.4-1e).
- Light controls are provided under **Mitigation Measure 3.1-2: Minimize Fugitive Light from Temporary Sources Used for Construction**.
- Flight diverters and line marking on overhead lines are addressed by incorporation of APLIC guidelines, as discussed under Impact 3.4-7 (Draft EIR page 3.4-76 to 3.4-77).

CBD and SCVBA also specifically request post-construction avian mortality monitoring and adaptive management for the overhead transmission line segment of the Project. These actions may be considered during the permitting process with USFWS and CDFW, as these agencies are custodians of migratory bird resources.

O2-25 CBD and SCVBA refer to Impact 3.4-6 as avoiding potential impacts on special-status wildlife species via APMs only. Impact 3.4-6 addresses compliance with adopted habitat conservation plans. Impacts to special-status wildlife are assessed under Impact 3.4-1 (Draft EIR pages 3.4-50 to 3.4-69). Additionally, Section 3.4 incorporates APMs as well as proposed Mitigation Measure 3.4-1a through Mitigation Measure 3.4-1e for protection of rare plants, sensitive habitats, aquatic species and terrestrial species. These measures include performance standards, implementation triggers, and commitments to habitat agencies, as requested by CBD and SCVBA. In each case, the Draft EIR states that if unavoidable impacts are identified in preconstruction surveys, the Project would seek coverage under the SCVHCP or a species-specific ITP. The Project proponent would pay all fees and observe all required mitigation associated with the take coverage. The analysis adequately addresses potential impacts, identifies applicable APMs, and recommends mitigation measures as necessary to address any significant impacts.

O2-26 The CPUC agrees with CBD and SCVBA that several Project APMs do not go far enough to address significant impacts. CBD and SCVBA state that the Draft EIR fails to clearly state which project elements fall within the SCVHP permit area, quantify grassland and aquatic impacts requiring mitigation under the SCVHP, and commit to required fee payments and protocols under the HCP. For this reason, the Draft EIR proposes supplementing the APMs with Mitigation Measure 3.4-1a through Mitigation

Measure 3.4-1e, which include enforceable thresholds, contingencies, and mitigation to a less-than-significant level. For example, the Draft EIR provides that, under Mitigation Measure 3.4-1a, if unavoidable impacts are identified in preconstruction surveys, the Project would seek coverage under the SCVHCP or a species-specific ITP; the Project proponent would pay all fees and observe all required mitigation associated with the take coverage (see Mitigation Measure 3.4-1a).

As noted above in response to Comment O2-16, additional text has been added to clarify that the Project area is within the burrowing owl fee zone and could be subject to such fees, in addition to other land cover fees; if coverage is needed, LSPGC would be required to adhere to avoidance and minimization measures to reduce potential impacts to special-status species and/or suitable habitat covered by the SCVHCP.

O2-27 CBD and SCVBA state that the Draft EIR fails to define seasonal restrictions necessary to avoid impacts to biological resources. CBD and SCVBA also claim that the Draft EIR does not define nesting or breeding season in the APMs. As stated in APM BIO-12 and APM BIO-15, the nesting or breeding season is generally February 15 to August 31. For certain species such as golden eagle, the breeding season starts February 1, as noted on page 3.4-66 of the Final EIR. These dates would be adequately protective of nesting birds.

CBD and SCVBA also state that the Draft EIR fails to provide a project-wide construction timing plan. Under CEQA, such a level of detail is not required during the development of a project's EIR. To provide such a level of detail would be speculative, as the schedule for each phase of the Project would be determined based on species-specific work windows determined in the permitting phase. The EIR provides sufficient information for meaningful analysis and disclosure of impacts. For example, APM BIO-17 provides work windows for construction in the vicinity of waterways, wetlands, and vernal pools, restricting work generally from May 1 through October 15.

O2-28 The CPUC agrees with CBD and SCVBA that several Project APMs do not go far enough to address significant impacts. Pursuant to CEQA Guidelines Section 15126.4(a)(1)(B), the Draft EIR proposes mitigation measures that supplement the Project's APMs. For example, the requirements provided under Mitigation Measure 3.4-1a through Mitigation Measure 3.4-1e incorporate appropriate measures and requirements that are available at the development of the EIR, as well as details that could only be developed after project approval (due to the impractical or infeasible nature during the Project's environmental review), such as the procurement of environmental permits and timing of preconstruction surveys.

O2-29 CBD and SCVBA reiterate the need for a defined nesting season. As discussed in the response to Comment O2-27, the Draft EIR defines the nesting season as February 15 to August 31. CBD and SCVBA request a project-wide construction timing and restriction table and, as discussed in response to Comment O2-27, the schedule for each phase of the Project would be determined in the permitting phase. CBD and SCVBA

also request the conversion of certain APMs to mitigation measures. As stated in the response to Comment O2-28, various APMs are supplemented in the Draft EIR with Project-specific mitigation measures, which include enforceable thresholds and contingencies, among other requirements, that would reduce many potential impacts to a less-than-significant level.

O2-30 CBD and SCVBA conclude the comment letter and request recirculation of the EIR. The comment is noted. However, none of the changes in the Final EIR rise to the level of "significant new information" as that term is used in CEQA Guidelines Section 15088.5. Therefore, and for the other reasons discussed above, recirculation of the Draft EIR is not required (CEQA Guidelines section 15088.5).

CBD and SCVBA also remind the CPUC of its obligations to maintain and preserve all documents and communications that may constitute the "administrative record" in the event of litigation. The CPUC is aware of, and is in compliance with, its obligations under CEQA.

Finally, CBD and SCVBA request two contacts be added to the CPUC's notice list for future updates related to the Project. The CPUC has added these names to its list of contacts for the Project.

7.3.2 Public Meeting Transcript

The CPUC conducted a public meeting on July 8, 2025, to provide an overview of the environmental review process and to receive public comments on the Project and the Draft EIR. No comments were received during the public meeting. The transcript for the public meeting is provided as **Appendix H**.

7.4 References

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