

5.10 Land Use and Planning

This section describes the environmental and regulatory setting and discusses impacts associated with the construction and operation of the Sanger Substation Expansion Project (proposed project) proposed by Pacific Gas and Electric Company (PG&E, or the applicant) with respect to land use and planning. The proposed project would not be located in an established community; therefore, impacts relating to division of an established community are not discussed.

As part of the proposed project, the applicant would mount two dishes, each measuring about 4 feet in diameter, on an existing tower at the Fence Meadow Repeater Station in the Sierra National Forest. The installation would not change the current land uses at the existing repeater station and therefore would not conflict with applicable land use plans, policies, or regulations. Additionally, PG&E leases this land from the U.S. Forest Service; per PG&E's Communication Use Lease, this site is to only be used for the construction, operation, maintenance, and termination of a microwave industrial communications facility. The Communications Use Lease for the site and the decision memo from the U.S. Forest Service do not place a limit on the number of microwave dishes at the site. Likewise, it would not divide an established community or conflict with a Habitat Conservation Plan or Natural Community Conservation Plan. Therefore, the antenna system is not discussed further in this section

5.10.1 Environmental Setting

The proposed project site is located in the central portion of Fresno County, 2 miles west of the City of Sanger and 3.5 miles southeast of the City of Fresno. The area is dominated by commercial agricultural uses, including wineries, row crops, and fruit processing plants, which thrive near the junction of several important regional transportation corridors, including State Route 180 and State Route 99 (Figure 4-1). Land use in the project area is predominantly agriculture and existing utility infrastructure. The proposed project would be located on agricultural land currently used to grow row crops. Existing land uses along the proposed reconfigured power line routes are primarily agricultural (i.e., row crops and vineyards). Sanger Substation is also located adjacent to East Jensen Avenue and South McCall Avenue (Figure 4-3).

5.10.2 Regulatory Setting

Federal

Pacific Gas and Electric Company San Joaquin Valley Operations and Maintenance Habitat Conservation Plan

Section 10 of the federal Endangered Species Act allows for issuance of incidental take permits for endangered species to private parties as long as a Habitat Conservation Plan (HCP) is developed and approved. The PG&E San Joaquin Valley Operations and Maintenance HCP, implemented in early 2008, covers routine operation and maintenance activities for PG&E utility systems within nine counties of the San Joaquin Valley, including Fresno County. The HCP establishes clear goals and measures for protecting, managing, and monitoring 23 wildlife and 42 plant species in the San Joaquin Valley area. These species include the San Joaquin kit fox, California red-legged frog, vernal pool fairy shrimp, and western burrowing owl (Jones & Stokes 2006). The proposed project area is within the boundaries of the HCP.

1 **State**

2 **California Land Conservation Act of 1965**

3 The California Land Conservation Act of 1965, commonly referred to as the “Williamson Act,” enables
4 local governments to enter into ongoing, minimum 10-year contracts with private landowners for the
5 purpose of restricting specific parcels of land to agricultural or compatible uses. In return, restricted
6 parcels are assessed for property tax purposes at a rate consistent with their actual uses, farming uses, and
7 open space uses, as opposed to potential market value.
8

9 Government code section 51238.1(a) describes that uses on the land must be consistent with specific
10 compatibility criteria:
11

- 12 1. *The use will not significantly compromise the long-term productive agricultural capability of the*
13 *subject contracted parcel or parcels or on other contracted lands in agricultural preserves.*
- 14 2. *The use will not significantly displace or impair current or reasonably foreseeable agricultural*
15 *operations on the subject contracted parcel or parcels or on other contracted lands in*
16 *agricultural preserves. Uses that significantly displace agricultural operations on the subject*
17 *contracted parcel or parcels may be deemed compatible if they relate directly to the production*
18 *of commercial agricultural products on the subject contracted parcel or parcels or neighboring*
19 *lands, including activities such as harvesting, processing, or shipping.*
- 20 3. *The use will not result in the significant removal of adjacent contracted land from agricultural or*
21 *open-space use. In evaluating compatibility a board or council shall consider the impacts on*
22 *noncontracted lands in the agricultural preserve or preserves.*
23

24 **Local**

25 The CPUC’s General Order 131-D, section XIV.B, states that “Local jurisdictions acting pursuant to local
26 authority are preempted from regulating electric power line projects, distribution lines, substations, or
27 electric facilities constructed by public utilities subject to the Commission’s jurisdiction. However, in
28 locating such projects, the public utilities shall consult with local agencies regarding land use matters.”
29 The CPUC expects PG&E to work collaboratively to address local agencies’ concerns. PG&E would need
30 to obtain all ministerial building and encroachment permits from Fresno County. PG&E is not required to
31 obtain local discretionary permits because the CPUC’s jurisdiction over PG&E preempts local
32 jurisdiction. Article XII, Section 8 of the California Constitution states that “[a] city, county, or other
33 public body may not regulate matters over which the Legislature grants regulatory power to the [CPUC].
34 Thus, under the constitution, as to matters over which the [C]PUC has been granted regulatory power, the
35 [C]PUC’s jurisdiction is exclusive.”¹
36

37 **Fresno County General Plan**

38 The Fresno County General Plan provides policy direction for land development in unincorporated Fresno
39 County. The following policies from the Fresno County General Plan are relevant to the proposed project:
40

- 41 • **Policy LU-A.1:** *The County shall maintain agriculturally-designated areas for agriculture use*
42 *and shall direct urban growth away from valuable agricultural lands to cities, unincorporated*
43 *communities, and other areas planned for such development where public facilities and*
44 *infrastructure are available*

¹ *Southern California Gas Co. v. City of Vernon*, 41 Cal App. 4th 209, 215 (1995) (internal quotation marks omitted).

- 1 • **Policy PF-C.3:** *To reduce demand on the county’s groundwater resources, the County shall*
2 *encourage the use of surface water to the maximum extent feasible.*
- 3 • **Policy PF-E.16/Policy OS-A.25:** *The County shall minimize sedimentation and erosion through*
4 *control of grading, cutting of trees, removal of vegetation, placement of roads and bridges, and*
5 *use of off-road vehicles. The County shall discourage grading activities during the rainy season,*
6 *unless adequately mitigated, to avoid sedimentation of creeks and damage to riparian habitat.*
- 7 • **Policy PF-J.1:** *Encourage the provision of adequate gas and electric, communications, and*
8 *telecommunications service and facilities to serve existing and future needs.*
- 9 • **Policy PF-J.2:** *Work with local gas and electric utility companies to design and locate*
10 *appropriate expansion of gas and electric systems, while minimizing impacts to agriculture and*
11 *minimizing noise, electromagnetic, visual, and other impacts on existing and future residents.*
- 12 • **Policy HS-G.1:** *Require that all proposed development incorporate design elements necessary to*
13 *minimize adverse noise impacts on surrounding land uses.*
- 14 • **Policy HS-G.6:** *Regulate construction-related noise to reduce impacts on adjacent uses in*
15 *accordance with the County’s Noise Control Ordinance.*
- 16 • **Policy OS-E.2:** *The County shall require adequate buffer zones between construction activities*
17 *and significant wildlife resources, including both onsite habitats that are purposely avoided and*
18 *significant habitats that are adjacent to the project site, in order to avoid the degradation and*
19 *disruption of critical life cycle activities such as breeding and feeding. The width of the buffer*
20 *zone should vary depending on the location, species, etc. A final determination shall be made*
21 *based on informal consultation with the U.S. Fish and Wildlife Service and/or the California*
22 *Department of Fish and [Wildlife].*

23
24 The entire project area—including the substation expansion area, power line reconfiguration area,
25 telecommunication line routes, access roads, and laydown areas—is located on land classified as
26 Agriculture in the Fresno County General Plan. This designation provides for the production of crops and
27 livestock, as well as the location of necessary agriculture commercial centers, agricultural processing
28 facilities, and certain nonagricultural activities such as electrical substations subject to criteria listed in
29 General Plan Policy LU-A.3. Criteria include preclusion of siting on productive agricultural land if there
30 is less productive land nearby and requiring that the use provide a needed service to the surrounding
31 agricultural area that cannot be provided more efficiently in an urban area or that has to be located in a
32 non-urban area due to unusual operational characteristics (Fresno County 2000).

33 34 **Fresno County Zoning Ordinance**

35 The zoning designation for the entire project area is Exclusive Agricultural (AE) District, 20-acre
36 minimum lot size (AE-20) lands. Per Fresno County Ordinance Code § 816, the AE District is intended to
37 protect the general welfare of the agricultural community from encroachments of nonrelated agricultural
38 uses that would be injurious to the physical and economic well-being of the agricultural district. Pursuant
39 to Section 816.2-D, electrical transmission and distribution substations are permitted uses within the AE
40 District, subject to approval of a conditional use permit by the Fresno County Director of Public Works
41 and Planning. As previously discussed, the proposed project would not be subject to local discretionary
42 regulations due to the CPUC’s exclusive jurisdiction over electric transmission facilities in the State of
43 California, pursuant to CPUC General Order No. 131-D (CPUC 1995).

1 **5.10.3 Environmental Impacts and Assessment**

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3 **Applicant Proposed Measures**

4 The applicant has not incorporated applicant proposed measures (APMs) into the proposed project to
5 specifically minimize or avoid impacts on land use. A list of all project APMs is included in Table 4-5.

6
7 **Impacts on Land Use**

8 Table 5.10-1 includes the significance criteria from Appendix G of the California Environmental Quality
9 Act Guidelines' land use section to evaluate the environmental impacts of the proposed project.

10 The proposed project would not be located in an established community; therefore, impacts relating to
11 division of an established community under criterion (a) are not discussed.

12 **Table 5.10-1 Land Use and Planning Checklist**

Would the project:	Potentially Significant Impact	Less Than Significant with Mitigation Incorporation	Less Than Significant Impact	No Impact
a. Physically divide an established community?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
b. Conflict with any applicable land use plans, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Conflict with any applicable habitat conservation plan or natural community conservation plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

13
14 ***b. Would the project conflict with any applicable land use plan, policy, or regulation of an agency***
15 ***with jurisdiction over the project (including, but not limited to the general plan, specific plan, local***
16 ***coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an***
17 ***environmental effect?***

18
19 ***NO IMPACT***

20
21 As explained above, the CPUC has preemptive jurisdiction over the siting and design of the proposed
22 project. Thus, although the proposed project would be located in Fresno County, the County does not
23 have land use jurisdiction over the project and none of the County's land use plans, policies, or
24 regulations apply to the proposed project. Therefore, the proposed project would not conflict with any
25 applicable land use plans, policy, or regulation of an agency with jurisdiction over the project.

26
27 Nevertheless, this analysis describes and addresses the project's consistency with land use plans, policies,
28 and regulations that pertain to the proposed project areas to determine if inconsistency would result in an
29 environmental impact. As explained in Table 5.10-2, the proposed project may be inconsistent with a
30 number of Fresno County General Plan policies, goals, objectives, and ordinances. However, in all of
31 these instances, the inconsistency either would not result in a physical impact on the environment, or the
32 potential physical impact associated with the inconsistency is already analyzed and addressed in this
33 MND in the specific resource area analysis. Table 5.10-2 does not address General Plan Policy LU-A.3,
34 which lists criteria for approving a use such as an electrical substation in agricultural areas, because the
35 proposed project does not involve a new use, as it consists of expansion of an existing electrical

1 substation facility. Furthermore, the CPUC ultimately has preemptive jurisdiction over the criteria listed
 2 under General Plan Policy LU-A.3 and would not need a discretionary permit from the County for the
 3 proposed project.
 4

Table 5.10-2 Sanger Substation Expansion Project Conformity with Plans, Policies, and Regulations Related to Land Use and Planning

Plan, Policy, or Regulation	Consistency Analysis
<i>Fresno County General Plan Policy LU-A.1:</i> The County shall maintain agriculturally-designated areas for agriculture use and shall direct urban growth away from valuable agricultural lands to cities, unincorporated communities, and other areas planned for such development where public facilities and infrastructure are available	Land use in the proposed project area is predominantly agriculture and existing utility infrastructure. The proposed project area would be located on agricultural land currently used to grow row crops. Existing land uses along the proposed reconfigured power line routes include primarily agricultural uses (i.e., row crops and vineyards). The proposed project would result in conversion of agricultural land to non-agricultural use (see Section 5.2, "Agriculture and Forest Resources"). The proposed project would involve expansion of an existing substation such that it utilizes existing infrastructure. However, the proposed project would result in a net loss of 7.2 acres of land to non-agricultural use, which would likely be inconsistent with Policy LU-A.1. This conflict itself would not, however, result in a physical environmental impact. For a complete analysis of agricultural land conversion impacts, refer to Section 5.2, "Agriculture and Forest Resources."
<i>Fresno County General Plan Policy PF-C.3:</i> To reduce demand on the county's groundwater resources, the County shall encourage the use of surface water to the maximum extent feasible.	The proposed project would utilize groundwater during construction for dust suppression. However, use during construction would be less than the current amount used to irrigate the substation expansion area. Therefore, construction and operation of the proposed project would reduce demand on groundwater resources. There would be no conflict with Policy PF-C.3
<i>Fresno County General Plan Policy PF-E.16/Policy OS-A.25:</i> The County shall minimize sedimentation and erosion through control of grading, cutting of trees, removal of vegetation, placement of roads and bridges, and use of off-road vehicles. The County shall discourage grading activities during the rainy season, unless adequately mitigated, to avoid sedimentation of creeks and damage to riparian habitat.	Ground disturbance during construction of the proposed project could cause erosion and sedimentation, particularly during the rainy season. This would likely be inconsistent with the policy of minimizing these environmental effects. The conflict itself would not, however, result in a physical environmental impact. For a complete analysis of sedimentation and erosion impacts, refer to Section 5.6, "Geology and Soils," and Section 5.9, "Hydrology and Water Quality."
<i>Fresno County General Plan Policy PF-J.1:</i> Encourage the provision of adequate gas and electric, communications, and telecommunications service and facilities to serve existing and future needs	The proposed project would improve the electric reliability to the surrounding agricultural area and is designed to accommodate potential future widening of South McCall Avenue. The proposed project would not conflict with Policy PF-J.1.
<i>Fresno County General Plan Policy PF-J.2:</i> Work with local gas and electric utility companies to design and locate appropriate expansion of gas and electric systems, while minimizing impacts to agriculture and minimizing noise, electromagnetic, visual, and other impacts on existing and future residents.	The proposed project would have impacts on agriculture, noise, aesthetics, and other environmental resource areas as discussed in Chapter 5. This Initial Study outlines mitigation measures and APMs that would reduce any significant impacts. The proposed project therefore would not conflict with Policy PF-J.2.

Table 5.10-2 Sanger Substation Expansion Project Conformity with Plans, Policies, and Regulations Related to Land Use and Planning

Plan, Policy, or Regulation	Consistency Analysis
<i>Fresno County General Plan Policy HS-G.1: Require that all proposed development incorporate design elements necessary to minimize adverse noise impacts on surrounding land uses.</i>	<p>Construction of the proposed project would result in increased noise levels for certain nearby sensitive receptors, as described in Chapter 5.12, "Noise," which would likely be inconsistent with Policy HS-G.1 PG&E has committed to implementation of APMs that would minimize noise impacts, as described in Section 5.12. There would be no conflict during construction of the proposed project. As described in Chapter 5.12, "Noise," operation and maintenance of the proposed project would not be different than current operations. There would be no noise impact and therefore no conflict during operation and maintenance.</p> <p>For a complete analysis of noise impacts, refer to Section 5.12, "Noise."</p>
<i>Fresno County General Plan Policy HS-G.6: Regulate construction-related noise to reduce impacts on adjacent uses in accordance with the County's Noise Control Ordinance.</i>	<p>Construction that would occur outside of allowed hours in the Fresno County Noise Control Ordinance would likely be inconsistent with this policy; <u>however, Section 8.40.060 (G) of the ordinance also exempts work performed by utilities in the modification of its facilities, which would cover night-time work required for substation modifications or structure replacement activities.</u> As described in Chapter 5.12, "Noise," PG&E would implement an APM to comply with the ordinance, except when night work is needed. Night work would not generate very loud noise since it would involve work such as testing. There would be no conflict with Policy HS-G.6 to reduce construction noise impacts on adjacent land uses.</p> <p>For a complete analysis of noise impacts, refer to Section 5.12, "Noise."</p>
<i>Fresno County Zoning Ordinance Code §816.2-D</i>	<p>The proposed project area is zoned as AE-20, which provides for exclusive agricultural use on a minimum of 20 acres, per Fresno County Ordinance Code § 816.2. Although the AE zoning designation is intended to protect the general welfare of the agricultural community from encroachments of non-related agricultural uses, Section 816.2-D of the Fresno County Ordinance Code states that electrical transmission substations and electric distribution substations are permitted as a conditional use in the AE zone. Such use is permitted if certain requirements are met and with the issuance of a conditional use permit. Additionally, the substation expansion area would occupy only 7 acres of the adjacent 112.5-acre parcel, leaving the 105.5-acre balance of the parcel available for continued agricultural use, and no changes in the land use designation or zoning of the property would be required. There would be no conflict.</p>
<i>Fresno County General Plan Policy OS-E.2: The County shall require adequate buffer zones between construction activities and significant wildlife resources, including both onsite habitats that are purposely avoided and significant habitats that are adjacent to the project site, in order to avoid the degradation and disruption of critical life cycle activities such as breeding and feeding. The width of the buffer zone should vary depending on the location, species, etc. A final determination shall be made based on informal consultation with the U.S. Fish</i>	<p>Nesting birds have been sighted at the existing substation and in the proposed project area. There is also habitat for San Joaquin kit fox. Construction work could occur close enough to these species to disrupt breeding and feeding, which would likely be inconsistent with Policy OS-E.2. MM BIO-2, MM BIO-3, MM BIO-4, MM BIO-5, MM BIO-6, and MM BIO-7 outline buffer requirements for avoiding construction impacts to these species. There would be no conflict after implementation of mitigation.</p> <p>For a complete analysis of impacts to biological resources, refer to</p>

Table 5.10-2 Sanger Substation Expansion Project Conformity with Plans, Policies, and Regulations Related to Land Use and Planning

Plan, Policy, or Regulation	Consistency Analysis
and Wildlife Service and/or the California Department of Fish and [Wildlife].	Section 5.4, "Biological Resources."

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c. Would the project conflict with any applicable habitat conservation plan or natural community conservation plan?

NO IMPACT

Refer to Section 5.4, "Biological Resources," for further discussion of proposed project compliance with the PG&E San Joaquin Valley Operations and Maintenance HCP. There would be no conflict with the HCP, and therefore there would be no impact.

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