

See Section D.14.

- **Geological Impacts Policies.** Proposed projects in the Geologic Study Area (GSA) are subject to site specific soil and geologic evaluations by a registered civil engineer or engineering geologist (as appropriate) as to the suitability of the site for development in accordance with the Land Use Ordinances. Inland Framework at 7-4.

OSGSF's Consistency with the Geological Impacts Policies. Mitigation Measure G-4a provides for the required geotechnical analysis of the soil stability on the slopes surrounding the OSGSF.

In conclusion, the Proposed Project, as modified and mitigated in this EIR, is consistent with the County's inland land use policies.

II. Consistency with County Ordinance Title 22

The EIR land use section should also be supplemented to include an analysis of the Proposed Project's consistency with the County's Land Use Ordinance, Title 22. Title 22 covers many of the same areas discussed with regard to the County land use policies, above. Title 22 implements the policies contained in the Inland Area Plan and the Framework for Planning. If specific ordinances in Title 22 conflict with the policies discussed above, the policies control.

- **Sensitive Resource Area (SRA) Impacts.** A CUP may only be approved in an SRA designation where the County makes the following required findings:

The development will not create significant adverse effects on the natural features of the site or vicinity that were the basis for the SRA designation, and will preserve and protect such features through the site

design.

Natural features and topography have been considered in the design and siting of all proposed physical improvements.

Any proposed clearing of topsoil, trees, or other features is the minimum necessary to achieve safe and convenient access and siting of proposed structures, and will not create significant adverse effects on the identified sensitive resource.

The soil and subsoil conditions are suitable for any proposed excavation; site preparation and drainage improvements have been designed to prevent soil erosion and sedimentation of streams through undue surface runoff.

22.14.100.

Additionally, where the SRA designation relates to certain species “such species are not to be disturbed by construction activities or subsequent operation of the use, except where authorized by use permit approval.” *Id.* In the San Luis Bay planning area, all CUP approvals in the SRA designation must concentrate proposed uses in the least sensitive portions of the property. 22.106.020. Native vegetation must be retained as much as possible. *Id.* More specifically, Title 22 prohibits the construction of access roads through upper Diablo Canyon. 22.106.020. Additionally, any transmission lines constructed to serve the OSGSF must be confined to the existing corridor in upper Diablo Canyon. *Id.* All exposed grading cuts (except for actual roadways and structure sites) and areas of vegetation removal must be graded and replanted to blend with existing terrain. *Id.*

OSGSF’s Consistency with the SRA Ordinances. The OSGSF will be located within a developed, previously disturbed area of the DCP facility. Further, it will be located within and among existing structures and on impermeable surfaces. It is separated from the top of the slope by other structures, a service road, and other previously disturbed areas. No new drainage or sediment control systems are warranted, outside of those identified in the Stormwater Pollution Prevention Plan, as the existing drainage control system will be

employed. See D.7. Therefore, the existing scenic and environmental quality of the area will be maintained and not adversely affected. By locating the OSGSF within the developed area of the DCP, this portion of the SGR project will avoid any sensitive habitats; preserve scenic views; maintain the existing topography, vegetation, and scenic features; and avoid any conflicts with agricultural production. Therefore, the OSGSF portion of this repair and maintenance project will be consistent with the SRA's objectives. See Section D.3. No new transmission line corridors will be created, and any vegetation removed will be replanted as required.

- **Geological Impacts.** The GSA combining designation is applied to a significant portion of the study area. According to the County, GSA combining designations identify special studies zones (Alquist-Priolo) and areas outside of urban reserve lines subject to high landslide potential. Title 22 requires a Geology and Soils Report for all projects within the GSA combining designation, unless the county engineer determines that sufficient information exists because of previous geology and soil reports. 22.14.070. This report must include:

A review of the local and regional seismic and other geological conditions that may significantly affect the proposed use.

An assessment of conditions on or near the site that would contribute to the potential for the damage of a proposed use from a seismic or other geological event, or the potential for a new use to create adverse effects upon existing uses because of identified geologic hazards. The conditions assessed shall include, where applicable, rainfall, soils, slopes, water table, bedrock geology, and any other substrate conditions that may affect seismic response, landslide risk or liquefaction potential.

Conclusions and recommendations regarding the potential for, where applicable:

Surface rupture or other secondary ground effects of seismic activity at the site;

Active landsliding or slope failure;

Adverse groundwater conditions;

Liquefaction hazards.

Recommended building techniques, site preparation measures, or setbacks necessary to reduce risks to life and property from seismic damage, landslide, groundwater and liquefaction to insignificant levels.

Id.

OSGSF's Consistency with the GSA Ordinances. The DCPP has a long history of geologic analysis and study. These analyses and studies continue as a part of the current EIR being prepared for this project under the direction of the CPUC. No structures will be constructed within any known active fault zone, and site-specific soil/geologic evaluations are being conducted as part of the CPUC EIR. Any geological requirements imposed upon the development may not regulate radiological safety aspects of the OSGSF, as these aspects of the project are regulated exclusively under federal law. The OSGSF is consistent with the GSA's objectives. See Section D.5.

- **Archeological Impacts.** Title 22 does not include any substantive archeological requirements, but it does contain standards for the procedures that must be followed in the event archeological resources are unearthed or discovered during any construction activities. 22.10.040.

OSGSF's Consistency with the Archeological Ordinance. The specific project site does not contain any known historic or cultural resources. See Section D.4. Nonetheless, Mitigation Measure C-1a ensures requires a Cultural Resources Treatment Plan (CRTP) that will provide procedures for unexpected discoveries.

- **Air Impacts.** Title 22 requires the project application be referred to the Air Pollution Control District to allow that entity to determine whether all air requirements will be met and

whether any mitigation is required. See 22.10.030.

OSGSF's Consistency with the Air Impacts Ordinance.

The Air Pollution Control District is a Responsible Agency in the EIR process. That agency therefore had the opportunity to review this project and to propose mitigation during consultation and in comments on this document.

• **Miscellaneous Building and Site Design Ordinances.**

Title 22 provides the following applicable requirements for site and building design. A building in the Public Facilities designation may not exceed a height of 45 feet. 22.10.090. Setbacks are generally required, and those requirements are detailed at 22.10.140. Solid waste collection and disposal requirements for the construction debris are set forth at 22.10.150. Chapter 22.52 requires a grading permit, and would appear to require a drainage plan if the building will create an impervious surface of greater than 18,000 square feet. A sedimentation and erosion control plan will also be required. 22.52.090. Finally, Title 22 requires a fire safety plan. See 22.50.030.

OSGSF's Consistency with Miscellaneous Site Design and Construction Ordinances. The OSGSF will not exceed a height of 45 feet. The building plan will include all applicable setbacks and debris collection logistics. The project will also incorporate the existing DCP sedimentation and erosion control plan, drainage plan, and fire safety plan. PG&E will apply for a receive a grading permit prior to beginning construction. See Table A-2 and comments to Introduction Section, above.

• **Special Use Ordinances.** Table 2-2 at Ordinance 22.06.030 provides a list of the allowable uses in each land use designation. Of these potential uses, the OSGSF falls most closely within the "Accessory Storage" use. Accordingly, the following analysis focuses on the specific requirements for Accessory Storage uses within a Public Facility land use

designation and an Energy and Extractive Resource (EX) combining designation. The applicable Ordinances set out special standards for developments in the EX combining designation. If the special use is one classified as an “electric generating facility,” PG&E would have to meet a variety of requirements that seem focused on the construction of an actual electric plant. See 22.32.020, 22.32.030. These standards are inapplicable to a single storage building like the OSGSF. Alternatively, any use other than one for power generation or resource extraction that takes place within an EX area must include a “mineral resource report.” 22.14.040. This report seems focused on development within oil or gas fields, and, again, does not seem applicable to the OSGSF proposal. Nonetheless, Title 22 requires the County to make a finding for any EX project other than generation or extraction that “the proposed use will not adversely affect the continuing operation or expansion of the energy or extraction use.” Id.

OSGSF’s Consistency with the Special Use Ordinances.

The OSGSF is consistent with the special use requirements since accessory storage is an allowable use in the Public Facilities designation. Because the OSGSF contributes to the continuing operation of the energy use at Diablo Canyon Power Plant, it is consistent with the EX designation.

III. Consistency with the Public’s Health, Safety and Welfare

The DEIR analyzes in other Sections the potential for health, safety, or welfare impacts to the public, persons residing or working in the neighborhood, or injury to property or improvements in the vicinity of the OSGSF. See Sections D.11 and D.12. The state is preempted by federal law from considering any radiological safety aspect of the OSGSF. These other Sections establish that the OSGSF is consistent with this required finding.

IV. Consistency with the Character of the Immediate Neighborhood

The OSGSF will be built on previously developed land within the high security zone of the Diablo Canyon Power Plant. Its size, function, and appearance are all entirely consistent with the surrounding power plant, and it is not contrary to the orderly development of the plant.

V. Consistency with Traffic Requirements

The OSGSF construction activities will not generate a volume of traffic beyond the safe capacity of the existing access roads to the project. See Section D.13.

VI. Consistency with Articles 4, 9, and Chapter 22.14 of Title 22

Any additional findings required by these provisions of Title 22 have been discussed above. Based on those discussions, the OSGSF is entirely consistent with the applicable community planning standards, combining designations, and special use ordinances.

8. Section D.8.2, Page 8-24, second paragraph

The discussion of the 2003 Port San Luis Harbor District Port Master Plan (“Master Plan”) should be expanded to discuss the consistency of the proposed off-loading activities with the Master Plan and the Harbor District Ordinances (“District Ordinances”). The paragraph should be amended to make clear that only parts of the Master Plan have been incorporated into the Local Coastal Program. Nevertheless, a full discussion of the consistency of the proposed off-loading operation at the Port with the entire Master Plan and the District Ordinances should be included in the FEIR to determine whether the Proposed Project is consistent with local land use policies. Additionally, it should be noted that the proposed project may require the subsequent approval of a District land use permit and/or a District license. See Master Plan at 4-2; District Ordinance 1.410 (“Any use of the waters, lands and facilities under ownership and jurisdiction of the Port San Luis Harbor District by any person shall require consent of the District . . .”). The FEIR should conclude that the off-loading

operation is consistent with the requirements and standards of the Master Plan and District Ordinances.

To accomplish these objectives, the following language should be inserted after this paragraph:

The following section identifies the specific, relevant goals and policies of the 2003 Port San Luis Harbor District Master Plan (“Master Plan”), followed by the rationale used to determine the Proposed Project’s consistency with the given goal or policy:

- Page 3-3: The first priority of the Master Plan is to meet the needs of coastal dependent uses, including Harbor operations. The second priority is to accommodate uses that are coastal related.

Consistency. The off-loading of the barges is a coastal dependent use of the Port. Staging, if any, of the RSGs at the Port would be a coastal related use since the staging operation is dependent on off-loading, itself a coastal dependent use. Accordingly, the off-loading is consistent with the priorities of the Port.

- Page 3-3. **Road Capacity.** Reserve a portion of Avila Beach Drive road capacity to serve coastal dependent and coastal related uses at Port San Luis Harbor. Do not subject Avila Beach Drive to traffic levels exceeding the County road capacity standard for this area as established in the most current Avila Valley Circulation Study.

Consistency. Because the off-loading operations will be either coastal dependent or coastal related, the use of Avila Beach Drive road capacity is consistent with the Master Plan. Traffic impacts on Avila Beach Drive would be less than significant after mitigation. See Section D.13.

- Page 3-3. **Parking.** Maintain adequate parking to accommodate Harbor users and visitors. Require new uses to provide additional parking consistent with the County Land Use Ordinances.

Consistency. This goal appears related to new long-term uses of the Port, including new developments that will attract visitors. Because the off-loading is a temporary event, this goal does not apply. However, even if it did apply, parking impacts are ameliorated below a level of significance through the mitigation measure providing for off-site parking and a shuttle service for project-related employees. See Section D.13.

- Page 3-4. **Shoreline Access.** Maintain public access to the beaches, oceans, and Port properties, and enhance where feasible and consistent with public safety.

Consistency. The Master Plan's Coastal Access Plan recommends with regard to this goal that the Port "[a]llow minor interruptions to the pedestrian walkway adjacent to harbor waters (such as the sport launch) where conflicts between immediate shoreline access and coastal dependent uses would be clear." See Master Plan at B-3. The off-loading provides just such a case of a minor, temporary interruption of public access to fulfill a coastal dependent use. Additionally, the impacts to recreational uses and public access will be further mitigated through the implementation of Mitigation Measure L-2, providing that the off-loading will be conducted outside of times of peak usage. See Section D.8. Accordingly, the Proposed Project, as mitigated, is consistent with this goal.

- Page 3-5. **Runoff Controls.** Require implementation of effective runoff control strategies and pollution prevention activities by incorporating the most current best management practices for all new development.

Consistency. The off-loading would be consistent with this goal through the implementation of mitigation measures H-1a

(Spill Response Procedures), H-1b (Routine Inspection and Maintenance of Transporter), and H-2a (Handling of Maintenance Waste). Because no impervious surfaces or grading will be undertaken in connection with the off-loading, runoff control strategies are not necessary.

- Page 3-5. **Waterfront Character.** Protect scenic qualities including the time-honored character of Port San Luis and compatibility with surrounding uses and views.

Consistency. Because the off-loading would involve equipment (e.g., barges and tug boats) often operated at a Port, the use would be compatible with the surrounding character, uses, and views. Furthermore, to the extent that the use is inconsistent with the viewshed, any inconsistency would be mitigated to an insignificant level through undertaking the off-loading during non-peak times. See Mitigation Measure V-1a, Section D.14. Additionally, the use of the Port for the off-loading is consistent with the goal of allowing mooring and anchoring of industrial and commercial vessels in the Port subject to case-by-case District determination. See Master Plan at Page 3-6.

- Page 3-8. **Limitation on Use.** Allow uses and developments on Harford Landing that are supportive of coastal dependent, coastal related, or visitor uses for Harford Pier and San Luis Obispo Bay waterfront. Permitted uses on Harford Landing shall include public parking, commercial and recreational fishing support facilities, support facilities, retail and wholesale seafood sales, boat repair, fuel storage and handling, eating and drinking establishments, yachting and rowing clubs, boat rental, boat storage and launching facilities, sportfishing, sightseeing facilities, boat engine repair and sales, marine supply, aquaculture and mariculture support facilities, overlooks, paths, trails, transit station (shuttle stop), visitor center, educational and historic displays and exhibits, passive recreation, food and beverage retail sales, marine related merchandise sales, outdoor seasonal sales and retail events, Harbor Offices, public safety facilities, accessory storage, temporary events, shoreline protection, restrooms, and showers. Allow RV camping until another suitable location is

established on Port property.

Consistency. The off-loading at Harford Landing is consistent with this goal because the uses are coastal dependent and coastal related. Additionally, the off-loading is a temporary event, and the staging of the RSGs, if necessary, would be temporary, accessory storage. These are allowable uses, subject to special requirements, in the Public Facilities area at Harford Landing. See Appendix G to the Master Plan at G-4, G-7. The special requirements for Temporary Events may be found in the County's Coastal Land Use Ordinance at 23.08.248. The off-loading is consistent with these requirements because each off-loading operation (for Unit 1 and Unit 2) will take place within 12 consecutive days. See 23.08.248(b). The possible stationing of the RSGs pending transport to DCPD are consistent with the requirements for accessory storage because the CDP application to the County of San Luis Obispo describes the entire Proposed Project (although only parts of the Project are subject to the CDP application), including the potential staging operation at the Port. See 23.08.024 (requiring description of the storage of equipment adjacent to a project site to be included in the land use permit for the project).

- Appendix J to Master Plan, Condition V-3. Lighting shall be hooded and designed to shine downward. To the extent practical, parking lot lighting shall be confined to the project site and shall be designed and oriented to ensure safety within the parking lots, access and pedestrian walks. Lighting will be installed with the minimum foot-candles necessary to ensure safety.

Consistency. This Goal appears to apply to lighting permanently put in place to serve permanent developments in the Harbor District. Nonetheless, any light used as part of the barge off-loading process in the Harbor District would be reduced below a level of significance after mitigation measures requiring off-season offloading and advance notice of the offloading activities. See Section D.14.

- **Appendix J to Master Plan, Condition N-2.** All large construction equipment will be equipped with “critical” grade noise mufflers. Noise level reductions associated with the use of “critical” rather than “stock” grade mufflers can be as high as 5 dBA. Engines will also be tuned to insure lowest possible noise levels.

Consistency. Temporary increases in decibel levels from the off-loading operation at the Port will be insignificant after providing advance notice of the off-loading and providing a liaison for nuisance complaints. See Mitigation Measures N-1a and N-1b.

- **Appendix J to Master Plan, Condition N-4.** Equipment lay-down areas, staging areas or those areas that are reserved for testing and repairing of construction equipment shall be located as far away [sic] from sensitive receptors.

Consistency. To the extent that temporary storage of the RSGs constitutes lay-down or staging, this activity will occur consistent with this goal. Under one alternative, the RSGs will be moved off the barge and then stored in the parking lot area of the Harford Landing. This location will move them as far as possible from the recreational visitors who walk along the shoreline and the other potentially sensitive receptors at the Port. Additionally, the temporary storage of the RSGs is not expected to produce any significant noise during the time in which the RSGs are stored. Accordingly, the off-loading is consistent with this goal.

The following section identifies the specific, relevant goals and policies of the Port San Luis Harbor District Ordinances (“District Ordinances”), followed by the rationale used to determine the Proposed Project’s consistency with the given goal or policy:

- **District Ordinance 4.010, et seq.** This Chapter specifies the fees, tariffs, and other charges that apply to “every person and vessel using the lands, . . . wharves or other

facilities of the District.” However, “[t]he fees of this chapter do not apply to any person or vessel that is subject to the jurisdiction, regulations and control of the California Public Utilities Commission. . . .”

Consistency. The vessels and persons involved in the off-loading operation will work under contract with a public utility and are therefore subject to the regulations and jurisdiction of the California Public Utilities Commission. Accordingly, the fees provided for in Chapter 4 of the District Ordinances do not apply.

• **District Ordinance 8.032 – District Permits**

Required. Any use of District lands may require a land use permit, an operating agreement, license, or lease, a building or other construction permit, or a mooring permit.

Consistency. It is unclear from Table 8A of the District Ordinances what type of permit would be required from the District for the off-loading and temporary storage of the RSGs. The off-loading activities do not exactly fit any of the categories provided. In such a case, the Harbor Manager must interpret the intent and meaning of the uses listed. See District Ordinance 8.120. In any case, the DEIR assumes that a license may be required for temporary use of the District’s facilities, and the Harbor District has accordingly been made a Responsible Agency under CEQA. See Table A-2.

• **District Ordinance 16.010 – Scope, applicability and administration.**

The mooring and water use regulations “govern every person and vessel . . . which utilizes a wharf, state tidelands or other marine facilities within the jurisdiction of the Port San Luis Harbor District.” However, the regulations “do not apply to or govern any person or vessel activities of which [sic] are subject to the jurisdiction, regulation and control of the Public Utilities Commission of the State of California”

Consistency. The vessels and persons involved in the off-loading operation will work under contract with a public utility and are therefore subject to the regulations and jurisdiction of the California Public Utilities Commission. Accordingly, the District's mooring and water use regulations do not apply.

II. Specific Comments

9. Section D.8.1, Page D.8-1, Third full paragraph; Figure D.8-2

The land use section employs the concept of a "Study Area." A "Study Area" is not referred to or cited in any other portion of the document. There is no apparent physiographic or environmental basis for determining the study area boundaries, nor is its relevance or purpose explained. The "Study Area" is defined as "lands encompassing the DCP facility, the RSG transport route, and Port San Luis," although the geographic area described includes land far removed from these sites. Unless the DEIR is amended to include a rationalization, consistent with the CEQA, for the size and boundaries described, the "Study Area" should be eliminated, and the DEIR should limit its analysis to the potential impacts of the proposed project on the relevant land use, recreational and agricultural resources.

10. Section D.8.1, Page D.8-2, First paragraph, last sentence

This sentence refers to the Nipomo Dunes. If the document continues to use the "Study Area," it should clarify why special mention is made of the Nipomo Dunes.

11. Section D.8.1, Page D.8-11, 2nd, 3rd, and 4th bullet points and Table D.8-1.

It is unclear how recreational resources in the Montana de Oro State Park, the Avila Beach Community Park, or the Bob Jones Bike Trail are related to the Proposed Project. Even if the Study Area is ultimately adopted, these resources are outside of that Area and are therefore outside the scope of the EIR.

12. Section D.8.1, Page D.8-13 (Figure D.8-5)

Greater color contrast should be used, or a different means should be used to distinguish the soil types. It is difficult to distinguish between the "Other Land" and "Farmland of Local Potential" categories.

13. Section D.8.1, Page D.8-17, Last Paragraph of Section

The sentence ending Section D.8.1 states that much of PG&E's lands are designated Agriculture and most of this is in active production. The FEIR should conclude this section

by referencing the agricultural lands analysis in the document and stating expressly that the Proposed Project does not affect these lands.

14. Section D.8.2, Page D.8-17, Second Paragraph from bottom of page

This paragraph states that no applicable federal regulations other than the CZMA have been identified. The paragraph should note that the Nuclear Regulatory Commission has issued regulations regarding site design and construction standards at nuclear power plants, and that these regulations preempt any state or local laws or regulations that impermissibly attempt to regulate radiological safety or hazards in connection with the Proposed Project.

15. Section D.8.2, Page D.8-17, First Paragraph

The first sentence of this paragraph is incorrect. It should state:

“Portions of the Proposed Project would be located on and traverse California Coastal Zone lands.”

16. Section D.8.2, Page D.8-18, Fourth paragraph

There is no closed parenthesis on CAF.

PG&E submitted the Coastal Development Permit (CDP) and Conditional Use Permit (CUP) applications on February 4, 2005, and the County accepted them as complete on March 18, 2005.

17. Section D.8.2, Page D.8-18, Third Paragraph from the Bottom of the Page

This paragraph should make reference to Public Resources Code Section 30610(d) in addition to the County’s Title 23.

18. Section D.8-2, Page D.8-19, Fourth paragraph from bottom

This paragraph should be amended to read:

“The following discussion identifies specific, applicable policies from the Coastal Plan Policies of the County of San Luis Obispo, followed by the rationale used to determine the Proposed Project’s consistency with the given policy.”

19. Section D.8-2, Page 8-19, Second paragraph from bottom (Consistency)

The EIR may be incorrect when it concludes that Port San Luis is not a public point of access acquired through legislative action. The state legislature granted the state-owned tidelands and submerged lands (public trust lands) with the Port San Luis Harbor District to the District in Chapter 647 of Statutes of 1955, as amended by Chapter 302 of Statutes of 1957. *See Attachment 6.* The off-loading of freight is a maritime use of the port consistent with the public trust and is consistent with the terms of this legislative grant. The FEIR should recognize that the County's Shoreline Access Policy 1 applies to the Port off-loading, but should conclude that the Proposed Project does not interfere with such access given its temporary nature and the mitigation measures already proposed. Additionally, access is inconsistent with public safety given the need to ensure the security and integrity of the nuclear power plant components as they are transported from the Port to DCPP.

20. Section D.8-2, Page D.8-20, Third paragraph (Consistency)

The document states that the Proposed Project would not "preclude access along the proposed route." While this is a correct statement, the document should clarify that no access would be precluded because no public access exists along the route.

21. Section D.8-2, Page D.8-20, Fourth and fifth paragraphs

The first full sentence of the fourth paragraph appears to misstate the cited policy. It should be changed to read:

"In its request for biennial review of areas to be designated inappropriate for power plant siting, the County should request that the California Coastal Commission designate the two-mile stretch of coastal terrace between the southern border of the Diablo Canyon Power Plant site and Point San Luis as inappropriate for siting power plants."

To maintain consistency with this change, the last sentence on page D.8-20 should be changed to read:

"Thus, the Proposed Project would be consistent with the County's desired designation of the coastal area."

22. Section D.8.2, Page D.8-21, Second and fourth paragraphs (Consistency)

The document should explicitly state that the existing roadways will not be physically expanded in terms of width and length as result of the Proposed Project. Accordingly, the

FEIR should state expressly that the Proposed Project will not adversely impact adjacent agricultural lands.

23. Section D.8.2, Page 8-22, last bullet paragraph

The discussion of Section 23.04.420 does not include the exceptions to the coastal access requirements provided for in that Section. The paragraph should be amended to state explicitly that 23.04.420 does not require access where (A) such access would be inconsistent with public safety, military security needs or the protection of fragile coastal resources; (B) the site already provides adequate public access; or (C) agriculture would be adversely affected. 23.04.420 (3) (A)-(C).

24. Section D.8.2, Page 8-23 to 8-24 (San Luis Bay Coastal Area Plan)

This section does not discuss the Sensitive Resource Area policies provided in the Coastal Area Plan. The County notes that the upper part of Diablo Canyon has "particularly fine stands of oak" and a waterfall of "significant scenic value." Coastal Area Plan at 7-1. Accordingly, no additional construction of access roads or new transmission line corridors through upper Diablo Canyon may be undertaken. *Id.* at 8-5, 8-6. These issues should be cited in the FEIR, and the Proposed Project should be found consistent with these policies since neither the CAF nor the TSA will affect the oak or waterfall in upper Diablo Canyon or require the construction of new roads or transmission line corridors.

25. Section D.8.3, Page 8-24, Last Bullet Item (Agricultural Resource Impacts)

This section is an incomplete representation of the CEQA thresholds. Appendix G of the CEQA guidelines has the following threshold that should be included as a third bullet under the Agricultural Resource Impacts heading:

“Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use?”

This threshold is relevant to the aforementioned public access exception analysis.

26. Section D.8.3, Page 8-26, Mitigation Measure L-2a

This mitigation measure requires that the RSG offloading at the Port should occur outside of times of “peak recreational usage” of the Port, as defined by the Port. These times of peak usage should be defined specifically in the FEIR after consideration of the Port’s comments to avoid ambiguity.

NOISE AND VIBRATION

I. General Comments

1. Section 9.3.1 and 9.32, Page D.9-5 and D.9-6.

The last sentence in this paragraph states that because there are no especially sensitive receptors in the project area the significance threshold should be based on whether a nuisance or annoyance will occur. This is a particularly vague standard which the DEIR provides no justification or citation for adopting. The Final EIR should use the significance criteria found in Appendix G of the CEQA Guidelines.

Using this unclear standard, the DEIR then determines that noise from offloading would constitute a potentially significant impact. Specifically, the DEIR finds that a 7 to 10 dBA increase in noise levels would constitute a nuisance. *See* DEIR at D.9-6. The DEIR contains no support for this determination and it would be improper to reach such a conclusion.

Specifically, the DEIR concludes that the “temporary passing of transporters and work crews during each steam generator transport trip would temporarily increase the noise levels along Avila Beach Drive by about 7 to 10 dBA. This could create a short-term nuisance for residents of the Port San Luis Trailer Park and Harbor Terrace area.” The DEIR does not make clear whether this statement describes the short-term passby maximum noise (L_{max}) generated by the transporters or the average noise level in terms of L_{eq}. If this 7 to 10 dBA is an increase in short-term passby maximum noise (L_{max}), as it most likely would be, as opposed to an increase in ambient noise level (L_{eq})

PUBLIC SERVICES AND UTILITIES

I. General Comments

1. Mitigation Measure U-2a Is Preempted Due To the Presence of a NRC-Mandated Emergency Plan

Mitigation Measure U-2a requires the pre-positioning of emergency responders as part of emergency response procedures for DCPD during the SGRP. DEIR at D.10-6. This mitigation measure is pre-empted by the NRC regulations requiring an emergency response plan for DCPD. As described in the DEIR at D.10-4, 10 C.F.R. Part 50, Appendix E sets forth the NRC's requirements for an Emergency Response Plan as required under DCPD's NRC license. Under this plan, PG&E is required to ensure that none of the SGRP activities block emergency access both into or out of the plant, and pursuant to this plan PG&E will develop a plant procedure with contingency plans prior to moving the RSGs on the plant site. Pre-positioned emergency responders will be only one potential facet of this plan. The plan will most likely also put restraints on travel times, keep the transporter limited to one lane, etc.

Because the NRC has established particular requirements for emergency planning and preparedness that address the issues described in Impact U-2 and Mitigation Measure U-2a, these provisions are preempted by federal law, are legally infeasible and unenforceable. These provisions should be deleted or their legal feasibility and unenforceability made explicitly clear.

2. Pre-Positioning Emergency Responders as Required Under Mitigation Measure U-2a Is Unnecessary Given PG&E On-Site Emergency Facilities.

In addition to being preempted, Mitigation Measure U-2a is unnecessary, given PG&E's existing on-site emergency facilities. Measure U-2a requires temporarily pre-positioning emergency responders if access cannot be maintained along the transportation route. Any disruption of the access road would only be momentary during transport primarily around corners. The probability of an onsite emergency requiring offsite assistance during periods when the road is blocked is not sufficiently likely to raise a significant impact that warrants mitigation. In addition, DCPD has its own emergency facilities such as onsite fire fighting capability should such an unlikely event occur.

3. The DEIR Adequately Addresses Fire Safety Analysis

In PG&E's discussions with the County of San Luis Obispo, the County raised the concern that the DEIR does not adequately address fire safety and should include an augmented fire safety analysis. PG&E respectfully asserts that the existing treatment of fire safety issues in

the DEIR is adequate and any additional fire safety requirements could infringe on areas within the exclusive jurisdiction of the NRC. Page D.10-4 of the DEIR describes in detail the several fire safety plans and procedures in place for DCP. These procedures comply with NRC requirements for safety planning and provide for the necessary communication with County and state authorities under California law.

No further analysis is necessary and any requirements or measures related to fire safety are both unnecessary and would improperly tread on federal jurisdiction. The SGRP does not raise any fire safety issues above the existing baseline of plant operations and refueling outages. The OSGs and RSGs will not be pieces of equipment with significantly elevated levels of heat or otherwise create any significant fire hazard. PG&E's existing, NRC-required safety procedures will adequately address this aspect of the SGRP.