

Letter O6

KJELDSSEN, SINNOCK & NEUDECK, INC.

CONSULTING ENGINEERS & LAND SURVEYORS

KENNETH L. KJELDSSEN
STEPHEN K. SINNOCK
CHRISTOPHER H. NEUDECK

711 NORTH PERSHING AVENUE
POST OFFICE BOX 844
STOCKTON, CALIFORNIA 95201-0844

TELEPHONE 946-0268
FAX NO. 946-0296
AREA CODE 209

675-056

November 8, 1999

Ms. Judith Iklé
CPUC Project Manager
c/o Public Affairs Management
101 The Embarcadero, Suite 210
San Francisco, CA 94105

Re: Draft Environmental Impact Report, Lodi Gas Storage Project

Dear Ms. Iklé:

On behalf of Reclamation District No. 563, Tyler Island, the following list of comments to the Lodi Gas Storage Project Draft Environmental Impact Report is being submitted for your review and consideration.

Figure ES-3 & Section 2.5, "Project Alternatives"

Reclamation District No. 563 firmly recommends that the proposed project be located along the Public Right-Of-Way Alternative, as illustrated in Figure ES-3 and discussed in section 2.5.1. [page 2-47 through 2-51]

The Public Right-Of-Way Alternative provides the least number of impacts to Delta levees, infrastructure (i.e. drainage and pumping facilities) and agricultural operations. The preferred alternative could have significant long term impacts to proposed CALFED projects, such as setback levees and permanent flooding, as well as long term impacts to agricultural production and land values from problems associated with the pipeline crossing through prime agricultural land. Mitigation measures included in the EIR do not fully address problems with depth of pipeline, long term problems associated with subsidence, the ability of the landowner to develop other permanent crops or residences that are allowed under current land use and planning regulations. The Reclamation Districts are effected by impacts to agricultural land values as they are the basis from which the Reclamation Districts formulate assessments to fund operations. It is for the above reasons the District favors the Public Right-Of-Way Alternative.

O6-1

Section 2.6.3, "Local Permits and Entitlements" [page 2-63]

Project approval authority of the Reclamation Districts is not recognized in the Draft EIR.

The Board of Trustees for the Reclamation District have authority to approve or disapprove any project or activity that is considered an encroachment to a District levee or facility pursuant to State of California Water Code Section 50652.

O6-2

Impact 3.3-2, "Location of Project Facilities on a Geological Unit or Soil that is Unstable, Potentially Resulting in Exposure of the Pipeline to Loss of Support and Damage" [page 3.3-9]

This section needs to address the depth of pipelines under Reclamation District drainage facilities including but not limited to field drainage ditches and main drainage canals. Pipelines located under these facilities must be installed deep enough to allow for the safe excavation of material from the bottom of the drainage facility. Furthermore, the subsidence of the interior of the island must be considered, as future deepening of the drainage facilities may be required to allow for proper drainage of the adjacent lands.

O6-3

Mitigation Measure 3.3-1 [page 3.3-10]

The Board of Trustees for the Reclamation District have authority to approve or disapprove any project or activity that is considered an encroachment to a District levee or facility pursuant to State of California Water Code Section 50652.

Section 3.4-1, "Hydrology"

"Delta Levee System" [page 3.4-9]

Section 3.4.4, "Impacts of the Proposed Project and Mitigation Measures"

Impact 3.4-6 "Potential to Expose Structures to a Significant Risk of Loss Involving Flooding Related to Delta Island Flooding" [page 3.4-23]

Hydrodynamic forces & fracturing issues relative to directional borings under Delta levees as well as issues involving the proper investigations and construction techniques for the pipeline were presented to Lodi Gas Storage (LGS) representatives by the District's Engineer, Kjeldsen, Sinnock & Neudeck, Inc. (KSN).

O6-4

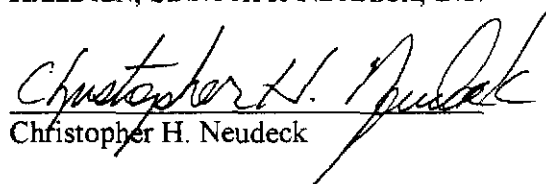
Consultants to LGS have met with KSN and District representatives and discussed, in detail, the issues brought forth earlier by KSN. It is the District's intention to see that these issues are fully addressed during the course of the pipeline design and construction.

Page 3
November 8, 1999

Please call me if you should have any questions or require further information.

Sincerely,

KJELDEN, SINNOCK & NEUDECK, INC.


Christopher H. Neudeck

cc: Reclamation District No. 563

Responses to Comments from Kjeldsen, Sinnock & Neudeck, Inc.—Christopher H. Neudeck

- O6-1. The comment concerns the recommendation by Reclamation District No. 563 that the proposed project be located along the Public Right-of-Way Alternative. As presented in Table ES-2 in the draft EIR, the commenter correctly notes that the Public Right-of-Way Alternative would affect the least amount of agricultural land of any of the alternatives considered and would reduce the number of water crossings to seven as compared to eight for the Existing Pipeline Corridor Alternative or the Composite Route Alternative (preferred alternative).

The commenter contends that the preferred alternative would have significant impacts with proposed CALFED projects and the long-term agricultural production of land in the area, and that these impacts are not fully considered in the draft EIR. As discussed in Section 3.1, “Land Use, Planning, and Agricultural Resources”, CALFED’s concepts for levee modification, levee setbacks, and channel dredging have not been developed in sufficient detail to analyze the proposed project’s consistency with these plans. Recent consultation with CALFED regarding the status of their planning effort, indicate that no specific detailed plans have been developed at this time which would preclude construction of the proposed project or project alternatives. This section also analyzes in detail the potential of the project and project alternatives to result in temporary and permanent loss of agricultural productivity. Mitigation measures are identified to reduce conflicts with agricultural operations and to provide for future agricultural operations, including the conversion of non-vineyard land to wine-grape production. Mitigation Measure 3.1-2 requires that the pipeline be buried at a depth of 8 feet in lands that are suitable for grape production, but that have not been previously deep-ripped. This mitigation measure has been revised to include depth requirements beneath irrigation and drainage ditches and is presented in Chapter 3, “Revisions to the Draft EIR”, of this final EIR.

- O6-2. Table 2-2, which was inadvertently omitted from the draft EIR, is reprinted in Chapter 3, “Revisions to the Draft EIR”. Table 2-2 contains a description of Reclamation District approval authority.
- O6-3. The analysis in Section 3.3 of the draft EIR assumed that intra-island drainage ditches and canals are necessary to continue current agricultural practices. Mitigation Measure 3.3-1 has been revised to include the burial of the pipeline 2 feet below the bottom of irrigation and drainage ditches to allow for the maintenance of these facilities. The revised text of this mitigation measure is presented in Chapter 3, “Revisions to the Draft EIR”, of this final EIR. If the Applicant believes that burying is infeasible, LGS may negotiate with the respective reclamation/drainage districts to provide alternative methods (i.e., siphons, additional pump stations) to provide drainage.
- O6-4. The CPUC expects the Applicant to fully address these issues in order to obtain leases from the CSLC, encroachment permits from the Reclamation Board, and approvals from the local

reclamation districts. The studies have not yet been completed because it is not known which alternative alignment, if any, will be ultimately approved by the CPUC.

Letter O7

LUM BUNN SONS

P. O. BOX 497
WALNUT GROVE, CA 95690
USA

Phone 916-776-1152
Fax 916-776-1686
Home Phone 916-776-1686

October 17, 1999

STATE OF CALIFORNIA
PUBLIC UTILITIES COMMISSION
JUDITH C. IKLE'
505 VAN NESS AVE, ROOM 4007
SAN FRANCISCO, CA 9102

DEAR JUDITH:

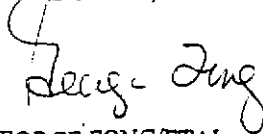
RE: COMMENTS ON DRAFT EIR

IN OUR DISPUTE WITH P. G. & E AS TO THE RESPONSIBILITY AND LIABILITY OF KEEPING HIGH PRESSURE GAS LINE # 196 AT ITS PROPER DEPTH AND SAFETY, I AM FORWARDING THREE LETTERS FOR YOUR VIEWING.

IN OUR 600 ACRES BLOCK OF LAND, WE HAVE FIVE DITCHES DRAINING INTO BROAD SLOUGH TO WHICH WATER FLOWS SOUTH TO THE NORTH. P. G. & E #196 IS EXPOSED CROSSING OUR DRAIN DITCHES RESTRICTING FLOW SOMEWHAT AND HAZARDOUS BEING SHALLOW THROUGH LAND SUBSIDENCE DUE TO HIGHLY ORGANIC PEAT SOIL. ACCORDING TO THE LETTERS FROM P. G. & E WE ARE HELD HELD LIABLE FOR DAMAGES TO PIPELINE TO WHICH IT HAD BEEN IN GROUND FOR 59 YEARS BY VIRTUE OF EASEMENT FROM PRIOR OWNER. DEPTH AND FUTURE MAINTENANCE OF PIPELINE NEEDS TO BE ADDRESS.

LODI GAS STORAGE PROPOSES TO RUN ANOTHER GAS LINE DIAGONALLY ACROSS THE 600 ACRES. I FAVOR ROUTING PIPELINE THROUGH EXISTING PIPELINE CORRIDOR IF PUC APPROVES PROJECT.

YOURS TRULY,


GEORGE FONG/ETAL
DBA/ LUM BUNN SONS

ENC. 3

O7-1

Attachment to Letter O7

Building and Land Services

August 31, 1999

Mr. Henry Fong
P. O. Box 497
Walnut Grove, CA 95690



Re: Agricultural Activities Over Natural Gas Pipeline # 196

Dear Mr. Fong:


This letter is to follow through with my letter of June 2, 1999, and to inform you of PG&E's proposed work on its gas pipeline that PG&E was unable to perform as a result of your irrigation of the field involved.

On September 13th and 14th, PG&E is planning to dig up its pipe at several locations to assess the exact cause and extent of damage and to determine what repairs or action that needs to occur to protect the pipeline. Mr. George Dana will be directing this work. He can be contacting at (707) 374-7043. You are invited to observe damages caused by farming activities. PG&E will expect reimbursement for costs incurred to repair the damages.

Once again, we will be looking for a long term solution to protect the pipeline so that farming activities can continue and that damage to the pipeline will not occur. Solutions could include adding dirt over the pipe, concrete encasing the pipe, lowering the pipe or not farming over the pipe or a combination of these depending on the depth of the pipe. PG&E will also expect reimbursement of costs incurred to provide a long term solution to this problem.

If you have any questions, please contact me at (530) 889-3160.

Sincerely,


Lou A. Norton
Land Agent

June 2, 1999

Mr. Henry Fong
P. O. Box 497
Walnut Grove, CA 95690



Re: Agricultural Activities Over Natural Gas Pipeline # 196

Dear Mr. Fong:

This letter is to follow through with my letter of December 22, 1998, and to inform you of PG&E's proposed work on its gas pipeline.

In the later part of June or early July, PG&E is planning to dig up its pipe at several locations to assess the exact cause and extent of damage and to determine what repairs or action that needs to occur to protect the pipeline. Mr. George Dana will be directing this work. He can be contacting at (707) 374-7043. You will be informed of the exact dates when this work is scheduled and invite you to observe damages caused by farming activities. PG&E will expect reimbursement for costs incurred to repair the damages.

In addition, we will be looking for a long term solution to protect the pipeline so that farming activities can continue and that damage to the pipeline will not occur. Solutions could include adding dirt over the pipe, concrete encasing the pipe, lowering the pipe or not farming over the pipe or a combination of these depending on the depth of the pipe. PG&E will also expect reimbursement of costs incurred to provide a long term solution to this problem.

If you have any questions, please contact me at (530) 889-3160.

Sincerely,

A handwritten signature in cursive script that reads 'Lou A. Norton'.

Lou A. Norton
Land Agent

December 22, 1998

Mr. Henry Fong
P. O. Box 497
Walnut Grove, CA 95690



Re: Agricultural Activities Over Natural Gas Pipeline # 196

Dear Mr. Fong:

PG&E owns and operates Line 196, a high-pressure natural gas pipeline, which traverses your property designated as Assessor's Parcel Numbers 156-060-07 & 19. The approximate location of the pipeline is shown in red on the attached Assessor's map.

This pipeline was installed in 1940 by virtue of an easement granted by Tyler Island Farms recorded in Book 854 at page 236, Sacramento County Official Records. I have enclosed a copy for you.

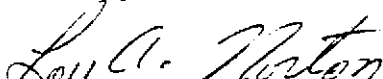
Recent inspections have shown that the original ground cover over the pipeline has been reduced and that there is possible damage to the pipe. Further investigation is planned in the spring to assess the exact cause and extent of damage and to determine what repairs or action that needs to occur to protect the pipeline.

With this letter, PG&E insists that you cease all farming activities over the pipeline and within PG&E's easement that can further reduce the ground cover or cause damage to the pipeline. In addition, we expect you to work with PG&E on restoring sufficient ground cover as determined by PG&E.

For all other operations over the pipeline, contact Underground Service Alert (USA) at 1-800-642-2444 so that the pipeline can be located in the field. For all activities this contact is required. Also, please coordinate your activities with Mr. Bill Wallace, the Rio Vista Superintendent, at 707-374-7040 to allow PG&E to review and monitor your activities near the pipe sections which cause concern. I have enclosed information regarding the California One Dig Law along with stickers for your equipment.

If you have any questions, please contact me at (530) 889-3160.

Sincerely,


Lou A. Norton
Land Agent

- O7-1. Impact 3.3-2 on pages 3.3-9 to 3.3-11 of the draft EIR describes ground subsidence and mitigation measures to ensure that the pipeline remains buried at a safe depth. While CPUC understands concerns regarding the existing pipelines, they are related to an easement agreement that is not part of this project. Mitigation Measure 3.1-1 has been revised to include the burial of the pipeline 2 feet below the bottom of irrigation and drainage ditches to allow for the maintenance of these facilities. The revised text of this mitigation measure is presented in Chapter 3, “Revisions to the Draft EIR”, of this final EIR. Mitigation Measure 3.3-1 requires that the Applicant re-bury or use other CPUC approved methods that do not interfere with agricultural practices, to maintain the minimum required cover.

**Madison &
Sutro LLP**

ATTORNEYS AT LAW
235 MONTGOMERY STREET
SAN FRANCISCO, CALIFORNIA 94104
MAILING ADDRESS: P. O. BOX 7880
SAN FRANCISCO, CA 94120-7880
TELEPHONE: (415) 983-1000 FAX: (415) 983-1200
Internet: pillsburylaw.com

Writer's direct dial number / email:
(415) 983-6185
spence_ae@pillsburylaw.com

November 11, 1999

VIA MESSENGER

Ms. Judith Iklé
California Public Utilities Commission
Environmental Project Manager
c/o Public Affairs Management
101 The Embarcadero, Suite 210
San Francisco, CA 94105

RE: Comments of Pacific Realty Associates, L.P., on Draft Environmental Impact Report - Application of Lodi Gas Storage, LLC for Certificate of Public Convenience and Necessity for Construction and Operation of Gas Storage Facilities – Application 98-11-012

Dear Ms. Iklé:

Pursuant to the September 27, 1999 Ruling of Administrative Law Judge Econome, Pacific Realty Associates, L.P. ("PRA"), hereby submits its formal, written comments on the draft Environmental Impact Report ("EIR") in the above-referenced proceeding. PRA has entered its appearance in this case and participated in the evidentiary hearing on the Certificate of Public Convenience and Necessity. James M. Shanks testified for PRA at the evidentiary hearing and also spoke at the second Public Participation Hearing ("PPH") conducted in Lodi, California, on October 19, 1999. Sally E. Shanks, the wife of Mr. Shanks, also spoke at the second PPH. Mr. Shanks is the Ranch Manager of the M&T Staten Ranch ("M&T Ranch") which is owned by PRA. The M&T Ranch occupies the entirety of Staten Island across which the project proponent, Lodi Gas Storage, LLC ("LGS"), proposes to locate approximately two miles of its natural gas transmission pipeline. Mr. Shanks has worked at the M&T Ranch for almost 50 years and has served as Ranch Manager for more than 20 years. Mrs. Shanks is the environmental coordinator for M&T Ranch and has assisted in developing M&T Ranch as a wildlife sanctuary and ornithological research facility during hibernal avian migration. The dual

usage of M&T Ranch for agricultural and wildlife conservation purposes has been nationally recognized.

BACKGROUND

Staten Island is located in the Sacramento River Delta ("Delta") between the north and south forks of the Mokelumne River. In addition to being occupied by M&T Ranch, Staten Island is also co-extensive with Reclamation District 38, which has responsibility for maintaining its levees. Staten Island is currently partially flooded each year for use as a sanctuary roost and forage area for migratory resources. PRA understands that CALFED, an association of state and federal agencies with management and regulatory responsibility in the Delta, is currently studying the construction of two weirs, or cofferdams, in the levees around Staten Island to use Staten Island as an emergency spillway to alleviate spring flood conditions on the lower Mokelumne River.

Staten Island, like other islands in the Delta, consists predominantly of heavy peat soil which is rich in nutrients for agricultural uses, but which is flammable. Peat fires smoulder and, unless extraordinary efforts are made, can burn for years adding combustion products to the air. During the dry season, peat soils are subject to wind borne erosion. Subsidence of the land in the Delta, including Staten Island, is another well-known problem that is being studied by a number of agencies.

M&T Ranch currently raises corn, wheat and tomatoes on Staten Island. Crops no longer raised on Staten Island, but which might be raised in the future, include asparagus, alfalfa, sugar beets, safflower and peppers. M&T Ranch is currently considering planting some acreage with wine grapes.

At present, Staten Island is crossed by two natural gas pipelines owned by Pacific Gas and Electric Company ("PG&E"). The first of these pipelines was installed in 1940 under the threat of eminent domain exercisable under the War Powers Act (50 U.S.C. App. § 601 et seq.). At that time there was no recognition of environmental considerations. The PG&E pipelines have been a continual source of trouble to the farmers in the Delta, including M&T Ranch. On Staten Island, as a result of erosion, oxidation, subsidence of the land and buoyancy of the pipelines, the pipelines have risen on more than one occasion and have been struck with farm equipment while insufficiently covered (Testimony of James M. Shanks ("Shanks Testimony"), p. 3; Tr., p. 27, lines 6-9).

With this background, PRA finds the draft EIR in this proceeding to be deficient in its consideration of the alternative routes for the proposed natural gas pipeline and in its proposed mitigation measures for the routes considered for the reasons discussed below.¹

¹ The draft EIR sets forth the regulatory requirements of the Office of Pipeline Safety of the U.S. Department of Transportation applicable to interstate pipelines, but does not explicitly state that those regulations would apply to the LGS pipeline which begins and ends in California (EIR, p. 2-10).

DISCUSSION

The superior route for the natural gas transmission pipeline is the route along public right-of-ways ("ROWs") that would by-pass Delta islands to the maximum possible extent.

The draft EIR presents four possible routes for the proposed natural gas transmission pipeline: (1) the originally proposed route ("Original Route"); (2) a route which parallels the existing PG&E pipelines ("Existing Pipeline Corridor Alternative"); (3) a route which follows public ROWs, including Highway 12 ("Public ROW Route Alternative"); and (4) a route which follows public ROWs from the storage facility and then parallels the PG&E pipelines, excluding Highway 12 ("Composite Route Alternative") (EIR, pp. ES-8 and ES-9, 2-47 through 2-60).

For reasons that are never made evident in the draft EIR, the Composite Route Alternative is labeled the "preferred" route and the environmentally superior alternative (EIR, p. ES-9). PRA's review of the draft EIR suggests that while there is no substantial difference among the routes in terms of length or cost, the Public ROW Route Alternative actually bests the "preferred alternative" in being proximate to fewer residences, affecting fewer driveways, affecting fewer acres of vineyard, affecting fewer acres of other cropland, and affecting fewer trees (EIR, Table ES-2).²

In addition, and not sufficiently explored in the draft EIR, the Public ROW Route Alternative would also by-pass most of the Delta islands, including Staten Island, and would offer the following definite advantages to the other three alternatives:

- minimization of disruption to agriculture
- minimization of disturbance to wildlife
- superior access for construction, inspection, repair and removal
- superior access in case of emergency, including fire

With respect to minimization of disruption to agriculture, locating the proposed LGS pipeline along public ROWs would not create an impediment or hazard in the center of agricultural fields. In contrast, locating such a pipeline in the center, rather than the edge, of a field would impose extra costs on the farmer during planting, harvesting and irrigation of the field unless the pipeline is buried so deeply that it cannot interfere with any current or future agricultural practice. Even if a pipeline through the center of a field were buried sufficiently, construction and maintenance of such a pipeline would interfere with agriculture. Since a pipeline could not be installed through the center of fields or repaired when the fields are flooded, construction and repair of such a pipeline would have to occur during planting, growing or harvest.

² PRA also notes that the Composite Route Alternative and the Existing Pipeline Corridor Alternative run next to Interstate Highway 5, a heavily trafficked thoroughfare, for a portion of their routes, while the Public ROW Route Alternative runs next to State Highway 12. All of the routes must cross Interstate Highway 5 at some point.

With respect to minimization of disturbance to wildlife, unlike Delta islands, public ROWs are not used as wildlife sanctuaries or flooded as waterfowl habitat. Depending on timing, the construction, inspection and repair of a pipeline run through the center of the Delta agricultural landscape would be very disruptive to waterfowl, especially those waterfowl identified in the California Environmental Quality Act ("CEQA") as more sensitive to human disturbance.

O8-2

There can be no doubt that the Public ROW Route Alternative gives superior access to the pipeline for all purposes at all times and involves the least disruption to agriculture and wildlife in the Delta. The access provided by public ROWs facilitates construction and inspection, lowering costs for both the project proponent and the farmer. Water crossings and interference with levee alterations are also minimized by following public ROWs (see Tr., pp. 360-361, lines 23-5).

(cont'd)

The draft EIR is deficient in labeling the Composite Route Alternative as the "preferred" route since the advantages of the Public ROW Route Alternative and corresponding disadvantages of the Composite Route Alternative discussed above are not thoroughly explored in the draft EIR. The Original Route and Existing Pipeline Corridor Alternative share with the Composite Route Alternative the potential for maximizing adverse impacts on agriculture and wildlife in the Delta.³

The draft EIR is deficient in failing to consider the reasonableness of the concept of a pipeline "corridor" through the agricultural land of the Delta.

In discussing the possible paralleling of a PG&E pipeline route by the proposed pipeline with regard to the Existing Pipeline Corridor Alternative and Composite Route Alternative, the draft EIR refers to "Delta Protection Commission land use policies that encourage consolidating new pipeline facilities in the Delta region within existing pipeline corridors" (EIR, p. 2-52). In view of the fact that the PG&E pipeline route proposed for paralleling in the "preferred" alternative preceded by more than thirty years the California Environmental Quality Act and was selected without any regard for environmental considerations, the logic used by the draft EIR in selecting a route is flawed. The PG&E pipelines have been sources of continual problems on Staten Island and other Delta islands (see Tr., pp. 477-478, lines 19-15). The existing pipeline routes of PG&E do not comport with present day agricultural or wetland uses of the Delta islands. Moreover, the reference to an existing pipeline "corridor" is misleading. The two PG&E pipelines which cross Staten Island are not located on the same easements, are as much as one mile apart at some points and are not even parallel to each other along their entire routes.

O8-3

The logic used by the draft EIR with respect to the existing PG&E pipeline routes is the equivalent of saying that since the environment in the area of those routes has already been impacted, it is reasonable to increase the impact on that environment. We believe that the degree of the total environmental impact should be considered. At present, licenses for dams are no

³ It is not clear whether the draft EIR considered the Public ROW Route Alternative as a mitigation measure to potential inconsistency of the proposed pipeline alignment with plans and policies (see EIR, Table ES-1, Environmental Impact 3.1-5).

longer being routinely renewed because many dams were built long ago without consideration of environmental issues and the degree of the environmental impact has been found to be too high under current standards. In addition to barring any other pipeline construction along a route where the environmental impacts are too high, the Commission should consider at some time in an appropriate proceeding whether the present PG&E pipelines should be relocated.

O8-3
(cont'd)

The draft EIR does not address impacts of the project on all identifiable endangered species.

As noted at the PPH, Staten Island and other locations in the Delta along the alternative pipeline routes other than the Public ROW Route Alternative are roosting and foraging grounds for the greater sandhill crane which is on the California endangered and threatened species list (Tr., p. 465, lines 6-14; pp. 484-486, lines 26-8). Failure of the draft EIR even to identify the greater sandhill crane as affected by the proposed project is a major deficiency of the draft EIR (EIR, p. 3.7-4). Failure to identify the greater sandhill crane as potentially impacted, the location of its roosting sites, or the timing of its presence accurately (EIR, p. 3.7-2) renders the preference for the Composite Route Alternative improper because it is based on insufficient data.

O8-4

Proper mitigation and fairness require that the draft EIR specify a minimum burial depth along the entire route of the proposed pipeline under agricultural lands if the Public ROW Route Alternative is not used.

The draft EIR proposes that the pipeline be buried at a depth of eight feet under agricultural lands devoted to wine grape cultivation that have not been deep ripped, but that the burial depth be left to negotiation between the landowner and LGS in all other cases (EIR, Table ES-1, Mitigation Measure 3.1-2). Testimony at the evidentiary hearing showed that irrigation ditches on Staten Island are six feet deep (Shanks Testimony, p. 3). Such depths for irrigation ditches and for deep ripping for planting are common on Delta island agricultural lands. At a minimum, the proposed pipeline, if it is to be constructed through the center of agricultural fields, should be two feet deeper than the current depth used by agriculture along the pipeline route. Furthermore, M&T Ranch and other farms in the Delta are considering the cultivation of grapes for which the eight foot depth has already been suggested in the draft EIR. Finally, it is not good administrative practice in the environmental context of a major construction project in the environmentally sensitive Delta to leave certain mitigation measures up to negotiation between the parties instead of prescribing minimum standards, such as the burial depth of the pipeline (see EIR, p. ES-5). Testimony at the PPHs showed dissatisfaction with the negotiating tactics of LGS, which has an obvious cost incentive not to bury the pipeline any more deeply than it can get the landowner to agree if otherwise permissible under applicable regulations. (see Tr., pp. 490-491, lines 7-5). If the proposed pipeline parallels the route used by PG&E's pipelines, PRA would expect that LGS would take the position that it should not have to bury its pipeline any more deeply than the PG&E pipelines. However, due to the history of problems with the PG&E pipelines on Staten Island and throughout the Delta, this position would not be acceptable and the depth should be determined upon consideration of the current and potential uses of the land and the lessons learned from the experience with the PG&E pipelines (see Tr., pp. 477-478, lines 19-15).

O8-5

The draft EIR should be modified to require LGS to bury and maintain its pipeline at a minimum of eight feet deep through all agricultural lands along its route as a mitigation measure for the hazards imposed by the pipeline if the Public ROW Route Alternative is not used. The final EIR should also specify in mitigation of environmental impact the amount of upward movement of the pipeline that would require reburial by LGS, the process by which the threshold for upward movement would be measured, the notice procedures to be followed by LGS for reburial, and the remediation to be undertaken by LGS for reentry on agricultural land. It is not a sufficient mitigation measure to undertake entirely unspecified remedial actions when they become necessary (EIR, Table ES-1, Mitigation Measure 3.3-1).

O8-5

(cont'd)

The draft EIR is deficient in that it does not clearly address the process of environmental remediation when the project ceases to operate or how the financing for such remediation will be assured.

The LGS project is an outgrowth of the deregulation of the natural gas industry in California. An underlying assumption is that projects such as the LGS project would bring competition to natural gas storage and exert a downward pressure on prices for attendant services. In a competitive environment, businesses sometimes fail before the anticipated useful life of the services or equipment used to provide the services is reached. PRA considers that in a competitive environment, an EIR should discuss the environmental remediation that will be necessary when the project ceases to operate and the way such remediation will be assuredly financed. For example, in California, utilities having nuclear power facilities accumulate funds for eventual decommissioning, and the Commission authorizes the collection of nuclear decommissioning charges in rates (California Public Utilities Code § 8325). At the PPH, a representative from the California Department of Conservation, Division of Oil, Gas and Geothermal Resources noted that, with respect to LGS drilling injection wells, the Division requires the posting of a bond which also covers the capping of the well when it is abandoned (see Tr., p. 424, lines 5-25). To the argument that discussion of post-operation remediation is not usual procedure for a project with a lengthy projected life being developed by a competitive business, PRA submits that LGS clearly will not be an ordinary competitive business. If LGS is granted a Certificate of Public Convenience and Necessity, it will be a regulated public utility perhaps with the power of condemnation. Without such power and its public utility status, it is doubtful that LGS could ever build its project. In the case of such a combination of public and private elements in the same project, it is surely not overburdensome to require the business impressed with a public interest to provide assured remediation when its project is no longer needed (see Tr., p. 404, lines 23-27).

O8-6

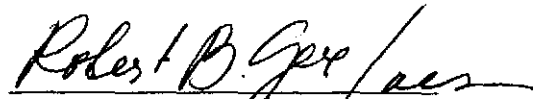
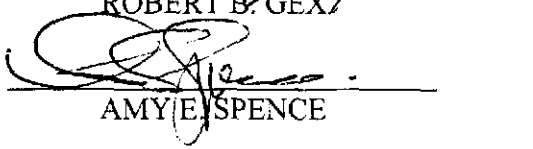
CONCLUSION

For the reasons discussed above, the final EIR should be modified from the draft to correct the deficiencies identified by PRA. The Public ROW Route Alternative, which maximizes use of public ROWs, including Highway 12, should be designated by the final EIR as the preferred route, and LGS should be required to use that route if the pipeline is to be constructed. In making this determination, the final EIR should specifically assess the impacts of the alternative pipeline routes on the roosting and foraging sites of the greater sandhill crane. The final EIR should also specify as a mitigation measure that the burial depth of the proposed

pipeline under any agricultural land must be a minimum of eight feet below the surface if the Public ROW Route Alternative is not selected. Also as a mitigation measure, the final EIR should prescribe the remediation to be undertaken at the end of the project's life and how that remediation will be financially assured.

Very truly yours,

PILLSBURY MADISON & SUTRO LLP


ROBERT B. GEX

AMY E. SPENCE

Attorneys for Pacific Realty
Associates, L.P.

cc: Mr. William L. Densberger
Mr. James M. Shanks

Responses to Comments from Pillsbury, Madison & Sutro, LLP—Robert B. Gex, Amy E. Spence

- O8-1. The CPUC believes that 49 CFR 192 applies to all pipelines, not just interstate pipelines.
- O8-2. The commenters preference for the Public Right-of-Way Route Alternative is noted. The alternatives identified in the draft EIR represent four different approaches to locating the natural gas pipeline associated with the proposed project. It is important to note that because of conditions and the location of various facilities in the project area, all of the alternatives use public right-of-way and existing pipeline corridors to some extent. The primary difference between the alternatives is the extent of impacts to various resources. The Public Right-of-Way Route Alternative would be located within or adjacent to approximately 15 miles of area roadways as compared to 5 miles for the Composite Route Alternative. Construction within or adjacent to roads results in substantial inconvenience and effects during the construction phase of the project and raises greater safety concerns for motorists and construction crews.
- Construction at all locations in the Delta has the potential to affect wildlife. Temporary loss of habitat resulting directly from construction activities is not considered a significant effect given the small areas that would be affected relative to available habitat. Minor disturbances during construction would result from all alternatives. This impact is generally considered less than significant and is not substantially different between the alternatives. These trade-offs are identified in the EIR.
- O8-3. The CPUC believes that the concept of locating new facilities near similar types of existing facilities is a valid concept for designing project alternatives. Creation of a new separate corridor could exacerbate the problems and issues identified in this comment by creating yet another utility corridor through the Delta. The CPUC believes that the EIR adequately discusses alternatives and the various implications of the alternatives.
- O8-4. The greater sandhill crane is identified in Table 3.7-2 of the draft EIR as a special status species known to occur in the project area. Potential impacts to the greater sandhill crane are described in Section 3.7 of the draft EIR and mitigation measures for impacts are also identified. See page 3.7-19 of the draft EIR.
- O8-5. Mitigation measure 3.1-2 has been revised to address many of the concerns expressed in this and similar comments. Please see Chapter 3, “Revisions to the Draft EIR”, of this final EIR, for the revised mitigation measure language.
- O8-6. Regardless of the competitive nature of the Applicant’s business, the CPUC does not regulate the decommissioning of facilities through its CEQA process. Any such decommissioning would be performed under the jurisdiction of appropriate state and federal agencies, including the U.S. Department of Transportation Office of Pipeline Safety and the Division of Oil, Gas, and Geothermal Resources.