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November 30, 2009

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Monisha Gangopadhyay
Project Manager, CEQA Review
California Public Utilities Commission
505 Van Ness Avenue
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RE: Central Valley Gas Storage, LLC (CPCN Application No. 09.08.008):
Supplemental CEQA Mitigation Information

Dear Ms. Gangopadhyay:

Pursuant to your letter dated November 19, 2009, in the above-referenced proceeding and Section 21080.2 of the California Environmental Quality Act 1/, Central Valley Gas Storage, LLC ("Central Valley") hereby submits the attached "Central Valley Gas Storage LLC Greenhouse Gas and Public Safety Risk Assessment Impact Mitigation Proposal."

Please do not hesitate to contact me if you have any questions about this submittal.

Respectfully submitted,



Christopher A. Schindler
Counsel for Central Valley Gas Storage, LLC

cc: Jack Mulligan (CPUC Legal)
Rica Nitka (Dudek)
Steve Cittadine (Central Valley)
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1/ California Environmental Quality Act of 1970, Public Resources Code Sections 21000 et seq. ("CEQA").

**CENTRAL VALLEY GAS STORAGE, LLC'S
GREENHOUSE GAS AND PUBLIC SAFETY
RISK ASSESSMENT IMPACT MITIGATION PROPOSAL**

November 30, 2009

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**CENTRAL VALLEY GAS STORAGE, LLC'S
GREENHOUSE GAS AND PUBLIC SAFETY
RISK ASSESSMENT IMPACT MITIGATION PROPOSAL**

In accordance with CAL. PUB. RES. CODE § 21082.1(b), Central Valley Gas Storage, LLC (“Central Valley”) submits the information below for consideration by the Public Utilities Commission of the State of California (“CPUC”).

I. STANDARD OF REVIEW

Section 21080(c) of the California Environmental Quality Act, CAL. PUB. RES. CODE §§ 21000–21177 (“CEQA”), allows a lead agency to adopt a mitigated negative declaration where an initial study identifies potentially significant effects on the environment, but revisions to the project plans that are made or agreed to by the project applicant would avoid or mitigate the effects to a point where clearly no significant effect on the environment would occur. A lead agency must consider whether a proposed project will result in a significant: (a) direct physical change to the environment; or (b) a significant indirect physical change to the environment. *See* CAL. CODE REGS. tit. 14, § 15064(d). With respect to indirect physical changes, the lead agency must determine whether the incremental impacts from the project are significant when viewed in connection with significant cumulative impacts from other closely related past, present, and reasonably foreseeable probable future project. *See id.* §§ 15064(h)(1) (definition of “cumulatively considerable”) and 15355 (definition of “cumulative impact”). Consequently, where a project applicant revises its project plans to include measures that would avoid or mitigate any direct significant impacts or cumulatively considerable impacts, a mitigated negative declaration is appropriate.

II. CENTRAL VALLEY WILL AVOID, MINIMIZE, AND MITIGATE POTENTIALLY SIGNIFICANT IMPACTS FROM GREENHOUSE GAS EMISSIONS FROM THE PROJECT

The Proponent's Environmental Assessment ("PEA") submitted with the original August 19, 2009, application estimated that the project would emit 26,502 metric tons per year ("mtpy") of carbon dioxide equivalent ("CO₂e"), of which 25,862 mtpy would be emitted from stationary source units at the facility ("Stationary Sources with BACT"). See PEA at 3.3.21. On October 27, 2009, the U.S. Environmental Protection Agency ("USEPA") published a proposed greenhouse gas rule that would set the major stationary source threshold for greenhouse gases ("GHG") at 25,000 short tons per year, or 22,679.62 mtpy. See 74 Fed. Reg. 55,292 (2009). As a result, the project's originally-estimated GHG emissions of 26,502 mtpy may—depending on the effective date of EPA's rule—require that the project obtain a Prevention of Significant Deterioration ("PSD") permit under the federal Clean Air Act, 42 U.S.C. §§ 7401–7671q.

In the context of overall U.S. CO₂e emissions of 7.165 billion mtpy¹ and global CO₂e emissions of some 49.0 billion mtpy², Central Valley's emission of 26,502 mtpy CO₂e is most likely not individually significant in the context of the environmental impact of global climate change. See, e.g., Final Mitigated Negative Declaration at 3.4-13, *In re: Gill Ranch Storage, LLC*, No. A.08-07-032 (Cal. Pub. Util. Comm'n Sep. 2009) ("There would be no direct impacts from the emissions of [5,509 mtpy CO₂e]."). But for purposes of this filing—and in the interest of caution—Central Valley will assume that emissions of any air pollutant that requires a PSD permit are potentially "significant." As a result of EPA's proposed rule, Central Valley developed the following proposals to avoid, minimize, and mitigate potentially significant GHG emission impacts from the project.

¹ See ENVTL. PROT. AGENCY, INVENTORY OF U.S. GREENHOUSE GAS EMISSIONS AND SINKS: 1990–2007 ES-3 (2009).

² See INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE, CLIMATE CHANGE 2007 SYNTHESIS REPORT, SUMMARY FOR POLICYMAKERS 5 (2007).

1. Central Valley will reduce annual CO₂e emissions from the project by 8,087.23 metric tons

In light of EPA's proposed significance level of 22,679.62 mtpy CO₂e, Central Valley completed a detailed review of compressor operations using updated reservoir modeling data from its test well to estimate more closely the amount of horsepower and number of hours of operation actually needed from the natural-gas-fired compressor engines during projected operations on an annual basis. Based upon lower horsepower and hours of operation projections, Central Valley now estimates that CO₂e emissions from all Stationary Sources with BACT will be 17,775 mtpy CO₂e, for total project-wide GHG emissions of 18,415 mtpy—well below the EPA PSD major source threshold of 22,679.62 mtpy.

Central Valley proposes to accept as a mitigation measure a federally-enforceable emission limit in its air quality permit that would functionally cap emissions of CO₂e emissions from the facility at 22,679.00 mtpy. Central Valley would work with the Colusa County Air Pollution Control District to negotiate appropriate Authority to Construct/Permit to Operate conditions that would implement this proposed CO₂e limit on emissions. Consequently, Central Valley respectfully suggests that this emissions avoidance requirement will eliminate the potential significance of direct physical changes from the project.

2. Central Valley will minimize both construction and operations-related CO₂e emissions through the implementation of several GHG-related programs

Central Valley proposes to implement two programs that will minimize CO₂e emissions from construction of the proposed project. The PEA estimated construction emissions at 1,392.4 mtpy CO₂e in 2010 and 3,635.4 mtpy CO₂e in 2011. First, Central Valley proposes to require construction workers to meet at staging areas and be transported in carpools to the jobsites as practicable. Second, Central Valley proposes to minimize unnecessary construction vehicle and equipment idling. Construction foremen

shall include briefing to crews on limiting vehicle idling as a part of a pre-construction conferences. Taken together, these proposed minimization actions will result in lower fuel combustion emissions during construction, and produce related collateral benefits.

Central Valley also proposes to implement two programs that will minimize CO₂e emissions from operation of the project. First, Central Valley proposes to participate in USEPA’s Natural Gas STAR Program. Central Valley will execute a memorandum of understanding (“MOU”) with USEPA prior to initial startup of the compressor station. Within six months after signing the MOU, Central Valley will prepare an implementation plan that includes best management practices identified by the Natural Gas STAR Program for transmission and distribution facilities. The implementation plan will incorporate Partner Reported Opportunities that cost-effectively reduce methane emissions. Within 45 days after completion of one calendar year of participation in the program, Central Valley will submit to the CPUC an annual report documenting the previous year’s emission-reduction activities and corresponding methane emission reductions. Second, Central Valley proposes to conduct a greenhouse gas emissions and facility-wide energy efficiency audit. Although Central Valley has not quantified the potential GHG reductions associated with all of these minimization programs, it has identified the significant emission reductions from Stationary Sources with BACT as a result of changes in compressor operations, as noted in the following chart:

GHG Source	Original Emissions (mtpy CO₂e)	Minimized Emissions (mtpy CO₂e)
On-road	46.57	46.57
Area sources (excluding electricity)	2.65	2.65
Electricity (direct+indirect for water)	0.31	0.31
Stationary sources w/BACT	25,862.39	17,775.15
Blowdown	589.89	589.89
TOTAL	26,501.81	18,414.57

3. Central Valley will mitigate unavoidable, non-minimizable GHG emissions to below levels of potential significance

Despite Central Valley’s avoidance and minimization programs, the proposed project will nevertheless emit certain quantities of GHGs. While such residual emissions do not appear to constitute a significant direct environmental impact, Central Valley has considered whether the emissions may be “cumulatively considerable.” “Cumulatively considerable” means that “the incremental effects of an individual 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.” CAL. CODE REGS. tit. 14, § 15064(h)(1). Both the South Coast Air Quality Management District (“SCAQMD”) and the Bay Area Air Quality Management District (“BAAQMD”) have published policies that consider project-level GHG emissions of less than 10,000 mtpy CO₂e as not cumulatively considerable. *See* SOUTH COAST AIR QUALITY MGMT. DIST., INTERIM CEQA GHG SIGNIFICANCE THRESHOLD FOR STATIONARY SOURCES, RULES AND PLANS 6 (2008) (“SCAQMD Interim Rule”); BAY AREA AIR QUALITY MGMT. DIST., CALIFORNIA ENVIRONMENTAL QUALITY ACT GUIDELINES UPDATE: PROPOSED THRESHOLDS OF SIGNIFICANCE 26 (2009).

Importantly, SCAQMD’s approach allows for GHG emissions *above* 10,000 mtpy CO₂e to be mitigated through the use of GHG offset credits. *See* SCAQMD Interim Rule at 7. This approach is entirely consistent with California’s overall approach to GHG reductions, which is to impose reasonable restrictions on actual emissions of GHGs (*i.e.*, through a “cap” on statewide emissions) while allowing for additional reductions to be voluntarily undertaken at non-capped sources (*i.e.*, through the creation of “offsets”) that may be used by capped sources to comply with their cap-related obligations.³ By considering a cap-and-trade with offsets-based regulatory system, California reflects the

³ *See generally* CALIFORNIA AIR RESOURCES BOARD, PRELIMINARY DRAFT REGULATION FOR A CALIFORNIA CAP-AND-TRADE PROGRAM §§ 95081, 96150–96430 (2009).

basic structure of the Kyoto Protocol, the Climate Action Reserve, the Regional Greenhouse Gas Initiative, and several of the pending federal climate change legislative proposals.⁴ These structures are environmentally sound because GHG emissions do not directly contribute to localized air quality impacts, but only global climate change. As a result, these regulatory structures are indifferent to precisely *where* the GHG emission takes place, only that it credibly takes place. As a result, Central Valley can pay another party to voluntarily reduce their GHG emissions to “offset” the unavoidable and non-minimizable emissions from the Central Valley project.

Central Valley therefore proposes to mitigate GHG emissions from the project in excess of 10,000 mtpy by purchasing and permanently retiring GHG offset credits. More specifically, Central Valley proposes to secure and retire GHG offset credits by March 31 of a given year in a quantity equal to the previous calendar year’s actual GHG emissions from the facility, minus 10,000 mtpy. By way of illustration, if the project actually emits 18,000 mt CO₂e during calendar year 2013, then by March 31, 2014, Central Valley will be required to purchase and retire 8,000 GHG offset credits. Central Valley could purchase GHG offset credits from any or all of the following offset certification standards: American Carbon Registry; Climate Action Reserve; Chicago Climate Exchange; or the Voluntary Carbon Standard. Central Valley would report each year to the CPUC its GHG emissions and the number of GHG offsets purchased and retired to offset project emissions above 10,000 mtpy.

Through these avoid, minimize, and mitigate proposals, Central Valley respectfully suggests that the GHG-related impacts from the proposed project would be insignificant with respect to direct physical changes, and not cumulatively considerable

⁴ Currently, the proposed CARB cap-and-trade program and the federal legislative proposals would apply to the project only at emission levels in excess of 25,000 mtpy. *See id.* § 95830; H.R. 2454, 111th Cong. § 312. To the extent that future federal or state regulations include the project, Central Valley will of course comply with those programs.

from a cumulative impacts perspective, and would support the adoption of a mitigated negative declaration.

III. CENTRAL VALLEY WILL AVOID POTENTIALLY SIGNIFICANT IMPACTS TO PUBLIC SAFETY FROM WELL OPERATIONS

On November 17, 2009, Central Valley responded to Data Request Number Two to address the Individual Risk result of a risk assessment completed by CPUC's contractor, Dudek. In that response, Central Valley stated that the well pad area must be increased to roughly double the size of the original site (*i.e.*, from approximately four acres to at least 7.6 acres) in order to meet the necessary 220-foot set-back criteria of the wellheads to the pad perimeter fence line to avoid the Individual Risk identified in the risk study. The current well pad location is in a cultivated rice field that is considered aquatic habitat for the federal and state-listed giant garter snake. Any enlargement of the site that eliminated aquatic habitat may cause additional environmental impacts and could be counter to the direction of other environmental agencies such as the U.S. Fish & Wildlife Service ("USFWS") and the California Department of Fish & Game ("DFG").

Central Valley has developed another approach that will balance the risk assessment concerns with those of the USFWS and DFG. Central Valley now proposes to develop an "island concept" where the permanent well pad will remain at or near the current pad size, and be located centrally within a larger, securely fenced area. The area between the fence line and the edge of the permanent site will remain unimpacted, and could be planted with suitable vegetation, remain as habitat for protected species, and be maintained as natural wetland. Central Valley would also commit to fencing the active well pad, as needed, depending on the fencing requirements.

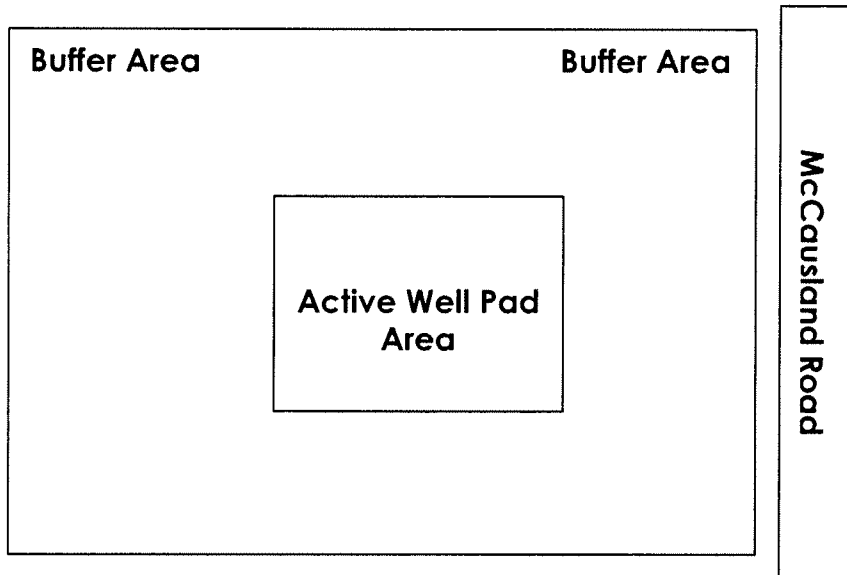


Figure 1: Preliminary Site Layout

This concept would increase the distance from wells in the Active Well Pad Area to the fence on the Buffer Area to a minimum of 220 feet, as recommended by the CPUC Staff. Central Valley believes that this concept will be acceptable to the USFWS and DFG as it relates to conservation of habitat of the giant garter snake, and the approach will also address the setback distances required to meet the risk criteria. Central Valley is preparing a revised site plan that it anticipates submitting to CPUC Staff the week of December 14, 2009.

Through this mitigation proposal, Central Valley respectfully suggests that the individual risk-related impacts from the proposed project would be insignificant, and would support the adoption of a mitigated negative declaration.

IV. CONCLUSION

For the foregoing reasons, Central Valley respectfully requests that the CPUC adopt a mitigated negative declaration under CEQA in these proceedings, and include the mitigation proposals included herein.

Respectfully Submitted,

/s/ CHRISTOPHER A. SCHINDLER

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