Comment Set PG, cont.
Latham & Watkins LLP, for Pacific Gas and Electric Company

GEOLOGY, SOILS AND PALEONTOLOGY

I. General Comments

1. Mitigation Measure G-3a, Revision of Long Term Seismic Plan, Is Preempted

PG-124

The DEIR makes clear at the outset that the CPUC has no jurisdiction to regulate "[s]eismic safety of DCPP in its current design and certain permanent project components (e.g., the OSG Storage Facility)." DEIR at ES-24. Nonetheless, Impact G-3 purports to assess the seismic issues associated with the construction of the OSGSF, and Mitigation Measure G-3a requires than an NRC-required seismic program be "refined to incorporate new earthquake data." In this way, under the umbrella of a CEQA impact analysis and associated mitigation, the DEIR attempts to require PG&E to modify an NRC seismic requirement or proceed with the Project in the absence of required mitigation.

The OSGSF will be designed using the provisions of 10 C.F.R. § 50.59, including its requirement that the building meet uniform building code requirements for seismic impacts. This NRC requirement pre-empts Mitigation Measure G-3a. If not deleted or modified, this requirement would impose mitigation measures related to a matter outside of the state's jurisdiction, namely geologic issues related to radiological health and safety. The state is clearly preempted from imposing mitigation measures in those subject areas. *See Maine Yankee*, 107 F.Supp. 2d at 55.

Mitigation Measure G-3a should be removed or the Final EIR should make clear that this measure is unenforceable and therefore legally infeasible under CEQA.

PG-125

2. Consistent With the DEIR's Analysis of Impact S-4, Impact G-3 Should Be Classified As Class III.

PG-126

In addition to being preempted by federal law, Mitigation Measure G-3a is unnecessary because Impact G-3 is not potentially significant, thus requiring no mitigation under CEQA. Impact G-3 states that "ground shaking could compromise integrity of the OSGSF," and concludes that the risk of compromising the integrity of the OSGSF due to a seismic event would create a potentially significant impact (Class II), resulting in the need for Mitigation Measure G-3a.

The conclusion that any compromise to the integrity of the OSGSF would result in a class II impact is inconsistent with the DEIR's conclusion that Impact S-4, related to the integrity of the OSGSF from an aircraft accident, constitutes a Class III due to minimal radiological consequences. *See* section D.12, page D.12-24. In that analysis, the integrity of the structure is completely compromised, but yet the impact is determined to be Class III. The two impacts are not consistent.

PG-127

Comment Set PG, cont.
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As described in our comments on System and Transportation Safety, that section addresses areas that are entirely preempted and outside the jurisdiction of the CPUC. Nonetheless, the significance determination related to Impact S-4 is correct and the same analysis should be used in Impact G-3, eliminating the need for Mitigation Measure G-3a.

PG-127

3. Mitigation Measure G-1a Unnecessarily Limits Options For Addressing Unstable Ground Along the Haul Route

PG-128

The DEIR states that the transport route between the Intake Cove and the rest of the DCPP facility could cross "potentially unstable transport routes." Mitigation Measure G-1a requires a further evaluation of this road as part of the Intake Cove alternative. The Final EIR should make clear that the load path from the Intake Cove was used to transport the U-1 Main Bank transformers in 1995, each weighing approximately the same as an RSG. Medium size loads (15-25 tons) have been routinely transported along this road to the intake structure to support replacement of various plant equipment. Additionally, the installation contractor will perform a study of the entire load path prior to shipment, and any necessary reinforcement or recompaction of the road will be performed prior to movement of the RSGs.

PG-129

Mitigation Measure G-1a also calls for the development of plans for necessary improvements (second bulleted item). This section states that PG&E shall develop plans for necessary road improvements, and that they shall be within the "footprint of the proposed route." As currently written, this mitigation measure *requires* that improvements be made at areas identified by the report. This is unnecessary. There are possible locations (the Patton cove landslide area, for example) where it would be less of an impact to simply alter the travel path to go around the unstable ground instead of improving the roadway or existing travel path. If this re-route is over previously disturbed land, this alternative would be preferred.

The second bullet of this mitigation measure should allow for PG&E to relocate the load path around an area of concern, if it is on previously disturbed ground. There may be a location where the analysis requires road improvements, however, this location may be avoided altogether by relocating the load path outside of the footprint of the proposed route. If this relocation were on previously disturbed soil, road improvements and the associated environmental impacts would be avoided.

4. Mitigation Measure G-2a Should Be Developed to Meet Cal-OSHA Standards

PG-130

Mitigation Measure G-2a requires PG&E to prepare a safety plan to ensure worker safety during any possible earthquake caused ground shaking. DEIR at D.5-15. The Final EIR should make clear that the substantive standards of the safety should be governed by Cal-OSHA. PG&E will ensure compliance with existing regulations such as CAL-OSHA to ensure there would be no significant impacts requiring further mitigation.

Comment Set PG, cont.
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5. PG&E Has Already Conducted The Analysis Required Under Mitigation Measure G-2b.

PG-131

Mitigation Measure G-2b requires that PG&E evaluate all "rocks and boulders that are precariously situated above portions of the transport route" in order to "determine if they should be removed or stabilized prior to project commencement." DEIR at D.5-16. Pursuant to an NRC assessment, PG&E conducted the analysis required under this mitigation measure following large storm events in 1996 and 1997. In addition, PG&E conducted an analysis of potential rock fall along a similar haul route for the ISFSI project. *See* Attachment 5.

As this analysis made clear, the potential for a rockfall hazard is very low and would occur during heavy storm events, during which transportation activities would not occur. The possibility of an earthquake during transportation activities is very remote. And even in the event of an earthquake, the transport vehicles would be strong enough to withstand damage from most potential rockslides and personnel would follow the safety procedures required under G-2a.

For these reasons, impacts from rockslides should not be considered a potentially significant impact and so mitigation measure G-2b is not required. Moreover, the analysis request has already been conducted by PG&E and further analysis is not required.

6. Mitigation Measure G-4a Should Be Revised To Reflect Appropriate Scope of the Geotechnical Evaluation and Potential Engineering Solutions

PG-132

Mitigation Measure G-4a requires the preparation of a geotechnical evaluation "similar to that done for ISFSI" and sets new seismic standards that would guide the construction of the OSGSF, requiring the use of the San Simeon earthquake. *See* DEIR at D.5-17. As described above, NRC regulations reflect the necessary design standard for the OSGSF and the required seismic criteria for the facility, namely uniform building code standards. As a practical matter, the NRC requirements for minimizing radiation exposure set forth at 40 C.F.R. Part 190 and 10 C.F.R. Part 20, will result in a structure that will be a large concrete, bunker that will be capable of handling large loads, including debris flows. As a legal matter, because NRC regulations drive the design and construction of the OSGSF facility, including the necessary seismic criteria, these issues are preempted from CPUC review and mitigation. Therefore, this mitigation measure is unenforceable and legally infeasible as written.

PG-133

PG&E is willing to conduct a geotechnical evaluation of the area in the vicinity of the OSGSF locations and using that evaluation as a mechanism to help select the final location of the OSGSF. We suggest making minor modifications to Mitigation Measure G-4a in order to avoid these preemption issues and create an enforceable mitigation measure. We recommend deleting the reference to ISFSI and the deletion to the "most recent seismic acceleration

Comment Set PG, cont.
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values as derived since the 2003 San Simeon earthquake," as these are areas that are pre-empted by federal regulations. In addition, we have added an additional option to perform an engineering analysis of the structure to withstand the landslide loads to provide additional flexibility for the project while ensuring that these issues are adequately addressed. PG-133

These revisions are as follows:

> **G-4a: Evaluate slope stability in the vicinity of the OSG Storage Facility site.** A geotechnical evaluation ~~similar to that done for the ISFSI~~ shall be undertaken by PG&E and/or the construction contractor to assess the stability of the north-facing slopes in the area of the proposed OSG Storage Facility, both above and below the level of the current "man camp." This report should be reviewed and approved by PG&E and the CPUC at least 60 days prior to final approval of the OSG Storage Facility design. Such an evaluation shall include exploratory borings and surface mapping of the north-facing slope. Slope stability evaluation shall include analysis of the dip of layered rock, identification of clay beds, and presence and orientation of small faults and fractures with orientations parallel or subparallel to the slope. Static and dynamic stability analysis shall be performed ~~using the most recent seismic acceleration values as derived since the 2003 San Simeon earthquake~~ in accordance with all applicable building codes.
>
> If the report indicates either the upper or lower portion of the slope could become unstable, remedial measures (e.g., construction of engineered retaining wall; improved slope drainage; remove excess colluvium; engineering design of the structure to withstand postulated landslide loads) shall be developed or a different location (already analyzed in this EIR) for the OSG Storage Facility shall be selected.

II. Specific Comments PG-134

7. Section D.5.1.7, Page D.5-8, last paragraph

The first sentence states that fossilized remains of "terrestrial animals, especially vertebrate animals, or plants" represent potential paleontological resources. Marine animals should be added to this sentence. The second sentence states that there are no geologic formations at the site. In fact, the Monterey and Pismo Formations are known to exist through the general area.

Comment Set PG, cont.
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8. Section D.5.3.2, Page D.5-15

PG-135

Mitigation Measure G-1a requires that the "CPUC or its consultant shall survey the transport route after the completion of construction (prior to the start of transport activities) to ensure that completed improvements successfully stabilized appropriate portions of all roads to be used during transport." PG&E agrees that an inspection of these areas prior to the start of transport activities is appropriate, however only to verify that the proposed modifications were actually completed.

PG&E suggests the following re-wording of Measure G-1a:

> "CPUC or its consultant shall survey the transport route after the completion of construction (prior to the start of transport activities) to ensure that all necessary road improvements have been implemented on all roads to be used during transport."

III. Clerical/Typographical Comments

PG-136

9. Section 5.1.2, Page D.5-5 (Figure D.5-2)

"Miocene" is misspelled in several places.

Comment Set PG, cont.
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HAZARDOUS MATERIALS

I. **General Comments**

PG-137

1. Mitigation Measure H-1b: Conduct Routine Inspections and Maintenance of Transporter

This mitigation measure requires inspections of the transporter "during any stop of 15 minutes or longer." DEIR at D.6-21. This aspect of the measure raises technical feasibility concerns and seems unnecessary to address the stated impact. There may be occasions, when to position equipment and personnel, it will be necessary to halt movement for more than 15 minutes at a time. To do a complete inspection under this condition, it could cause an additional 5 to 10 minute delay before continuing transport. This 5 to 10 minute delay for inspection would require continual operation of the equipment to inspect for leaks. This delay would increase the time required for the overall transport, which could potentially create impacts that otherwise could be avoided (such as traffic and circulation, safety, etc.). Moreover the additional operation of equipment would raise additional environmental impacts. This would likely produce more of an impact without a substantial benefit.

We propose an alternative condition:

> "All transport vehicles shall be inspected at the beginning of each work day and at the end of each work shift. While in transport, continual visual inspections shall be conducted by the crew. If any leaks are observed during transport appropriate action will be taken to stop the leak prior to continuance of transport. Any necessary spill response shall be conducted according to Mitigation Measure H-1a."

Comment Set PG, cont.
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HYDROLOGY AND WATER QUALITY

PG-138

I. **Specific Comments**

1. **Section D.7.2, Page D. 7-2, Second paragraph, Third sentence (including following first bullet item)**

This sentence correctly states that a Storm Water Pollution Control Plan (SWPPP) is required for construction activities that disturb more than one acre. Page 2 of the Fact Sheet for the State of California Water Quality Order 99-08-DWQ: National Pollutant Discharge Elimination System NPDES General Permit for Storm Water Discharges Associated with Construction Activities (General Permit) states the following:

> Construction activity subject to this General Permit includes clearing, grading, disturbances to the ground such as stockpiling, or excavation that results in soil disturbances of at least one acre of total land area. Construction activity that results in soil disturbance of less than one acre is subject to this General Permit if the construction activity is part of a larger common plan of development that encompasses one or more acres of soil disturbance or if there is significant water quality impairment resulting from the activity. Construction activity does not include routine maintenance to maintain original line and grade, hydraulic capacity, or original purpose of the facility, nor does it include emergency construction activities required to protect public health and safety.

Less than one acre of soil disturbance will occur as a result of the Proposed Project, calling into question whether a SWPPP should be required. The construction activities of the Proposed Project include locating temporary structures on an existing, impermeable parking surface (previously disturbed area) for the Temporary Staging Area, and erecting an 18,000 square foot storage building to store the old steam generators. These activities would result in less than one acre of a disturbance. The only soil disturbance associated with proposed project is the excavation required for the 18,000 square foot OSGSF. Excavation for this project will be directly within and/or around the immediately perimeter of the footprint of this building. In addition to the 18,000 sq feet of the OSGSF that will be excavated, several of the facilities in the TSA require foundations which will result in some additional area of disturbance. In total, however, this excavation would be well under the 43,560 square foot (or one acre) threshold.

Comment Set PG, cont.
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While a SWPPP would not be required under the state water quality control board guidelines because less than an acre of land will be disturbed by the Project, PG&E will use its existing stormwater drainage system and best management practices to ensure that no water quality impacts occur as a result of the SGRP. PG&E has an extensive stormwater drainage system, which is maintained in updated condition, including recent improvements as part of the ISFSI project. This system will adequately address any runoff related to the project. PG-139

Despite not being required under water quality control guidelines, the County of San Luis Obispo routinely requires the submittal of a SWPPP as part of its land use permitting process. PG&E's existing drainage system and use of BMPs should adequately address these issues and will ensure there are no potentially significant impacts to water quality from the Project. Nonetheless, because a SWPPP may be required in any event, the CPUC should consider incorporating that requirement into the Final EIR. PG-140

2. Section D.7.3.3, Page D.7-7, First paragraph, Third sentence PG-141

This sentence incorrectly states that storm water emanating from the TSA area will flow into Diablo Creek. Through the use of the existing storm drain system at DCPP, all storm water in this area is directed away from Diablo Creek and is placed immediately into a storm drain system that flows directly to the ocean.

3. Flood Hazards Inaccurately Described, Section D.7.3.4 and D.7.4, Pages D.7-7 through D.7-9. PG-142

The DEIR incorrectly describes the flood potential and flood control measures associated with Diablo Creek and creates misimpressions about the potential for flood impacts to the OSGSF. The Final EIR should be revised to reflect the following discussion.

Flood Events:

As a threshold matter, it is important to note that the "probable maximum flood" or PMF discussed in this chapter is a concept developed by the NRC and is completely unrelated to the SGRP and has no relevance or applicability to the OSGSF. The PMF is substantially higher than the 100-yr flood referenced in the significance criteria in section D.7.3.1. In fact, the postulated flow level for the PMF is about 7.5 times higher than the 100 year flood and 4.2 times higher than the 500 year flood.

OSGSF Location and Design: PG-143

The OSGSF will be built to state building codes that require the local ground around the facility to be sloped away from the structure to prevent localized flooding. There will be no potential, even under the hypothetical PMF, for flooding of the facility. Given this design and sloping, there will be no way for water to reach the OSGSF.

Comment Set PG, cont.
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Analysis of OSGSF Alternatives:

PG-144

For the Alternative A analysis on page D.7-9, the DEIR states that "the PMF would overtop the fill." This statement is true, but could be misconstrued. While under the PMF, the assumption is made that the culvert will be blocked and the flood will overtop the fill, however, it will not reach the ground level where the OSGSF would be located. Under this scenario, the flood would be conveyed away from the facility in a channel designed for this purpose. No flooding impacts will occur under this scenario, because the water would flow through a channel specifically designed for the purpose of diverting the flood, and since the OSGSF at this location is at a higher elevation than the postulated PMF level, no flooding impacts would occur. The same argument/reasoning applies to Alternatives B, C, and D.

Analysis of Proposed OSGSF Locations:

PG-145

At the top of page D.7-8 ("Flood Hazards") the Final EIR should provide the exact same argument/reasoning as that described above for the alternative locations as part of the analysis of the proposed location of the OSGSF. This same discussion applies and makes clear that there will be no flood impacts to any of the proposed locations of the OSGSF.

Along these lines, the statement at Page D.7-8 that "there may be a potential for flooding of this area from overflow of Diablo Creek, or from local drainage, flooding is likely to be shallow and infrequent" is incorrect. There would be no potential for flooding the OSGSF locations from Diablo Creek as described above. Therefore, this statement should be deleted from the Final EIR.