PUBLIC UTILITIES COMISSION

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A. Subsequent Mitigated Negative Declaration

Introduction

This document is a Subsequent Mitigated Negative Declaration (MND) prepared by the California Public Utilities Commission for an application filed by Lodi Gas Storage, LLC, for a Certificate of Public Convenience and Necessity (CPCN) for construction and operation of additional facilities to support the Kirby Hills Natural Gas Storage Facility in Solano County, California. The existing storage facility, which began operation in November 2006, is referred to as Kirby Hills I in this document. A Final Mitigated Negative Declaration was adopted in D.06-03-012. The proposed project is referred to as Kirby Hills II. The Subsequent MND, prepared in accordance with the requirements of the California Environmental Quality Act (CEQA), is supported by an Initial Study (IS) that provides an evaluation of the proposed project's potential to cause significant impacts to the environment (See Section B of this document.).

A.1 Project Overview

Lodi Gas Storage, LLC (LGS), is proposing to construct and operate Kirby Hills II in the northern portion of the existing property leased from Kirby Hill Associates (Kirby Property). The underground storage reservoir and proposed additional associated surface infrastructure for Kirby Hills II would be located primarily on the Kirby Property. The total storage capacity of the reservoir is approximately 12 billion cubic feet (Bcf) and the project would have a maximum injection and withdrawal capability of 350 million cubic feet per day (MMcf/day) of natural gas.

The project site is located in a rural agricultural area in the Montezuma Hills of southeastern Solano County, California, immediately north of the Sacramento–San Joaquin River Delta. The site is approximately six miles west of Rio Vista and 16 miles southeast of Fairfield. The proposed project contains two major component locations, connected by an existing approximately six-mile, east-west pipeline corridor. The eastern project component is an expanded pipeline interconnection at the existing natural gas receiving/metering station site, located west of Birds Landing Road, one mile south of its intersection with State Route 12. The western project component is the natural gas storage/withdrawal site located in the Kirby Hills between Montezuma/Nurse Slough on the west and Shiloh Road on the east. The western portion of the project area is also located within the Suisun Marsh Secondary Management Area.

The surface infrastructure associated with Kirby Hills II would consist of the following:

- Three new well pad sites containing 15 injection and withdrawal wells
- Conversion of four abandoned wells to observation wells
- A 12-inch-diameter, approximately 3,700-foot pipeline (flow line) connecting the wells to the existing compressor station.

- A new compressor enclosure and additional dehydration equipment at the existing compressor station site.
- An expanded PG&E interconnection at the existing meter station.

A.2 Application Review Process

In its application to the CPUC, LGS is requesting authorization to construct and operate additional injection/withdrawal wells and supporting infrastructure. In response to the LGS application, the CPUC must decide whether to issue a CPCN to LGS authorizing it to construct and operate the new facility. The CPUC conducts two parallel processes when considering any application for a CPCN: an application process similar to a court proceeding that considers whether the project is needed and would be in the public interest; and an environmental review process under CEQA. Each of these processes is described in the following subsections.

A.2.1 CPUC Application Process

The CPUC's application process focuses on utility ratepayer and public benefit issues, and examines whether the project meets CPUC criteria for approval. An Assigned Commissioner and an Administrative Law Judge supervise the process, which resembles a court proceeding. Although the Commission's Natural Gas Policy Statement (R.98-01-011) and related prior orders favor development of gas storage facilities by nonutility companies, approval of such applications is by no means automatic. LGS must show, during the application process, that the project would clearly provide public benefit. The proceeding includes the following steps:

Application. The project proponent, LGS, submitted an Application to the CPUC on May 8, 2007, for permission to construct and operate the Kirby Hills II gas storage facility and pipeline.

Ruling. Following the completion of all required hearings and the environmental review process, the Administrative Law Judge will issue a proposed decision on LGS's application. After that, based on the project environmental document and all the evidence gathered by the CPUC, Commissioners will vote on whether to approve the project. A Commissioner may reject the Administrative Law Judge's proposed decision and issue an alternate decision, which would also be considered by the full Commission. Commissioners can vote to approve the project or to disapprove the project either with or without prejudice. The view of the majority of Commissioners prevails. Disapproval with prejudice means that the Commissioners reject the application based on its merits, meaning that the project would not be in the public interest or would result in unacceptable impacts on the environment. Disapproval without prejudice means that the project is rejected for another reason, such as because the application was incomplete, and the Applicant can reapply to the Commission once the discrepancy is addressed.

Rehearing. Once the Commissioners have ruled on a project, parties generally have 30 days to file for a rehearing of the case by the CPUC. (The mere filing of a rehearing request does not excuse compliance with the original order or decision.) If the rehearing request is denied or if parties are not satisfied with the rehearing ruling, the case may be appealed to the State Court of Appeals.

A.2.2 Environmental Review Process

The California Environmental Quality Act (CEQA) requires all government agencies in California to assess potential impacts to the environment whenever they make a discretionary decision. As lead agency,

the CPUC must determine if the LGS project would result in significant impacts to the environment, and whether those impacts could be avoided, eliminated, compensated for or reduced to less than significant levels. This Subsequent Mitigated Negative Declaration/Initial Study will become part of a body of evidence that the Commission will use in deciding whether or not to approve the LGS application.

This Subsequent MND/IS for the proposed Kirby Hills II Natural Gas Storage Facility has been prepared in accordance with the requirements of CEQA and its guidelines for implementation. This MND is supported by an Initial Study that was prepared to evaluate the proposed project's potential to result in significant impacts to the environment. CEQA Guidelines Section 15063 (c) states that the purposes of an Initial Study are to:

- Provide the Lead Agency with information to use as the basis for deciding whether to prepare an EIR or a Negative Declaration
- Enable an applicant or Lead Agency to modify a project, mitigating adverse impacts before an EIR is prepared, thereby enabling the project to qualify for a Negative Declaration
- Assist in the preparation of an EIR, if one is required
- Facilitate environmental assessment early in the design of a project
- Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment
- Eliminate unnecessary EIRs
- Determine whether a previously prepared EIR could be used with the project

According to Article 6 (Negative Declaration Process) and Section 15070 (Decision to Prepare a Negative Declaration or Mitigated Negative Declaration) of the CEQA Guidelines, a public agency shall prepare a negative declaration or mitigated negative declaration for a project subject to CEQA when:

- The initial study shows that there is no substantial evidence, in light of the whole record before the agency, that the project may have a significant effect on the environment, or
- The initial study identifies potentially significant effects, but:
    - Revisions in the project plans or proposals made by, or agreed to by the applicant before a proposed mitigated negative declaration and initial study are released for public review would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur, and
    - There is no substantial evidence, in light of the whole record before the agency, that the project as revised may have a significant effect on the environment.

Based on the analysis in the project's Initial Study, all potential project-related environmental impacts can be reduced to less than significant levels with the incorporation of mitigation measures. Therefore, adoption of a MND will satisfy the requirements of CEQA. The mitigation measures included in this Subsequent MND are designed to reduce or eliminate the potentially significant environmental impacts described in the Initial Study. Where a measure described in this document has been previously incorporated into the project, either as a specific project design feature or as an applicant-proposed measure, this is noted in the discussion. Mitigation measures are structured in accordance with the criteria in Section 15370 of the CEQA Guidelines.

CEQA Guidelines require the completion of either a Subsequent Negative Declaration or an Addendum to a Negative Declaration when changes outside the scope of the original project are proposed and were not covered in the original Negative Declaration (CEQA Guidelines §§ 15162, 15164). Table A-1 describes the conditions under which these additional documents are required. A Subsequent MND is subject to the same notice and public review as the original document, while an Addendum to a MND need not be circulated for public review but should be attached to the adopted MND. The CPUC has prepared a Subsequent MND for the Kirby Hills II project because of substantial changes to what was originally constructed and to allow for full public participation.

Table A-1. Subsequent Environmental Review

Document	Description of When Supplemental Review is Required
Subsequent Negative Declaration	• Substantial changes are proposed that would involve new, significant environmental effects or substantially increase the severity of previously identified effects. • Substantial changes to the circumstances under which the project is undertaken arise. • New information of substantial importance is presented that reveals: (1) new significant impacts, (2) more sever effects of identified impacts, (3) mitigation measures or alternatives that are found to be feasible that would reduce impacts but the proponent declines to adopt, or (4) new mitigation measures that would reduce impacts but the proponent declines to adopt.
Addendum to a Negative Declaration	• Only minor technical changes or additions are necessary. • Changes are required that would not trigger new or more severe environmental impacts.

Source: CEQA Guidelines §§ 15132, 15164.

On August 24, 2007, the CPUC distributed a Notice of Intent to Adopt a Subsequent Mitigated Negative Declaration and supporting Initial Study for public review. The Proposed Subsequent MND and supporting Initial Study underwent a 30-day public review period that ended on September 24, 2007. Written responses to comments received are presented in Section D of this document.

A.3 Document Organization

This document contains three sections, which are described below.

- **Section A – Introduction.** Presents an overview of the proposed project, the legal authority that requires preparation of an Initial Study and a MND, the environmental and public review processes, and a summary of impacts and mitigation measures in tabular form.
- **Section B – Initial Study.** Includes a complete description of project objectives and characteristics; contains the Environmental Determination; presents the environmental analysis for each issue area identified on the CEQA Environmental Checklist Form and any associated mitigation required to reduce project impacts to less than significant levels; provides a list of documents, persons, and organizations consulted during the preparation of the Initial Study; and provides a list of persons involved in preparing the analysis in the Initial Study and their respective roles.
- **Section C – Mitigation Monitoring Program.** Describes the mitigation measures that will be used by the CPUC to ensure that the applicant-proposed measures and the additional mitigation measures recommended in the Initial Study are properly implemented.
- **Section D – Response to Comments.** Presents responses to all comments received on the Subsequent MND during the public comment period.

It should be noted that if the proposed project does not have the potential to significantly impact a given resource, the relevant issue area environmental checklist question provides a brief discussion of the reasons why no impacts are expected. If the proposed project has a potentially significant impact on a resource, the environmental checklist discussion provides a description of potential impacts, and appropriate mitigation measures and/or project features that would reduce those impacts to a less than significant level. Any mitigation measures discussed in Sections B and C also are provided in a summary table in Section A.5 (Summary of Mitigation Measures). The appendices to the Initial Study contain background and technical data used in preparation of the Initial Study.

A.4 Summary of Mitigation Measures

Table A-2 provides a summary of mitigation measures.

Table A-2. Summary of Mitigation Measures

Potential Impact	Mitigation Measures
Violate any air quality standard or contribute substantially to an existing or projected air quality violation.	AQ-1. During high wind events, defined as periods with sustained gusts over 25 mph, construction areas (unpaved roads, excavation areas, disturbed areas) that have visible dust emissions shall be watered no less frequently than every hour at the source of origin of those visible emissions; and activities causing visible dust emissions that remain visible for more than 100 feet from their point of origin will be discontinued or those activities reduced to limit the visible dust plume to less than 100 feet from their point of origin. Additionally, during high winds construction activities within one-half mile of any downwind residence that cause visible fugitive dust will be discontinued when the visible dust plumes that remain visible for more than 50 feet past their point of origin.
	AQ-2. All diesel fueled construction equipment will be fueled with diesel fuel meeting CARB ultra low sulfur (15 ppm max) certification specifications.
	AQ-3. All diesel fueled off-road construction equipment with engines 50 hp or larger will at a minimum meet USEPA/CARB Tier 1 engine standards. Records of equipment compliance will be kept by the general construction contractor. This measure does not apply to equipment permitted by the local air quality district or certified through the CARB's Statewide Portable Equipment Registration Program. This also does not apply to any single specialized equipment items that will be used for less than 5 days total during the project construction.
Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	HZ-1. The Applicant shall submit to the CPUC its construction drawings and specifications for independent, third party design review and CPUC review and approval. Project construction shall also be independently monitored to ensure compliance with all applicable laws, ordinances, regulations, and standards. The applicant shall make payments to the CPUC for these design review, plan check and construction inspection services. These design review and construction observation services shall not in any way relieve the applicant of its responsibility and liability for the design, construction, operation, maintenance, and emergency response for these facilities.
Cause an increase in traffic that is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume-to-capacity ratio on roads, or congestion at intersections).	TRA-1. Lodi Gas Storage and/or the construction contractor shall schedule construction traffic, including construction worker and material delivery trips, to avoid peak traffic commute hours along State Route 12. Carpooling of the construction workforce shall also be encouraged.
Cause, either individually or cumulatively, a level-of-service standard established by the county congestion management agency for designated roads or highways to be exceeded	TRA-1. See above.