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September 22, 2023

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County of San Luis Obispo Department of Planning and Building
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**Subject: Diablo Canyon Power Plant Decommissioning Project (Project)
Draft Environmental Impact Report (DEIR)
SCH No.: 2021100559**

Dear Susan Strachan:

The California Department of Fish and Wildlife (CDFW) received a draft Environmental Impact Report (DEIR) from the County of San Luis Obispo Department of Planning and Building for the Project pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines.

Thank you for the opportunity to provide comments and recommendations regarding those activities involved in the Project that may affect California fish and wildlife. Likewise, we appreciate the opportunity to provide comments regarding those aspects of the Project that CDFW, by law, may be required to carry out or approve through the exercise of its own regulatory authority under the Fish and Game Code.

CDFW ROLE

CDFW is California's **Trustee Agency** for fish and wildlife resources and holds those resources in trust by statute for all the people of the State (Fish & Game Code, Section 711.7, subd. (a) & 1802; Pub. Resources Code, Section 21070; CEQA Guidelines Section 15386, subd. (a)). CDFW, in its trustee capacity, has jurisdiction over the conservation, protection, and management of fish, wildlife, native plants, and habitat necessary for biologically sustainable populations of those species (Id., Section 1802). Similarly, for purposes of CEQA, CDFW is charged by law to provide, as available, biological expertise during public agency environmental review efforts, focusing specifically on projects and related activities that have the potential to adversely affect fish and wildlife resources.

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CDFW is also submitting comments as a **Responsible Agency** under CEQA (Pub. Resources Code, Section 21069; CEQA Guidelines, Section 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW's lake and streambed alteration regulatory authority (Fish & Game Code, Section 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in "take" as defined by State law of any species protected under the California Endangered Species Act (CESA) (Fish & Game Code, Section 2050 et seq.), related authorization as provided by the Fish and Game Code may be required.

Nesting Birds: CDFW has jurisdiction over actions with potential to result in the disturbance or destruction of active nest sites or the unauthorized take of birds. Fish and Game Code sections that protect birds, their eggs and nests include Sections 3503 (regarding unlawful take, possession or needless destruction of the nest or eggs of any bird), 3503.5 (regarding the take, possession or destruction of any birds-of-prey or their nests or eggs), and 3513 (regarding unlawful take of any migratory nongame bird).

PROJECT DESCRIPTION SUMMARY

Proponent: Pacific Gas and Electric Company

Objective: Proposed Development Plan/Coastal Development Permit/and Conditional Use Permit application for the decommissioning of the PG&E Diablo Canyon Nuclear Power Plant (DCPP).

The objective of the Project is to decommission and dismantle much of the existing Diablo Canyon Nuclear Power Plant. Decommissioning of the facility will occur in two phases: (1) Phase 1: Pre-planning and Decommissioning Project Activities; and (2) Phase 2: Completion of Soil Remediation, Final Status Surveys, and Final Site Restoration.

Major terrestrial components of the Project would occur in both phases of demolition; Phase 1 of decommissioning at the DCPP site includes the demolition of existing buildings and Discharge Structure, removal of utilities, security fencing, the road segment west of the security fence at the Discharge Structure, and the guard rails along the road segment. All activities are ground disturbing and would require the use of conventional excavation equipment. The railyard activities would include refurbishment of 1,100 feet of an existing spur rail at the Pismo Beach railyard (PBR) site. At the Santa Maria valley railyard (SMVR) site, Phase 1 decommissioning activities consist of the refurbishment of existing rail spurs, use of steel road plates or installation of engineered fill to accommodate trucks, and the installation of perimeter fencing. These activities would be followed by Phase 2, which includes continued demolition of the Discharge Structure, soil remediation, backfilling, grading, removal of the Avila Gate and Guard House Facilities (at Avila Beach Drive/Diablo Canyon Road), and landscaping in order to restore the DCPP site to natural conditions as well as continued operations (use of

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the Security Building, and indoor Firing Range). Phase 2 also proposes to establish a blufftop road at the end of DCPD decommissioning to connect Shore Cliff Road with North Ranch Road/Pecho Valley Road. No Phase 2 activities involving ground disturbing activities are proposed within the PBR or SMVR sites.

Major marine components of the Project include removal of the Discharge Structure, waste transportation using ocean barges, closure of the Intake Structure, and water management modifications. The removal of the Discharge Structure will occur during Phases 1 and 2 and involves installation of a circular cell steel sheet pile cofferdam and dewatering of the work area prior to demolition. Sheet piles will be installed from a barge using a crane-mounted vibratory hammer and filled with a concrete plug and gravel. Once the work area is dewatered, the discharge structure will be fully removed, and the remaining void will be filled with quarry rock and layers of different materials to restore the bluff. During decommissioning, waste material will be transported using several methods including ocean barging. Barges will be transported in and out of the Intake Cove with tugboats and moored directly to the Intake Structure for loading and at another temporary anchoring location in the southeast corner of the cove. During Phase 2, the openings of the Intake Structure will be sealed with concrete bulkheads; the Project plans to use EConcrete to enhance the biological productivity of the surface.

Water management modifications during decommissioning involve a 90% reduction in ocean flow once the plant and its once-through cooling water system are shut down. Once this occurs, only the plant's Auxiliary Saltwater System and seawater reverse osmosis treatment (desalination) unit will be in operation. To facilitate continued wastewater/brine discharges from these systems during removal of the Discharge Structure, a temporary aboveground pipeline will be installed from shore out into Diablo Cove while the cofferdam is in place.

The DEIR also discusses several alternatives to the proposed Project. One of these, Alternative 8 (CSLC Full Removal Alternative), would involve a considerable amount of construction in the marine environment. This alternative includes complete removal of the Intake Structure and East and West Breakwaters in addition to all the same components included in the proposed Project.

Location:

1. Diablo Canyon Power Plant (DCPP), 3890 Diablo Canyon Road, Avila Beach, CA 93424 / APN 076-011-018
 - a. All marine components are located at this site

The coastal border of the DCPD site is defined by rocky bluffs with gently to moderately sloping terraces ranging from 70 to 100 feet above sea level. Most of the structures comprising the DCPD complex were constructed several hundred feet from the shoreline on a flat terrace. The reactors associated primary systems

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equipment for Units 1 and 2 are housed in separate, but adjacent, containment structures on the main terrace at 85 feet above sea level..

There are several existing roads in the DCPD area, although none are open to the public. The primary road is Diablo Canyon Road, also informally known as the “main access road.” It is a paved two-lane, approximately 7-mile road running from the Access Gate at Port San Luis to the DCPD. This is the main access road into the property and is primarily used by DCPD employees.

2. Pismo Beach Railyard (PBR), 800 Price Canyon Road, City of Pismo Beach, CA 93449/ APN 005-271-012

PBR is an approximately 25.5-acre material and equipment storage facility owned by PG&E, located at 800 Price Canyon Road within the City of Pismo Beach. The facility is located approximately 0.3 miles from US Route 101 (US-101) within Price Canyon and adjacent to Pismo Creek. The majority of the PBR is located on relatively level topography with elevations ranging from 30 to 100 feet above mean sea level (MSL). The PBR site slopes west to east and drains into a man-made canal along the eastern boundary of the site, ultimately draining into the Pismo Creek channel and finally to the Pacific Ocean. Most of the site is located within a 100-year flood plain and is adjacent to the floodway of the Pismo Creek channel.

3. Santa Maria Valley Railyard (SMVR), 2820 W. Betteravia Road, Santa Maria, CA 93455/ APN 113-210-001

The SMVR site, also known as Betteravia Industrial Park, is located at 2820 W. Betteravia Road, approximately 1.6 miles west of the City of Santa Maria and approximately 3.2 miles southeast of the City of Guadalupe in Santa Barbara County, California. The site is approximately 28.4 acres, bordered to the north by Betteravia Road and agricultural fields, on the west and east by agricultural fields, and on the south by agricultural fields and ruderal lands with a building and parking lot. Elevations on site range from 152 to 174 feet (47 to 52 meters) above MSL. The eastern portion of the site is developed, consisting of several buildings, loading platforms, two large silos, and a furnace stack. The western portion of the site consists primarily of a eucalyptus grove and a railroad track with a few spur lines.

Timeframe:

1. Phase 1 will begin in 2024 and be completed in 2031.
2. Phase 2 will begin in 2032 and be completed in 2039.

COMMENTS AND RECOMMENDATIONS

CDFW offers the following comments and recommendations to assist the County of San Luis Obispo Department of Planning and Building in adequately identifying and/or

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mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Editorial comments or other suggestions may also be included to improve the CEQA document prepared for this Project.

CDFW is concerned regarding potential impacts to the State candidate for listing Crotch's bumble bee (*Bombus crotchii*) and the absence of botanical surveys completed during average to above average precipitation years for the State endangered and federally endangered marsh sandwort (*Arenaria paludicola*), the State threatened and federally endangered La Graciosa thistle (*Cirsium loncholepis*) and Gambel's watercress (*Rorippa gambelii*), the State rare and federally endangered Pismo clarkia (*Clarkia speciosa* ssp. *Immaculata*), and the State rare Adobe sanicle (*Sanicula maritima*).

CDFW is also concerned regarding potential impacts to the federally endangered black abalone (*Haliotis cracherodii*), State fully protected and federally threatened southern sea otter (*Enhydra lutris nereis*), and nesting seabirds. CDFW is also concerned that implementation of Alternative 8 (CSLC Full Removal Alternative) could lead to new significant and unavoidable impacts.

To adequately assess any potential impacts to biological resources, focused biological surveys should be conducted by a qualified biologist during the appropriate survey period(s) in order to determine whether any special-status species may be present within the vicinity of the Project site. Properly conducted biological surveys, and the information assembled from them, are essential to identify any mitigation, minimization, and avoidance measures and/or the need for additional or protocol-level surveys, and to identify any Project-related impacts under CESA and other species of concern.

COMMENT 1: Crotch's Bumble Bee (*Bombus crotchii*)

The DEIR states in Appendix E.2.29, that the Project site, collectively the DCP, PBR and SMVR, has suitable habitat for Crotch's bumble bee (CBB) but classifies the Project site as having a low potential for this species due to lack of recent sightings. To substantiate this conclusion, CDFW strongly recommends that protocol surveys for CBB be performed following the "Survey Considerations for California Endangered Species Act (CESA) Candidate Bumble Bee Species" (CDFW 2023). This survey protocol recommends conducting three onsite surveys during at least one survey season prior to construction. "Each survey should ideally be spaced 2-4 weeks apart during the Colony Active Period to ensure that they cover a range of dates and account for variability in resource use by the candidate species and floral resource phenology within the site" (CDFW 2023). Due to the long-term nature of the construction/decommissioning of the Project, CDFW recommends that the protocol for CBB be repeated several times as CBB queens change their nest location annually. Consultation with CDFW is recommended to develop a long-term survey protocol that will maximize detection of this species to ensure the avoidance of take during construction/decommissioning. Note that if CBB is found at any point during surveys or the construction/decommissioning of

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the Project, consultation with CDFW is warranted to determine if the Project can avoid take. If take cannot be avoided, take authorization is warranted prior to initiating or continuing ground-disturbing activities to comply with CESA. Take authorization would occur through issuance of an Incidental Take Permit (ITP) by CDFW, pursuant to Fish and Game section 2081 subdivision (b). Alternatively, the Project proponent can assume presence and apply for and obtain a 2081 ITP for CBB.

The DEIR states that the Project site is not near a positive sighting of CBB according to the CNDDDB. CDFW notes that the CNDDDB is populated by and records voluntary submissions of species detections. As a result, species, such as the CBB, may be present in locations not depicted in the CNDDDB but where there is suitable habitat and features capable of supporting species. A lack of an occurrence record in the CNDDDB is not a reliable source to conclude that a species is not present.

COMMENT 2: Botanical Surveys

The DEIR states that botanical surveys were conducted on: May 5, 2020, July 13, 2020, April 22, 2022, May 23, 2022, and April 28, 2022. CDFW strongly recommends conducting additional botanical surveys during a year of average or above average precipitation as the botanical surveys listed were conducted during below average precipitation years (University of California Agriculture and Natural Resources 2023). When conducting botanical surveys, it is recommended that a qualified botanist conduct three surveys, one in the early blooming season, one mid-season, and one late season to ensure having the highest potential of finding different plant species.

CDFW recommends conducting additional focused botanical surveys for each of the following species during the blooming periods identified for each species in the DEIR (App. E2.2- 2.28): Adobe sanicle (*Sanicula maritima*), Gambel's watercress (*Rorippa gambelii*), La Graciosa thistle (*Cirsium loncholepis*), Marsh sandwort (*Arenaria paludicola*), and Pismo clarkia (*Clarkia speciosa* ssp. *Immaculata*). Due to variability in climatic conditions year to year and the long-term length of the construction/decommissioning of the Project, additional surveys are recommended to fully substantiate the conclusions and significance determinations documented in the DEIR, which concluded that there is little to no potential for these species being found on the Project site despite documenting that adequate habitat was found.

Due to the Project's predicted length of time until completion, 15 years, CDFW recommends having a qualified botanist conduct additional surveys a minimum of every five years to adequately access the Project site for special status plant species.

COMMENT 3: Black Abalone Relocation

A CDFW-issued Scientific Collecting Permit (SCP) will be necessary for the relocation of black abalone (*Haliotis cracherodii*), if needed, as well as any other marine species.

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CDFW can only authorize an SCP for the relocation of black abalone submitted by an applicant who has been approved by NOAA Fisheries. The DEIR incorrectly states that an incidental take permit is required from CDFW to relocate black abalone; incidental take authorization is needed from NOAA Fisheries because black abalone is a federally listed species. Additionally, CDFW letters of authorization are no longer required to relocate organisms; these activities can now be permitted by SCPs (when not for emergency purposes).

COMMENT 4: Impacts to Southern Sea Otters

CDFW is concerned about impacts to southern sea otters (*Enhydra lutris nereis*) from the Project, particularly disturbance and habitat displacement resulting from Project activities within the Intake Cove and underwater noise generated by pile driving. According to the DEIR, approximately 30 sea otters typically use the Intake Cove and waters offshore from DCPD as habitat on a daily basis, and the probability of females with pups being present in the construction area is high. Southern sea otters are fully protected under state law, meaning they may not be taken or possessed at any time (Fish and Game Code, Section 4700). Southern sea otters are also listed as a threatened species under the federal Endangered Species Act and are further protected under the federal Marine Mammal Protection Act.

As southern sea otters are the only listed marine mammal in the vicinity of the Project site that regularly use the Project site itself (i.e., the Intake Cove), with a high likelihood of occurrence, a more detailed discussion and analysis of potential impacts specifically to sea otters in the DEIR is warranted. This should include, but not necessarily be limited to, potential impacts associated with pile driving/cofferdam installation and all activities occurring in the Intake Cove. While the DEIR states that sea otters typically use the Intake Cove to rest overnight, sea otter activity patterns are not diurnal, with periods of foraging, grooming, and rest occurring throughout the day and night. Therefore, potential impacts to sea otters in the Intake Cove and surrounding area during both day and night should be evaluated in the DEIR. To avoid impacts to sea otters, CDFW recommends fully addressing potential impacts, including disturbance and habitat displacement, in the Marine Mammal and Sea Turtle Mitigation and Monitoring Plan (MM MBIO-7).

CDFW notes that the underwater sound modeling completed for the Project returned high behavioral shift distances for marine mammals for both 24-inch sheet piles (4,642 meters) and 24-inch pipe piles (38,072 meters). As stated in the DEIR, behavioral changes are considered significant impacts for marine mammals (and sea turtles), and these distances would be difficult if not impossible for observers to monitor to ensure impacts do not occur. Sea otters, particularly females, exhibit high site fidelity and are known to utilize the nearshore waters adjacent to DCPD. The probability of sea otters being present in the behavioral shift distance is very high, and disturbance and displacement are very likely to occur. CDFW recommends revising the soft start method

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included in MM MBIO-7 to allow more time for animals to vacate the area, such as five rounds of what is currently described in the DEIR (three short pulses followed by a one-minute period of no activity) before commencing full pile driving. This will help to avoid impacts from pile driving to sea otters, other marine mammals, sea turtles, fish, and other marine organisms as well.

COMMENT 5: Nesting Seabirds

The DEIR identifies several seabird species that have been observed nesting along the coastal bluff and offshore rocks adjacent to DCP, including black oystercatcher (*Haematopus bachmani*), pelagic cormorant (*Phalacrocorax pelagicus*), cliff swallow (*Petrochelidon pyrrhonota*), western gull (*Larus occidentalis*), and Brandt's cormorant (*Phalacrocorax penicillatus*). These species are all protected by the Migratory Bird Treaty Act. The DEIR classifies potential impacts from Project activities to seabirds as insignificant (Class III) because "seabirds are highly mobile." However, while seabirds may be mobile, their nests are not, and CDFW expects that impacts to seabirds could be significant if Project activities disturb/harass seabirds at their nests and/or lead to nest abandonment.

CDFW notes that several mitigation measures were discussed in Section 4.3 (Biological Resources – Terrestrial) to minimize impacts to nesting or breeding birds (Impact BIO-4), including AC BIO-7 (Preconstruction Surveys for Nesting Birds) and MM BIO-7 (Prepare and Implement a Nesting Bird Management Plan), among others. It is unclear to CDFW whether these mitigation measures were meant to also apply to nesting seabirds, but regardless, CDFW recommends including them in Section 4.4 (Biological Resources – Marine) as well to reduce impacts to seabirds to a less-than-significant level (Class II).

COMMENT 6: EConcrete

The installation of EConcrete to seal the Intake Structure may fall under the state's definition of an artificial reef, which is any manmade or natural object(s) placed intentionally in the marine environment to duplicate conditions that promote production of fish and invertebrates (Fish and Game Code Section 6421). CDFW has authority for artificial reefs under a variety of roles including Statutory and Legislative Authority, an advisory role to other agencies, and Trustee Agency Status under CEQA, the Marine Life Protection Act, and the Marine Life Management Act.

CDFW recommends further consultation prior to installation of EConcrete.

COMMENT 7: CSLC Full Removal Alternative

At this time, CDFW agrees with the DEIR that impacts to marine species and habitats would be more severe under Alternative 8 (CSLC Full Removal Alternative) and

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believes this alternative could potentially result in new significant and unavoidable impacts to marine biological resources. Therefore, currently, CDFW does not recommend consideration of this alternative.

COMMENT 8: Miscellaneous Comments

The DEIR states that “no details have been provided on the method of dewatering” the work area in front of the Discharge Structure (page 4.4-63). The Final EIR should contain this information so it can be included in the impact analysis.

Editorial Comment

CDFW would like to note that the DEIR’s written common name for *Clarkia speciosa* ssp. *Immaculata*, which is written on App E2.13 as PBR Clarkia, is incorrect. The common name for this species is Pismo Clarkia and CDFW recommends correcting this error in the Final EIR.

Environmental Data

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, Section 21003, subd. (e).) Accordingly, please report any special-status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The CNDDDB field survey form can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Submitting-Data>. The completed form can be mailed electronically to CNDDDB at the following email address: CNDDDB@wildlife.ca.gov. The types of information reported to CNDDDB can be found at the following link: <https://www.wildlife.ca.gov/Data/CNDDDB/Plants-and-Animals>.

Filing Fees

The Project, as proposed, would have an impact on fish and/or wildlife, and assessment of filing fees is necessary. Fees are payable upon filing of the Notice of Determination by the Lead Agency and serve to help defray the cost of environmental review by CDFW. Payment of the fee is required in order for the underlying project approval to be operative, vested, and final. (Cal. Code Regs, tit. 14, Section 753.5; Fish & G. Code, Section 711.4; Pub. Resources Code, Section 21089.)

CONCLUSION

CDFW appreciates the opportunity to comment on the DEIR to assist County of San Luis Obispo Department of Planning and Building in identifying and mitigating Project impacts on biological resources.

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More information on survey and monitoring protocols for sensitive species can be found at CDFW's website (<https://www.wildlife.ca.gov/Conservation/Survey-Protocols>). Please see the enclosed Mitigation Monitoring and Reporting Program (MMRP) table which corresponds with recommended mitigation measures in this comment letter. Questions regarding this letter or further coordination should be directed to Evelyn Barajas-Perez, Environmental Scientist, at (805) 503-5738 or Evelyn.Barajas-Perez@Wildlife.ca.gov and Amanda Canepa, Environmental Scientist, at (831) 277-9740 or Amanda.Canepa@Wildlife.ca.gov for marine issues.

Sincerely,

DocuSigned by:



12950B95267A4F5...

for Julie A. Vance
Regional Manager

DocuSigned by:



343995CB95354BC...

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REFERENCES

California Department of Fish and Wildlife. 2023. Survey Considerations for California Endangered Species Act (California Endangered Species Act Candidate Bumble Bee Species).

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University of California Agriculture and Natural Resources. 2023. University of California Cooperative Extension, County of San Luis Obispo. San Luis Obispo West, San Luis Obispo - Monthly Totals.

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Attachment 1

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE

**RECOMMENDED MITIGATION MONITORING AND REPORTING PROGRAM
 (MMRP)**

PROJECT: (DEIR) Diablo Canyon Power Plant Decommissioning Project (Project)

SCH No.: 2021100559

RECOMMENDED MITIGATION MEASURE	STATUS/DATE/INITIALS
<i>Before Disturbing Soil or Vegetation</i>	
Mitigation measure: Crotch's bumble bee	
Crotch's bumble bee protocol survey	
Mitigation measure: Botanical Survey	
Have a qualified botanist to conduct botanical Surveys done during an average or above average precipitation year	
Have a qualified botanist conduct focused botanical surveys for these species of plants: Adobe sanicle (<i>Sanicula maritima</i>), Gambel's watercress (<i>Rorippa gambelii</i>), La Graciosa thistle (<i>Cirsium loncholepis</i>), Marsh sandwort (<i>Arenaria paludicola</i>), and Pismo clarkia (<i>Clarkia speciosa ssp. Immaculata</i>).	

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<i>After initial decommissioning process has started</i>	
Mitigation Measure: Botanical Survey	
Have a qualified botanist conduct botanical surveys every five years for the duration of the Project	