

PARTICIPATING SPECIAL ENTITY AGREEMENT

Between

**THE EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY
and the
PACIFIC GAS AND ELECTRIC COMPANY**

1.0 PARTIES

This Agreement is made and entered into by the East Contra Costa County Habitat Conservancy (“Conservancy”) and Pacific Gas and Electric Company (“Participating Special Entity” or “PSE”) as of the Effective Date.

2.0 RECITALS

The Parties have entered into this Agreement in consideration of the following facts:

- 2.1** The East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (“HCP/NCCP,” or “Plan”) is intended to provide a comprehensive framework to protect natural resources in eastern Contra Costa County, while improving and streamlining the environmental permitting process for certain projects that would cause impacts on endangered and threatened species. The primary policy priority of the Plan is to provide comprehensive species, wetlands, and ecosystem conservation and contribute to recovery of endangered and threatened species within East Contra Costa County while balancing open space, habitat, agriculture, and urban development. To that end, the Plan describes how to avoid, minimize, and mitigate, to the maximum extent practicable, impacts on Covered Species and their habitats while allowing for certain development and other activities in selected regions of the County and the Cities of Pittsburg, Clayton, Oakley, and Brentwood.
- 2.2** The Conservancy is a joint powers authority formed by its members, the County of Contra Costa (“County”), the City of Pittsburg (“Pittsburg”), the City of Clayton (“Clayton”), the City of Oakley (“Oakley”) and the City of Brentwood (“Brentwood”), to implement the HCP/NCCP.
- 2.3** The HCP/NCCP covers approximately one-third of the County, or 174,082 acres, all in East Contra Costa County, in which impacts from certain development and other activities are evaluated, and in which conservation will occur.
- 2.4** The area covered by the HCP/NCCP has been determined to provide, or potentially provide, habitat for twenty-eight (28) species that are listed as endangered or threatened, that could in the future be listed as endangered or threatened, or that have some other special status under federal or state laws.

- 2.5 The Conservancy has received authorization from the United States Fish and Wildlife Service (“USFWS”) under incidental take permit TE 160958-0, and the California Department of Fish and Wildlife (“CDFW”), under incidental take permit 2835-2007-01-03, for the Take of the twenty-eight (28) special-status species and certain other species, as take is defined respectively under federal and state law, while carrying out certain development and other activities.
- 2.6 The Conservancy may enter into agreements with participating special entities that allow certain activities of theirs to be covered by the Federal Permit and the State Permit, subject to the conditions in the Implementing Agreement (“IA”), the HCP/NCCP and the Permits.
- 2.7 PSE proposes to implement the T-1047A Hyrdotest Project and seeks extension of the Conservancy’s permit coverage to perform hydrostatic pressure testing on approximately 1.84 miles of 24-inch diameter natural gas pipeline L-114, as further described in Exhibit 1, the Application.
- 2.8 The Conservancy has concluded, based on the terms of this Agreement and the application submitted by PSE (the “Application”), that PSE has provided adequate assurances that it will comply with all applicable terms and conditions of the IA, the HCP/NCCP, and the Permits. The Application is attached hereto as Exhibit 1 and is hereby incorporated into this Agreement by reference.

3.0 **DEFINITIONS**

The following terms as used in this Agreement will have the meanings set forth below. Terms specifically defined in the Federal Endangered Species Act (“FESA”), the California Endangered Species Act (“CESA”) or the Natural Community Conservation Planning Act (“NCCPA”) or the regulations adopted by USFWS and CDFW under those statutes shall have the same meaning when used in this Agreement. Definitions used in this Agreement may elaborate on, but are not intended to conflict with, such statutory or regulatory definitions.

- 3.1 **“Agreement”** means this Agreement, which incorporates the IA, the HCP/NCCP, the Permits, and the Application by reference.
- 3.2 **“Application”** means the application submitted by the PSE in accordance with Chapter 8.4 of the HCP/NCCP, and which is attached hereto as Exhibit 1. The Application contains a cover sheet, the results of required planning surveys and the avoidance, minimization and mitigation measures that will be a condition of the PSE using the Conservancy’s Permits.
- 3.3 **“Authorized Take”** means the extent of incidental Take of Covered Species authorized by the USFWS in the Federal Permit issued to the Conservancy pursuant to Section 10(a)(1)(B) of FESA, and the extent of

Take of Covered Species authorized by CDFW in the State Permit issued to the Conservancy pursuant to California Fish and Game Code section 2835.

- 3.4** “**CDFW**” means the California Department of Fish and Wildlife, formerly the California Department of Fish and Game, a department of the California Resources Agency.
- 3.5** “**CESA**” means the California Endangered Species Act (Fish & G. Code, § 2050 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.6** “**Changed Circumstances**” means changes in circumstances affecting a Covered Species or the geographic area covered by the HCP/NCCP that can reasonably be anticipated by the Parties and that can reasonably be planned for in the HCP/NCCP. Changed Circumstances and planned responses to Changed Circumstances are more particularly defined in Section 12.2 of the IA and Chapter 10.2.1 of the HCP/NCCP. Changed Circumstances do not include Unforeseen Circumstances.
- 3.7** “**Covered Activities**” means those land uses and conservation and other activities described in Chapter 2.3 of the HCP/NCCP to be carried out by the Conservancy or its agents that may result in Authorized Take of Covered Species during the term of the HCP/NCCP, and that are otherwise lawful.
- 3.8** “**Covered Species**” means the species, listed and non-listed, whose conservation and management are provided for by the HCP/NCCP and for which limited Take is authorized by the Wildlife Agencies pursuant to the Permits. The Take of Fully Protected Species is not allowed. The Take of extremely rare plants that are Covered Species is allowed only as described in Section 6.0 and the IA.
- 3.9** “**Effective Date**” means the date when this Agreement is fully executed.
- 3.10** “**Federal Listed Species**” means the Covered Species which are listed as threatened or endangered species under FESA as of the Effective Date, and the Covered Species which are listed as threatened or endangered pursuant to FESA during the term of the HCP/NCCP as of the date of such listing.
- 3.11** “**Federal Permit**” means the federal incidental Take permit issued by USFWS to the Conservancy and other local agencies pursuant to Section 10(a)(1)(B) of FESA (permit number TE 160958-0), as it may be amended from time to time.
- 3.12** “**FESA**” means the Federal Endangered Species Act of 1973, as amended (16 U.S.C § 1531 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.13** “**Fully Protected Species**” means any species identified in California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515 that occur within the Plan Area.
- 3.14** “**HCP/NCCP**” or “**Plan**” means the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan.

- 3.15 “Implementing Agreement” or “IA”** means the “Implementing Agreement for the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan,” dated January 22, 2007.
- 3.16 “Jurisdictional Wetlands and Waters”** means State and federally regulated wetlands and other water bodies that cannot be filled or altered without permits from either the U.S. Army Corps of Engineers under section 404 of the Clean Water Act or, from the State Water Resources Control Boards under either section 401 of the Clean Water Act or the Porter-Cologne Water Quality Act, or CDFW under section 1602 of the Fish and Game Code, as further explained in Chapter 1.3.5 of the HCP/NCCP.
- 3.17 “Listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is listed as endangered or threatened under FESA or CESA.
- 3.18 “NCCPA”** means the Natural Community Conservation Planning Act (Fish & G. Code, § 2800 et seq.) and all rules, regulations and guidelines promulgated pursuant to that Act.
- 3.19 “Non-listed Species”** means a species (including a subspecies, or a distinct population segment of a vertebrate species) that is not listed as endangered or threatened under FESA or CESA.
- 3.20 “Party” or “Parties”** means any or all of the signatories to this Agreement.
- 3.21 “Permit Area”** means the area within the Plan Area where the Conservancy has received authorization from the Wildlife Agencies for the Authorized Take of Covered Species while carrying out Covered Activities.
- 3.22 “Permits”** means the Federal Permit and the State Permit.
- 3.23 “Plan Area”** means the geographic area analyzed in the HCP/NCCP, located in the eastern portion of Contra Costa County, as depicted in Figure 1-1 of the HCP/NCCP. The Plan Area is further described in detail in Chapter 1.2.1 of the HCP/NCCP. The Plan Area is also referred to as the “Inventory Area” in the HCP/NCCP.
- 3.24 “Preserve System”** means the land acquired and dedicated in perpetuity through either a fee interest or conservation easement intended to meet the preservation, conservation, enhancement and restoration objectives of the HCP/NCCP.
- 3.25 “Project”** means the T-1047A Hyrdotest Project, as described in Section 2.7.
- 3.26 “Regional General Permit 1”** means activities authorized under the Regional General Permit 1 with the U.S. Army Corps of Engineers covering the Plan Area of the HCP/NCCP.
- 3.27 “State Permit”** means the state Take permit issued to the Conservancy and other local agencies pursuant to Section 2835 of the California Fish and

Game Code (permit number 2835-2007-01-03), as it may be amended from time to time.

- 3.28** “**Take**” has the same meaning provided by FESA and its implementing regulations with regard to activities subject to FESA, and also has the same meaning provided in the California Fish and Game Code with regard to activities subject to CESA and NCCPA.
- 3.29** “**Unforeseen Circumstances**” under the Federal Permit means changes in circumstances affecting a Covered Species or geographic area covered by the HCP/NCCP that could not reasonably have been anticipated by the Plan developers and USFWS at the time of the Plan’s negotiation and development, and that result in a substantial and adverse change in the status of a Covered Species. “Unforeseen Circumstances” under the State Permit means changes affecting one or more species, habitat, natural community, or the geographic area covered by the Plan that could not reasonably have been anticipated at the time of Plan development, and that result in a substantial adverse change in the status of one or more Covered Species.
- 3.30** “**USFWS**” means the United States Fish and Wildlife Service, an agency of the United States Department of Interior.
- 3.31** “**Wildlife Agencies**” means USFWS and CDFW.

4.0 **PURPOSES**

This Agreement defines the Parties’ roles and responsibilities and provides a common understanding of actions that will be undertaken to avoid, minimize and mitigate the effects on the Covered Species caused by the Project, and to provide for the conservation of the Covered Species within the Plan Area. The purposes of this Agreement are to ensure implementation of each of the terms and conditions of this Agreement, and the relevant terms of the IA, the HCP/NCCP, and the Permits, and to describe remedies and recourse should either Party fail to perform its obligations as set forth in this Agreement.

5.0 **AVOIDANCE, MINIMIZATION AND MITIGATION OF IMPACTS**

5.1 **General Framework**

As required by FESA and NCCPA, the HCP/NCCP includes measures to avoid and minimize take of Covered Species and to conserve natural communities and Covered Species at the landscape-, habitat- and species-level. Chapter 6 of the HCP/NCCP provides further instructions to determine which avoidance and minimization measures are applicable to particular Covered Activities. PSE shall implement all applicable avoidance and minimization measures as required by the HCP/NCCP, including but not limited to those identified in Chapter 6, as described in the Application and this Agreement.

5.2 **Surveys and Avoidance Measures**

Planning surveys are required prior to carrying out any Covered Activity for which a fee is collected or land in lieu of a fee is provided. PSE has submitted a planning survey report

for approval by the Conservancy in accordance with Chapter 6.2.1 of the HCP/NCCP. This planning survey report is contained within the Application, which describes the results of the planning surveys and describes in detail the pre-construction surveys, construction monitoring, avoidance measures and mitigation measures that apply to the Project and shall be performed by PSE. Based on the Application, the Conservancy has determined that PSE will implement and comply with all applicable pre-construction surveys and construction monitoring requirements described in Chapters 6.3.2 and 6.3.3 of the HCP/NCCP, and all applicable conditions on covered activities described in Chapter 6.4 of the HCP/NCCP.

5.3 No Take of Extremely Rare Plants or Fully Protected Species

Nothing in this Agreement, the HCP/NCCP or the Permits shall be construed to allow the Take of extremely rare plant species listed in Table 6-5 of the HCP/NCCP (“No-Take Plant Population”) or any Fully Protected Species under California Fish and Game Code sections 3511, 4700, 4800, 5050 or 5515. PSE shall avoid Take of these species.

5.3.1 Golden Eagle

The Permits do not authorize Take of the golden eagle and PSE shall avoid Take of any golden eagle. The avoidance measures set forth in the HCP/NCCP, including but not limited to Conservation Measure 1.11, should be adequate to prevent Take of golden eagles, but the Conservancy shall notify PSE in writing of any additional or different conservation measures that are designed to avoid Take of these species and that apply to PSE. PSE shall implement all such avoidance measures to avoid Take of golden eagles.

5.4 Fees and Dedications

As set forth in the Application, PSE agrees to pay the Conservancy a one-time payment of \$17,426.44, which amount includes all HCP/NCCP mitigation fees necessary for the Project, as stated in the Application. The payment also includes an amount sufficient to implement additional actions that will contribute to the recovery of endangered and threatened species (“Contribution to Recovery”). The overall payment amount is the sum of the following:

Temporary Impact Fee: \$8,713.22

Contribution to Recovery: \$8,713.22

The payment must be paid in full to the Conservancy before any ground-disturbance associated with the Project occurs. Notwithstanding the above, the Parties acknowledge that the Conservancy adjusts its fee schedule annually on March 15 of each year in accordance with the fee adjustment provisions of Chapter 9.3.1 of the HCP/NCCP. If the PSE pays before March 15, 2017 and construction of the Project commences before March 15, 2017, the amount due will be as stated above. If PSE pays on or after March 15, 2017 or construction of the Project does not commence before March 15, 2017 the amount due will be subject to annual fee adjustments for all fees, and subject to annual adjustments of the Contribution to Recovery based on the formula set forth in Chapter 9.3.1 for the HCP/NCCP wetland mitigation fee. Based on these adjustments, if PSE pays before March 15 of any year, but construction does not commence before March 15 of that year, PSE will either be required to submit an additional payment for any increases or be entitled to a refund without interest for any decreases.

6.0 TAKE AUTHORIZATION

6.1 Extension of Take Authorization to PSE

As provided in Chapter 8.4 of the HCP/NCCP, after receipt of the Wildlife Agencies' written concurrence that the Project complies with the HCP/NCCP, the Permits and the IA, and after execution of this Agreement, payment of fees, compliance with the California Environmental Quality Act (Public Resources Code section 21000, et seq.) ("CEQA"), the Conservancy shall issue a Certificate of Inclusion to PSE that specifically describes the Authorized Take and required conservation measures and extends Take authorization under the Permits to PSE. PSE is ultimately responsible for compliance with all applicable terms and conditions of this Agreement, the IA, the HCP/NCCP and the Permits.

6.1.1 Compliance with the California Environmental Quality Act

The Conservancy's issuance of a Certificate of Inclusion to the PSE is a public agency action that must comply with CEQA. For purposes of the Project, the Conservancy is the CEQA lead agency. The Conservancy has determined the Project is categorically exempt from the requirements of CEQA under Class 1, "Existing Facilities," of the State CEQA Guidelines Section 15301. (Pub. Resources Code section 21084; Cal. Code Regs., tit. 14, §15301).

6.2 Duration of Take Authorization

Once the Take authorization has been extended to the Project, it shall remain in effect for a period of fifteen (15) years, unless and until the Permits are revoked by USFWS or CDFG, in which case the Take authorization may also be suspended or terminated.

6.3 Section 7 Consultations with USFWS

Nothing in this Agreement is intended to alter the obligation of a federal agency to consult with USFWS pursuant to Section 7 of FESA (16 U.S.C. §1536(a)). The PSE acknowledges that, if the Project are authorized, funded, or carried out by a federal agency, the federal agency and the Project must also comply with Section 7. As provided in Section 16.1 of the IA, USFWS has made a commitment that, unless otherwise required by law or regulation, it will not require any measures under Section 7 that are inconsistent with or exceed the requirements of the HCP/NCCP and the Permits for activities covered by the HCP/NCCP and the Permits.

7.0 RIGHTS AND OBLIGATIONS OF PSE

7.1 Rights

Upon the Conservancy's issuance of a Certificate of Inclusion to PSE, PSE may Take the Covered Species while carrying out the Project in the Permit Area, as further authorized by and subject to the conditions of this Agreement, the IA, the HCP/NCCP, and the Permits. The authority issued to PSE applies to all of its elected officials, officers, directors, employees, agents, subsidiaries, contractors, and subcontractors, and their officers, directors, employees and agents to the extent that they participate in the implementation of

the Project. PSE shall periodically conduct an educational program to fully inform all such persons and entities of the terms and conditions of the Permits, and PSE shall be responsible for supervising their compliance with those terms and conditions. All contracts between PSE and such persons and entities shall require their compliance with the Permits.

7.2 General Obligations

The PSE will fully and faithfully perform all obligations assigned to it under this Agreement, the IA, the HCP/NCCP, the Permits, including but not limited to the obligations assigned in the following chapters of the HCP/NCCP: Chapter 6.0 (Conditions on Covered Activities), Chapter 8.4 (Participating Special Entities), and Chapter 9.0 (Funding). PSE shall implement all measures and adhere to all standards included in the Application, and PSE shall reserve funding sufficient to fulfill its obligations under this Agreement, the IA, the HCP/NCCP and the Permits throughout the term of this Agreement. PSE will promptly notify the Conservancy of any material change in its financial ability to fulfill its obligations under this Agreement.

7.3 Obligations In The Event of Suspension or Revocation

In the event that USFWS and/or CDFW suspend or revoke the Permits pursuant to Sections 19.0 and 21.0 of the IA, PSE will remain obligated to fulfill its mitigation, enforcement, management, and monitoring obligations, and its other HCP/NCCP obligations, in accordance with this Agreement and applicable statutory and regulatory requirements for all impacts resulting from implementation of the Project prior to the suspension or revocation.

7.4 Interim Obligations upon a Finding of Unforeseen Circumstances

If the Wildlife Agencies make a finding of Unforeseen Circumstances with regard to a Federal Listed Covered Species, during the period necessary to determine the nature and location of additional or modified mitigation, PSE will avoid contributing to an appreciable reduction in the likelihood of the survival and recovery of the affected species. As described in Section 15.2.2 and Section 15.3.2 of the IA, the Wildlife Agencies shall be responsible for implementing such additional measures or modifications, unless PSE consents to do so.

7.5 Obligations In The Event Of Changed Circumstances

Changed Circumstances, as described in 50 Code of Federal Regulations section 17.22(b)(5)(i), are adequately addressed in Chapter 7 and Chapter 10 of the HCP/NCCP, and PSE shall implement any measures for such circumstances as called for in the HCP/NCCP, as described in Section 12.2 of the IA.

7.6 Obligation to Compensate Conservancy for Administrative Costs

PSE shall compensate the Conservancy for its direct costs associated with this Agreement, including but not limited to, staff, consultant and legal costs incurred as a result of the review of the Application, drafting and negotiating this Agreement, monitoring and enforcement of this Agreement, and meetings and communications with PSE (collectively, Conservancy's "Administrative Costs"). Conservancy's Administrative Costs shall not exceed \$10,000 in the aggregate. Conservancy shall provide PSE with invoices detailing

its Administrative Costs monthly or quarterly, at Conservancy's discretion. PSE shall remit payment of each invoice within thirty (30) days of receiving it.

This provision is not intended to, and shall not be construed to, limit PSE's duty to indemnify the Conservancy as provided in Section 7.7 of this Agreement.

7.7 Indemnification

PSE agrees to defend, indemnify, and hold harmless the Conservancy and its board members, officers, contractors, consultants, attorneys, employees and agents from any and all claim(s), action(s), or proceeding(s) (collectively referred to as "Proceedings") brought against Conservancy or its board members, officers, contractors, consultants, attorneys, employees, or agents arising out of or resulting from any of the following.

- Decisions or actions of the Conservancy related to the Project, this PSE Agreement, or compliance with the California Environmental Quality Act of 1970, as amended ("CEQA") with regard to the Project; and
- The negligence, recklessness, or intentional misconduct of any representative, employee, or agent of PSE.

Notwithstanding the above, (i) PSE shall have no duty to defend, indemnify, or hold harmless the Conservancy to the extent damages are sought in a tort claim arising out of or resulting from the individual negligence, recklessness, or intentional misconduct of any representative, employee, or agent of the Conservancy and (ii) the indemnification obligations set forth above shall in no way limit the rights and remedies of PSE with respect to any breach of the terms and conditions of this PSE Agreement by the Conservancy.

PSE's duty to indemnify the Conservancy includes, but is not limited to, damages, fees and/or costs awarded against or incurred by Conservancy, if any, and costs of suit, claim or litigation, including without limitation attorneys' fees and other costs, liabilities and expenses incurred in connection with any Proceedings.

7.7.1 Enforcement of Indemnification Provision

PSE agrees to indemnify Conservancy for all of Conservancy's costs, fees, and damages incurred in enforcing the indemnification provisions of this Agreement.

7.7.2 Compliance Costs

PSE agrees to defend, indemnify and hold harmless Conservancy, its officers, contractors, consultants, attorneys, employees and agents from and for all costs and fees incurred in additional investigation or study of, or for supplementing, redrafting, revising, or amending, any document (such as this Agreement or any document required for purposes of compliance with CEQA) if made necessary by any Proceedings.

7.7.3 Obligations in the Event of Litigation

In the event that PSE is required to defend Conservancy in connection with any Proceedings, Conservancy shall have and retain the right to approve, which approval shall not be withheld unreasonably:

- the counsel to so defend Conservancy;

- all significant decisions concerning the manner in which the defense is conducted; and
- any and all settlements.

Conservancy shall also have and retain the right to decline to participate in the defense, except that Conservancy agrees to reasonably cooperate with PSE in the defense of the Proceedings. If Conservancy participates in the defense, all Conservancy fees and costs shall be paid by PSE.

PSE's defense and indemnification of Conservancy set forth herein shall remain in full force and effect throughout all stages of litigation including any and all appeals of any lower court judgments rendered in the Proceedings.

8.0 REMEDIES AND ENFORCEMENT

If PSE fails to comply with the terms of this Agreement, the IA, the HCP/NCCP, or the Permits, the Conservancy may withdraw the Certificate of Inclusion and terminate any Take authorization extended to PSE. The Conservancy shall also have all of the remedies available in equity (including specific performance and injunctive relief) and at law to enforce the terms of this Agreement, the IA, the HCP/NCCP and the Permits, and to seek redress and compensation for any breach or violation thereof. The Parties acknowledge that the Covered Species are unique and that their loss as species would be irreparable and that therefore injunctive and temporary relief may be appropriate in certain instances involving a breach of this Agreement.

9.0 FORCE MAJEURE

In the event that a Party is wholly or partially prevented from performing obligations under this Agreement because of unforeseeable causes beyond the reasonable control of and without the fault or negligence of Party ("Force Majeure"), including, but not limited to, acts of God, labor disputes, sudden actions of the elements not identified as Changed Circumstances, or actions of non-participating federal or state agencies or local jurisdictions, the Party shall be excused from whatever performance is affected by such unforeseeable cause to the extent so affected, and such failure to perform shall not be considered a material violation or breach, provided that nothing in this section shall be deemed to authorize either Party to violate FESA, CESA or NCCPA, and provided further that:

- The suspension of performance is of no greater scope and no longer duration than is required by the Force Majeure;
- Within seven (7) days after the occurrence of the Force Majeure, the Party invoking this section shall give the other Party written notice describing the particulars of the occurrence;
- The Party shall use best efforts to remedy its inability to perform (however, this paragraph shall not require the settlement of any strike, walk-out, lock-out or other labor dispute on terms which in the sole judgment of the Party is contrary to its interest); and

- When the Party is able to resume performance of their obligations, it shall give the other Party written notice to that effect.

10.0 MISCELLANEOUS PROVISIONS

10.1 Calendar Days

Throughout this Agreement and the HCP/NCCP, the use of the term “day” or “days” means calendar days, unless otherwise specified.

10.2 Notices

Any notice permitted or required by this Agreement shall be in writing, and delivered personally, by overnight mail, or by United States mail, certified and postage prepaid, return receipt requested. Notices may be delivered by facsimile or electronic mail, provided they are also delivered by one of the means listed above. Delivery shall be to the name and address of the individual responsible for each of the Parties, as follows:

Abigail Fateman
 East Contra Costa County Habitat Conservancy
 c/o Contra Costa County Department of Conservation and Development
 30 Muir Road
 Martinez, CA 94553
 Email: abigail.fateman@dcd.cccounty.us
 Phone: 925-674-7820

Robert D. Stiving
 Manager, EM – GT
 Pacific Gas and Electric Co.
 6111 Bollinger Canyon Road
 Room 3230B
 San Ramon, CA 94583
 Phone: 925-244-3672

Notices shall be transmitted so that they are received within the specified deadlines. Notices delivered personally shall be deemed received on the date they are delivered. Notices delivered via overnight delivery shall be deemed received on the next business day after deposit with the overnight mail delivery service. Notice delivered via certified mail, return receipt requested, shall be deemed received as of the date on the return receipt or five (5) days after deposit in the United States mail, whichever is sooner. Notices delivered by facsimile or other electronic means shall be deemed received on the date they are received.

10.3 Entire Agreement

This Agreement, together with the IA, the HCP/NCCP and the Permits, constitutes the entire agreement among the Parties. This Agreement supersedes any and all other agreements, either oral or in writing, between the Parties with respect to the subject matter

hereof and contains all of the covenants and agreements among them with respect to said matters, and each Party acknowledges that no representation, inducement, promise of agreement, oral or otherwise, has been made by any other Party or anyone acting on behalf of any other Party that is not embodied herein.

10.4 Amendment

This Agreement may only be amended with the written consent of both Parties.

10.5 Attorneys' Fees

If any action at law or equity, including any action for declaratory relief is brought to enforce or interpret the provisions of this Agreement, the prevailing Party shall be able to recover its attorneys' fees and costs.

10.6 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California, as applicable.

10.7 Duplicate Originals

This Agreement may be executed in any number of duplicate originals. A complete original of this Agreement shall be maintained in the official records of each of the Parties hereto.

10.8 Relationship to the FESA, CESA, NCCPA and Other Authorities

The terms of this Agreement are consistent with and shall be governed by and construed in accordance with FESA, CESA, NCCPA and other applicable state and federal law.

10.9 No Third Party Beneficiaries

Without limiting the applicability of rights granted to the public pursuant to FESA, CESA, NCCPA or other applicable law, this Agreement shall not create any right or interest in the public, or any member thereof, as a third party beneficiary thereof, nor shall it authorize anyone not a Party to this Agreement to maintain a suit for personal injuries or property damages under the provisions of this Agreement. The duties, obligations, and responsibilities of the Parties to this Agreement with respect to third party beneficiaries shall remain as imposed under existing state and federal law.

10.10 References to Regulations

Any reference in this Agreement, the IA, the HCP/NCCP, or the Permits to any regulation or rule of the Wildlife Agencies shall be deemed to be a reference to such regulation or rule in existence at the time an action is taken.

10.11 Applicable Laws

All activities undertaken pursuant to this Agreement, the IA, the HCP/NCCP, or the Permits must be in compliance with all applicable local, state and federal laws and regulations.

10.12 Severability

In the event one or more of the provisions contained in this Agreement is held invalid, illegal or unenforceable by any court of competent jurisdiction, such portion shall be deemed severed from this Agreement and the remaining parts of this Agreement shall

remain in full force and effect as though such invalid, illegal, or unenforceable portion had never been a part of this Agreement.

10.13 Due Authorization

Each Party represents and warrants that (1) the execution and delivery of this Agreement has been duly authorized and approved by all requisite action, (2) no other authorization or approval, whether of governmental bodies or otherwise, will be necessary in order to enable it to enter into and comply with the terms of this Agreement, and (3) the person executing this Agreement on behalf of each Party has the authority to bind that Party.

10.14 No Assignment

The Parties shall not assign their rights or obligations under this Agreement, the Permits, or the HCP/NCCP to any other individual or entity.

10.15 Headings

Headings are using in this Agreement for convenience only and do not affect or define the Agreement’s terms and conditions.

IN WITNESS WHEREOF, THE PARTIES HERETO have executed this Agreement to be in effect as of the date last signed below.

EAST CONTRA COSTA COUNTY HABITAT CONSERVANCY

By: _____ DATE: _____
ABIGAIL FATEMAN, Executive Director

PACIFIC GAS AND ELECTRIC COMPANY

By: _____ DATE: _____
ROBERT D. STIVING, Manager, Environmental Management—Gas
Transmission

Application Form and Planning Survey Report
To Comply With and Receive Permit Coverage Under
The East Contra Costa County Habitat Conservation Plan
and Natural Community Conservation Plan

Please complete this application to apply for take authorization under the state and federal East Contra Costa County HCP/NCCP incidental take permits. The East Contra Costa County Habitat Conservancy (“Conservancy”) or local jurisdiction (City of Brentwood, City of Clayton, City of Oakley, City of Pittsburg, and Contra Costa County) may request more information in order to deem the application complete.

I. PROJECT OVERVIEW

PROJECT INFORMATION			
PROJECT NAME: PG&E T-1047A Hydrotest Project			
PROJECT TYPE: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Transportation <input checked="" type="checkbox"/> Utility <input type="checkbox"/> Other			
PROJECT DESCRIPTION (BRIEF): Hydrostatic testing of gas pipeline 114 (L-114) to ensure it is operating within approved safety standards.			
PROJECT ADDRESS/LOCATION: Location A: PG&E Brentwood Terminal near the intersection of Vineyards Avenue and Fairview Parkway in Brentwood. Location D: Near the John Marsh Historic Home at 21789 Marsh Creek Rd, Brentwood, CA 94513.			
PARCEL/PROJECT SIZE (ACRES): Temporary Impacts			
	Impact Type		
Location	Work Area	Access Roads	Total
Location A	0.91 acre	0.30 acre	1.21 acre
Location D	0.23 acre	0.03 acre	0.26 acre
Total			1.47 acre
PROJECT APN(S): Location A: 010050003, Location D: 007380011			
APPLICATION SUBMITTAL DATE:		FINAL PSR DATE: (City/County/Conservancy use)	
LEAD PLANNER:			
JURISDICTION: <input type="checkbox"/> City of Brentwood <input type="checkbox"/> City of Clayton <input type="checkbox"/> City of Oakley <input type="checkbox"/> City of Pittsburg <input type="checkbox"/> Contra Costa County <input checked="" type="checkbox"/> Participating Special Entity*			
<small>*Participating Special Entities are organizations not subject to the authority of a local jurisdiction. Such organizations may include school districts, irrigation districts, transportation agencies, local park districts, geological hazard abatement districts, or other utilities or special districts that own land or provide public services.</small>			
DEVELOPMENT FEE ZONE: <input type="checkbox"/> Zone I <input type="checkbox"/> Zone II <input type="checkbox"/> Zone III <input type="checkbox"/> Zone IV <small>See figure 9-1 of the HCP/NCCP at www.cocohcp.org for a generalized development fee zone map. Detailed development fee zone maps by jurisdiction are available from the jurisdiction.</small>			
PROJECT APPLICANT INFORMATION			
APPLICANT’S NAME: Steve Willoughby – Principal Land Planner at PG&E			
AUTHORIZED AGENT’S NAME AND TITLE:			
PHONE NO.: 413.314.2818		APPLICANT’S E-MAIL: sewb@pge.com	
MAILING ADDRESS: 6111 Bollinger Canyon Road, 3 rd Floor, #3210C, San Ramon, CA 94583			
BIOLOGIST INFORMATION ¹			
BIOLOGICAL/ENVIRONMENTAL FIRM: PG&E			
CONTACT NAME AND TITLE: Ryan Byrnes/ Swaim Biological. However please direct questions to Chrissie Klinkowski/PG&E			
PHONE NO.: Chrissie Klinkowski: 925.200.8852		CONTACT’S E-MAIL: Chrissie Klinkowski: ckc7@pge.com	
MAILING ADDRESS: Chrissie Klinkowski: 6111 Bollinger Canyon Road, 3 rd Floor, #3320D, San Ramon, CA 94583			

¹ A USFWS/CDFW-approved biologist (project-specific) is required to conduct the surveys. Please submit biologist(s) approval request to the Conservancy.

II. PROJECT DETAILS

Please complete and/or provide the following attachments:

1) Project Description

Attach as **Attachment A: Project Description**. Provide a detailed written description that concisely and completely describes the project and location. Include the following information:

- All activities proposed for the site or project, including roads utilized, construction staging areas, and the installation of underground facilities, to ensure the entire project is covered by the HCP/NCCP permit
- Proposed construction dates, including details on construction phases, if applicable
- Reference a City/County application number for the project, if applicable
- General Best Management Practices, if applicable
- If the project will have temporary impacts, please provide a restoration plan describing how the site will be restored to pre-project conditions, including revegetation seed mixes or plantings and timing

2) Project Vicinity Map

Provide a project vicinity map. Attach as **Figure 1 in Attachment B: Figures**.

3) Project Site Plans

Provide any project site plans for the project. Attach as **Figure 2 in Attachment B: Figures**.

4) CEQA Document

Indicate the status of CEQA documents prepared for the project. Provide additional comments below table if necessary.

Type of Document	Status	Date Completed
<input type="checkbox"/> Initial Study		
<input type="checkbox"/> Notice of Preparation		
<input type="checkbox"/> Draft EIR		
<input type="checkbox"/> Final EIR		
<input type="checkbox"/> Notice of Categorical Exemption		
<input type="checkbox"/> Notice of Statutory Exemption		
<input type="checkbox"/> Other (describe)	see below	Not applicable

As this work involves maintenance activities on an existing gas pipeline, it is CEQA exempt under a Class 1 Categorical Exemption under CEQA (see CEQA guidelines Section 15301 et seq., paragraph (b)).

III. EXISTING CONDITIONS AND IMPACTS

Please complete and/or provide the following attachments:

1) Field-Verified Land Cover Map²

Attach a field-verified land cover map in **Attachment B: Figures** and label as **Figure 3**. The map should contain all land cover types present on-site overlaid on aerial/satellite imagery. Map colors for the land cover types should conform to the HCP/NCCP (see *Figure 3-3: Landcover in the Inventory Area* for land cover type legend).

2) Photographs of the Project Site

Attach representative photos of the project site in **Attachment B: Figures** and label as **Figure 4**. Please provide captions for each photo.

² For PSEs and city or county public works projects, please also identify permanent and temporary impact areas by overlaying crosshatching (permanent impacts) and hatching (temporary impacts) on the land cover map.

3) Land Cover Types and Impacts and Supplemental Tables

- For all terrestrial land cover types please provide calculations to the nearest **hundredth of an acre (0.01)**. For aquatic land cover types please provide calculations to the nearest **thousandth of an acre (0.001)**.
- **Permanent Impacts** are broadly defined in the ECCC HCP/NCCP to include all areas removed from an undeveloped or habitat-providing state and includes land in the same parcel or project that is not developed, graded, physically altered, or directly affected in any way but is isolated from natural areas by the covered activity. Unless such undeveloped land is dedicated to the Preserve System or is a deed-restricted creek setback, the development mitigation fee will apply (if proposed, would require Conservancy approval).
- **Temporary Impacts** are broadly defined in the ECCC HCP/NCCP as any impact on vegetation or habitat that does not result in permanent habitat removal (i.e. vegetation can eventually recover).
- If **wetland (riparian woodland/scrub, wetland, or aquatic)** land cover types are present on the parcel but will not be impacted please discuss in the following section 4) Jurisdictional Wetlands and Waters. Wetland impact fees will only be charged if wetland features are impacted. However, development fees will apply to the entire parcel.
- **Stream** land cover type is considered a linear feature where impacts are calculated based on length impacted. The acreage within a stream, below Top of Bank (TOB), must be assigned to the adjacent land cover type(s). Insert area of impact to stream below TOB in parentheses after the Land Cover acreage number (e.g., Riparian Woodland/Scrub: 10 (0.036) – where 10 is the total impacted acreage including 0.036 acre, which is the acreage within stream TOB). Complete following supplemental **Stream Feature Detail** table to provide information for linear feet.
- **Total Impacts** acreage should be the total parcel acreage (development project) or project footprint acreage (rural infrastructure or utility project).

*Proposed for HCP/NCCP
Dedication on the Parcel
(Requires Conservancy Approval)*

Table 1: Land Cover Types and Impacts

Land Cover Type	Permanent Impacts	Temporary Impacts	Stream Setback	Preserve System Dedication
<i>Grassland</i>				
Annual Grassland		1.47		
Alkali Grassland				
Ruderal				
<i>Shrubland</i>				
Chaparral and Scrub				
<i>Woodland</i>				
Oak Savannah				
Oak Woodland				
<i>Riparian</i>				
Riparian Woodland/Scrub				
<i>Wetland</i>				
Permanent Wetland				
Seasonal Wetland				
Alkali Wetland				
<i>Aquatic</i>				
Aquatic (Reservoir/Open Water)				
Slough/Channel				
Pond				
Stream (in linear feet)	-	-	-	-
<i>Irrigated Agriculture</i>				
Pasture				
Cropland				
Orchard				
Vineyard				
<i>Other</i>				
Nonnative woodland				
Wind turbines				
<i>Developed (not counted toward Fees)</i>				
Urban				
Aqueduct				
Turf				
Landfill				
TOTAL IMPACTS		1.47		

Identify any uncommon vegetation and uncommon landscape features³:

Supplemental to Table 1: Uncommon Vegetation and Landscape Features

	Permanent Impacts	Temporary Impacts
<i>Uncommon Grassland Alliances</i>		
Purple Needlegrass Grassland		
Blue Wildrye Grassland		
Creeping Ryegrass Grassland		
Wildflower Fields		
Squirreltail Grassland		
One-sided Bluegrass Grassland		
Serpentine Bunchgrass Grassland		
Saltgrass Grassland		
Alkali Sacaton Bunchgrass Grassland		
<input type="checkbox"/> Other		
<i>Uncommon Landscape Features</i>		
Rock Outcrops		
Caves		
Springs and seeps		
Scalds		
Sand Deposits		
<input type="checkbox"/> Mines ⁴		
<input type="checkbox"/> Buildings (bat roosts) ³		
<input type="checkbox"/> Potential nest sites (trees or cliffs) ³		

Please provide details of impacts to stream features:

Stream Name:

Watershed:

Supplemental to Table 1: Stream Feature Detail⁵

Stream Width	Stream Type ⁶	Permanent Impacts (linear feet) ⁷	Temporary Impacts (linear feet) ⁷
<input type="checkbox"/> ≤ 25 feet wide <input type="checkbox"/> > 25 feet wide	<input type="checkbox"/> Perennial <input type="checkbox"/> Intermittent <input type="checkbox"/> Ephemeral, 3rd or higher order <input type="checkbox"/> Ephemeral, 1st or 2nd order		
<input type="checkbox"/> ≤ 25 feet wide <input type="checkbox"/> > 25 feet wide	<input type="checkbox"/> Perennial <input type="checkbox"/> Intermittent <input type="checkbox"/> Ephemeral, 3rd or higher order <input type="checkbox"/> Ephemeral, 1st or 2nd order		
<input type="checkbox"/> ≤ 25 feet wide <input type="checkbox"/> > 25 feet wide	<input type="checkbox"/> Perennial <input type="checkbox"/> Intermittent <input type="checkbox"/> Ephemeral, 3rd or higher order <input type="checkbox"/> Ephemeral, 1st or 2nd order		

³ These acreages are for Conservancy tracking purposes. Impacts to these uncommon vegetation and landscape features should be accounted for within the land cover types in Table 1 (e.g., x acres of purple needlegrass in this supplemental table should be accounted for within annual grassland in Table 1).

⁴ Insert amount/number, not acreage. Provide additional information on these features in Attachment A: Project Description.

⁵ Use more than 1 row as necessary to describe impacts to streams on site.

⁶ See glossary (Appendix A) for definition of stream type and order.

⁷ Stream length is measured along stream centerline, based on length of impact to any part of the stream channel, TOB to TOB.

4) Summary of Land Cover Types

Please provide a written summary of descriptions for land cover types found on site including characteristic vegetation.

Annual grassland is the only land cover type that will be disturbed by the project. Location A is immediately adjacent to the PG&E Brentwood Terminal, and is also adjacent to a partially-developed housing subdivision. Location D is located within a horse pasture that is within Marsh Creek State Park. Both locations are dominated by non-native plants. These include riggut brome (*Bromus diandrus*), Italian ryegrass (*Festuca perennis*), false barley (*Hordeum murinum*), London rocket (*Sisymbrium irio*), wild radish (*Raphanus raphanistrum*), and redstem filaree (*Erodium cicutarium*).

5) Jurisdictional Wetlands and Waters

If wetlands and waters are present on the project site, project proponents must conduct a delineation of jurisdictional wetlands and waters. Jurisdictional wetlands and waters are defined on pages 1-18 and 1-19 of the ECCC HCP/NCCP as the following land cover types: permanent wetland, seasonal wetland, alkali wetland, aquatic, pond, slough/channel, and stream. It should be noted that these features differ for federal and state jurisdictions. If you have identified any of these land cover types in Table 1, complete the section below.

- a) Attach the wetland delineation report as **Attachment E: Wetland Delineation**. If a wetland delineation has not been completed, please explain below in section 4c.
- b) **Please check the following permits the project may require. Please submit copies of these permits to the Conservancy prior to the start of construction:**
- CWA Section 404 Permit⁸ CWA Section 401 Water Quality Certification
- Waste Discharge Requirements Lake and Streambed Alteration Agreement
- c) **Provide any additional information on impacts to jurisdictional wetland and waters below, including status of the permit(s):**

No jurisdictional wetlands or waters will be impacted by work activities.

⁸ The USACE Sacramento District issued a Regional General Permit 1 (RGP) related to ECCC HCP/NCCP covered activities. The RGP is designed to streamline wetland permitting in the entire ECCC HCP/NCCP Plan Area by coordinating the avoidance, minimization, and mitigation measures in the Plan with the Corps' wetland permitting requirement. Applicants seeking authorization under this RGP shall notify the Corps in accordance with RGP general condition number 18 (Notification).

6) Species-Specific Planning Survey Requirements

Based on the land cover types found on-site and identified in Table 1, check the applicable boxes in Table 2a.

Table 2a. Species –Specific Planning Survey Requirements

Land Cover Type in Project Area	Required Survey Species	Habitat Element in Project Area	Planning Survey Requirement ⁹	Info in HCP
<input checked="" type="checkbox"/> Grasslands, oak savannah, agriculture, or ruderal	<input checked="" type="checkbox"/> San Joaquin kit fox	Assumed if within modeled range of species	If within modeled range of species, identify and map potential breeding or denning habitat within the project site and a 250-ft radius around the project footprint.	pp. 6-37 to 6-38
	<input checked="" type="checkbox"/> Western burrowing owl	Assumed	Identify and map potential breeding habitat within the project site and a 500-ft radius around the project footprint. Please note the HCP requires buffers for occupied burrows. Surveys may need to encompass an area larger than the project footprint.	pp. 6-39 to 6-41
<input checked="" type="checkbox"/> Aquatic (ponds, wetlands, streams, sloughs, channels, and marshes)	<input type="checkbox"/> Giant garter snake	Aquatic habitat accessible from the San Joaquin River	Identify and map potential habitat.	pp. 6-43 to 6-45
	<input checked="" type="checkbox"/> California tiger salamander	Ponds and wetlands Vernal pools Reservoirs Small lakes	Identify and map potential breeding habitat. Document habitat quality and features. Provide the Conservancy with photo-documentation and report.	pp. 6-45
	<input checked="" type="checkbox"/> California red-legged frog	Slow-moving streams, ponds and wetlands	Identify and map potential breeding habitat. Document habitat quality and features. Provide the Conservancy with photo-documentation and report.	p. 6-46
	<input type="checkbox"/> Covered shrimp	Seasonal wetlands Vernal pools Sandstone rock outcrops Sandstone depressions	Identify and map potential habitat. Please note the HCP requires a 50 foot non-disturbance buffer from seasonal wetlands that may be occupied by covered shrimp. Surveys may need to encompass an area larger than the project footprint.	pp. 6-46 to 6-48
<input checked="" type="checkbox"/> Any	<input type="checkbox"/> Townsend’s big-eared bat	Rock formations with caves Mines Abandoned buildings outside urban area	Map and document potential breeding or roosting habitat.	pp. 6-36 to 6-37
	<input checked="" type="checkbox"/> Swainson’s hawk	Potential nest sites within 1,000 feet of project	Inspect large trees for presence of nest sites. Document and map.	pp. 6-41 to 6-43
	<input checked="" type="checkbox"/> Golden Eagle	Potential nest sites with ½ mile of project	Inspect large trees for presence of nest sites. Document and map.	pp. 6-38 to 6-39

Surveys for all covered species must be conducted by a qualified biologist (USFWS/CDFW project-specific approved). Please submit biologist approval request to the East Contra Costa County Habitat Conservancy.

Surveys for all covered species must be conducted according to the respective USFWS or CDFW survey protocols, as identified in Chapter 6.4.3 in the HCP/NCCP.

7) Planning Survey Species Habitat Maps

Provide Planning Survey Species Habitat Maps as required in Table 2a, attach as **Figure 5 in Attachment B: Figures**.

⁹ The planning survey requirements in this table are not comprehensive. Please refer to Chapter 6.4.3 in the ECCC HCP/NCCP for more detail.

8) Results of Species Specific Surveys

Provide a written summary describing the results of the planning surveys. Please discuss the location, quantity, and quality of suitable habitat for specified covered wildlife species on the project site.

Below is a summary describing the results of the planning surveys for all species in Table 2a that have required surveys.

San Joaquin Kit Fox (*Vulpes macrotis mutica*):

Location A is within the modeled range of the species. However, no burrows suitable for use by San Joaquin kit foxes were observed within the project footprint or within a 250-foot radius of the project footprint during planning surveys.

Location D is within the modeled range of the San Joaquin kit fox. A large number of California ground squirrel (*Otospermophilus beecheyi*) burrows are present within the work area footprint and within a 250-foot radius; however, none were observed that were greater than five inches in diameter for a minimum of one-foot underground. Other indications of use by San Joaquin kit fox, including large keyhole-shaped burrows, tracks, scat, prey remains, or fur were not observed during planning surveys

Western Burrowing Owl (*Athene cunicularia*):

Location A: Burrows within the project footprint at Location A appeared to be exclusively made by Botta's pocket gophers (*Thomomys bottae*). None of them were large enough to be suitable for use by burrowing owls (i.e four inches or greater diameter). Larger burrows that were likely constructed by California ground squirrels were present within 500 feet of the site to the west along the concrete wall separating the site from an adjacent residential development. These burrows are within approximately 50 feet of the western access route to the site. Pre-construction surveys and relevant avoidance and minimization measures (AMMs) as identified in Section IV will be implemented at this location for Western burrowing owl.

Location D: A large number of California ground squirrel burrows are present within the project footprint and within 500 feet of its perimeter at location D. Several burrows that are four inches or greater in diameter and which are therefore suitable for use by burrowing owls are present, but no signs of use by owls such as whitewash, prey remains, pellets, or feathers were observed. Pre-construction surveys and relevant AMMs as identified in Section IV will be implemented at this location for Western burrowing owl.

California Tiger Salamander (*Ambystoma californiense*):

Location A: Much of the area surrounding Location A was impacted by a residential housing development project; consequently, most breeding habitat for the California tiger salamander (CTS) in the area surrounding Location A has been altered or destroyed. An artificial basin that was built to contain runoff from the residential construction project may provide marginal breeding habitat for CTS. This basin is located 0.4 mile south of Location A and movement by CTS between it and the work area is only partially obstructed by the new development. The basin contained water during the site surveys and had emergent vegetation including cattails (*Typha* sp.) and cottonwoods (*Populus fremontii*). Grassland with rodent burrows capable of supporting CTS was present in the project area. Many of the rodent burrows in the work area footprint were either plugged with soil or had filled in naturally over time, reducing their quality as CTS upland habitat. During the field survey approximately 40 burrow openings were identified within the work area.

Location D: A suitable breeding site for CTS is located 700 feet east of Location D on the opposite side of Marsh Creek Road, this location is reported in the California Natural Diversity Database (CNDDDB). Marsh Creek Reservoir, located 400 feet south of the project work area contains fish, bullfrogs (*Lithobates catesbeiana*) and other predators that would preclude tiger salamander breeding. Numerous California ground squirrel burrows in and around Location D provide suitable upland habitat.

California Red-Legged Frog (*Rana draytonii*):

Location A: Few potential breeding sites are present in the vicinity of Location A. The sediment basin located 0.4 mile south of the area lacked dense vegetation associated with California red-legged frog (CRLF) habitat and high turbidity reduce the suitability of this feature to support CRLF breeding. Several ponds located on a golf course about 0.2 mile north of the site appear to have sufficient depth and inundation periods to make them capable of supporting CRLF breeding but dense bankside, floating, or emergent vegetation are absent. These ponds are also separated from the work area by Highway 4, which is a substantial dispersal barrier for this species. Marsh Creek, located about 0.15 mile east of the site may provide non-breeding aquatic habitat, but is not expected to support breeding due to a lack of still or slow-moving water during the winter months and the likely presence of predatory fish.

Location D: Potential breeding sites near Location D include a cattle stock pond 0.5 mile west of the site and Marsh Creek Reservoir, located 400 feet to the south. The likely presence of bullfrogs and fish reduce the suitability of the reservoir for CRLF breeding. A small stock pond located 700 feet east of the site may hold sufficient water in some years to allow for tadpole metamorphosis, however adequate vegetation for cover and egg mass attachment is absent.

Swainson's Hawk (*Buteo swainsonii*):

Location A: Surveys for Swainson's hawk nests were conducted within 1,000 feet of Location A, and no potential nests were observed within this buffer. The nearest suitable nesting habitat for Swainson's hawk to Location A is within the riparian corridor of Marsh Creek, approximately 1,300 feet east of the work location on the opposite side of Highway 4, where numerous large trees are present. During the planning surveys, an active Swainson's hawk nest was observed approximately 1,600 feet east of the work location, the nest location is shown on Figure 5.

Location D: Surveys for Swainson's hawk nests were conducted within 1,000 feet of Location D, and no potential nests were observed within this buffer. The nearest identified nest is the nest mentioned above, which is approximately 4,000 feet northeast of the work area.

Golden Eagle (*Aquila chrysaetos*):

Location A: Surveys for golden eagle nests were conducted within 0.5 mile of Location A, and no potential nests were observed within this buffer. The nearest known nesting locations are over 1 mile away from the work location.

Location D: Surveys for golden eagle nests were conducted within 0.5 mile of Location D, and no potential nests were observed within this buffer. The nearest known nesting locations are over 1 mile away from the work location

9) Covered and No-Take Plants

Please check the applicable boxes in Table 2b based on the land cover types found in the project area. If suitable land cover types are present on site, surveys must be conducted using approved CDFW/USFWS methods during the appropriate season for identification of covered and no-take species (see page 6-9 of the ECCC HCP/NCCP). Reference populations of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant species is visible and detectable at the time surveys are conducted. In order to complete all the necessary covered and no-take plant surveys, spring, summer, and fall surveys may be required.

Table 2b. Covered and No-Take Plant Species

Plant Species	Covered (C) or No-Take (N)	Associated Land Cover Type	Typical Habitat or Physical Conditions, if Known	Typical Blooming Period	Suitable Land Cover Type Present
Adobe navarretia (<i>Navarretia nigelliformis</i> ssp. <i>radians</i>) ^a	C	Annual Grassland	Generally found on clay barrens in Annual Grassland ^b	Apr–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Alkali milkvetch (<i>Astragalus tener</i> ssp. <i>tener</i>)	N	Alkali grassland Alkali wetland Annual grassland Seasonal wetland	Generally found in vernal moist habitat in soils with a slight to strongly elevated pH	Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Big tarplant (<i>Blepharizonia plumosa</i>)	C	Annual grassland	Elevation below 1500 feet ^d most often on Altamont Series or Complex soils	Jul–Oct	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Brewer's dwarf flax (<i>Hesperolinon breweri</i>)	C	Annual grassland Chaparral and scrub Oak savanna Oak woodland	Generally, restricted to grassland areas within a 500+ buffer from oak woodland and/or chaparral/scrub ^d	May–Jul	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Brittlescale (<i>Atriplex depressa</i>)	C	Alkali grassland Alkali wetland	Restricted to soils of the Pescadero or Solano soil series; generally found in southeastern region of plan area ^d	May–Oct	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Caper-fruited tropidocarpum (<i>Tropidocarpum capparideum</i>)	N	Alkali grassland		Mar–Apr	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Contra Costa goldfields (<i>Lasthenia conjugens</i>)	N	Alkali grassland Alkali wetland Annual grassland Seasonal wetland	Generally found in vernal pools	Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Diablo Helianthella (<i>Helianthella castanea</i>)	C	Chaparral and scrub Oak savanna Oak woodland	Elevations generally above 650 feet ^d	Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Diamond-petaled poppy (<i>Eschscholzia rhombipetala</i>)	N	Annual grassland		Mar–Apr	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Large-flowered fiddleneck (<i>Amsinckia grandiflora</i>)	N	Annual grassland	Generally on clay soil	Apr–May	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mount Diablo buckwheat (<i>Eriogonum truncatum</i>)	N	Annual grassland Chaparral and scrub	Ecotone of grassland and chaparral/scrub	Apr–Sep	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mount Diablo fairy-lantern (<i>Calochortus pulchellus</i>)	C	Annual grassland Chaparral and scrub Oak savanna Oak woodland	Elevations generally between 650 and 2,600 ^d	Apr–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Mount Diablo Manzanita (<i>Arctostaphylos auriculata</i>)	C	Chaparral and scrub	Elevations generally between 700 and 1,860 feet; restricted to the eastern and northern flanks of Mt. Diablo ^d and the vicinity of Black Diamond Mines	Jan–Mar	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Recurved larkspur (<i>Delphinium recurvatum</i>)	C	Alkali grassland Alkali wetland		Mar–Jun	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Round-leaved filaree (<i>California macrophylla</i>) ^c	C	Annual grassland		Mar–May	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
San Joaquin spearscale (<i>Extriplex joaquiniana</i>) ^e	C	Alkali grassland Alkali wetland		Apr–Oct	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Showy madia (<i>Madia radiata</i>)	C	Annual grassland Oak savanna Oak woodland	Primarily occupies open grassland or grassland on edge of oak woodland	Mar–May	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

^a The species *Navarretia nigelliformis* subsp. *nigelliformis* is no longer considered to occur within Contra Costa County based on specimen annotations at the UC and Jepson Herbaria at the University of California Berkeley as well as the opinions of experts in the genus. This taxon is now recognized as *Navarretia nigelliformis* subsp. *radians*. Any subspecies of *Navarretia nigelliformis* encountered as a part of botanical surveys in support of a PSR should be considered as covered under this HCP/NCCP.

^b Habitat for the *Navarretia nigelliformis* subspecies that occurs within the inventory are inaccurately described in the HCP/NCCP as vernal pools. The entity within the Inventory generally occupies clay barrens within Annual Grassland habitat, which is an upland habitat type.

^c From California Native Plant Society. 2007. *Inventory of Rare and Endangered Plants* (online edition, v7-07d). Sacramento, CA. Species may be identifiable outside of the typical blooming period; a professional botanist shall determine if a covered or no take plant occurs on the project site. Reference population of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant is visible and detectable at the time surveys are conducted.

^d See Species Profiles in Appendix D of the Final HCP/NCCP. Reference populations of covered and no-take plants should be visited, where possible, prior to conducting surveys to confirm that the plant species is visible and detectable at the time surveys are conducted.

^e In the recent update to the Jepson eflora (JFP 2013) *Atriplex joaquiniana* has been circumscribed and segregated into a new genus called *Extriplex* based on the work of Elizabeth Zacharias and Bruce Baldwin (2010). The etymology of the genus *Extriplex* means, "beyond or outside Atriplex".

10) Results of Covered and No-Take Plant Species

Provide a written summary describing the results of the planning surveys conducted as required in Table 2b. Describe the methods used to survey the site for all covered and no-take plants, including the dates and times of all surveys conducted (see Tables 3-8 and 6-5 of the ECCC HCP/NCCP for covered and no-take plants), including reference populations visited prior to conducting surveys.

If any covered or no-take plant species were found, include the following information in the results summary:

- Description and number of occurrences and their rough population size.
- Description of the “health” of each occurrence, as defined on pages 5-49 and 5-50 of the HCP/NCCP.
- A map of all the occurrences.
- Justification of surveying time window, if outside of the plant’s blooming period.
- The CNDDDB form(s) submitted to CDFW (if this is a new occurrence).
- A description of the anticipated impacts that the covered activity will have on the occurrence and how the project will avoid impacts to all covered and no-take plant species. If impacts to covered plant species cannot be avoided and plants will be removed by covered activity, the Conservancy must be notified and has the option to salvage the covered plants. All projects must demonstrate avoidance of all six no-take plants (see table 6-5 of the HCP/NCCP).

The rare plant surveys were conducted following the protocols described in the following botanical survey guideline publications to the degree possible: California Department of Fish and Wildlife (formerly California Department of Fish and Game; 2009), the U.S. Fish and Wildlife Service (USFWS; 1996), and the California Native Plant Society (CNPS; 2001). Prior to the rare plant surveys, research was conducted to select special-status plant species with potential to be found within the study areas. Sources consulted included CNDDDB and the plant list in the ECCC HCP/NCCP Planning Survey Report, Table 2a, for projects occurring in annual grassland settings (Jones & Stokes 2007). This list was further refined by comparing geographic range and habitat preferences for each species with the geographic location and habitat types found within the study area. Four special-status plant species were identified to have the potential to occur in the study area: big tarplant (*Blepharizonia plumosa*), round-leaved filaree (*California macrophylla*), diamond-petaled California poppy (*Eschscholzia rhombipetala*), and showy madia (*Madia radiata*), although the likelihood of these species occurring is low due to the degraded habitat and dominance of non-native vegetation at the work locations.

Based on the blooming periods, three rounds of surveys were deemed appropriate: one in March for the early season bloomers, one in April, and another in June for the later season bloomer. Reference site visits were conducted to determine the actual blooming condition of potentially occurring special-status plants at the time when the survey was conducted. The survey dates were timed to include the recorded blooming periods for each of the four species with potential to occur in the survey areas. March and April surveys were conducted within the recorded blooming periods for round-leaved filaree, diamond-petaled California poppy, and showy madia. The June survey was timed to coincide with the blooming period of big tarplant. Although this species is listed as having a blooming period from July through October, many other plant species began (and finished) blooming up to two months early in 2015 due to the timing of the rains and the extreme drought conditions this year. Therefore, it was inferred that the same would be true for big tarplant. If the species was not yet blooming during the June survey, the vegetative structure of the plant would be identifiable at that time.

Natasha Dvorak and Sarah Willbrand from Swaim Biological were approved by the ECCC HCP/NCCP in 2015 to conduct rare plant surveys for this project. These surveys were conducted on March 16, April 17 and 21, and June 2 and 3 in 2015. The rare plant surveys included both project locations and their associated access roads, and included an approximately 15-foot buffer. Transects that were approximately 15 feet apart were walked in all areas. The surveys were floristic in nature, with all live plants were identified to the lowest taxonomic level possible.

Reference populations for round-leaved filaree and big tarplant were visited on April 17 and June 2 at the Black Diamond Mines Regional Preserve, however neither species were observed. This same site was visited in April of 2014 by Ms. Willbrand and round-leaved filaree was observed, however none were observed in 2015. Other attempts were made to visit reference populations of the remaining species, but due to their location on private land, the biologists were unsuccessful.

Ms. Willbrand contacted CNPS Botanists Heath Bartosh and Dianne Lake and they indicated that round-leaved filaree, diamond-petaled California poppy, and showy madia were in full bloom in March and would likely have senesced by the time of the mid-April survey. The blooming period for these species would have coincided with the March rare plant surveys. Photos of all potentially-occurring taxa were examined using the Consortium of California Herbaria Database (2015), Calflora (2015), CalPhotos (2015), and CNPS Rare and Endangered Plant Inventory (CNPS 2015).

No special-status plants, or plants that were potentially special-status were identified during the rare plant surveys. All plants were identified to the lowest taxonomic level necessary to determine rarity and listing status. The degraded habitat and dominance of non-native vegetation both Locations A and D make it unlikely that any special-status plant species could be present. No impacts to special-status plant species are expected as a result of this project.

The blooming period of many plant species was likely affected by the ongoing drought. The Brentwood area was experiencing a D3-D4 drought intensity category—extreme drought conditions during the time of the surveys (National Drought Mitigation Center 2015). These conditions appear to have shifted and reduced the length of the growing season.

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IV. SPECIES-SPECIFIC AVOIDANCE AND MINIMIZATION REQUIREMENTS

Please complete and/or provide the following attachments:

1) Species-Specific Avoidance and Minimization for Selected Covered Wildlife

Complete the following table and check the applicable box for covered species determined by the planning surveys.

Table 3. Summary of Applicable Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring Requirements¹⁰

Species	Preconstruction Survey Requirements	Avoidance and Minimization Requirements	Construction Monitoring Required	Info in HCP
<input checked="" type="checkbox"/> San Joaquin kit fox	<ul style="list-style-type: none"> On project footprint and 250-ft radius, map all dens (>5 in. diameter) and determine status Provide written survey results to USFWS within 5 working days after surveying 	<ul style="list-style-type: none"> Monitor dens Destroy unoccupied dens Discourage use of occupied (non-natal) dens 	<ul style="list-style-type: none"> Establish exclusion zones (>50 ft for potential dens, and >100 ft for known dens) Notify USFWS of occupied natal dens 	pp. 6-37 to 6-38
<input checked="" type="checkbox"/> Western burrowing owl	<ul style="list-style-type: none"> On project footprint and 500-ft radius, identify and map all owls and burrows, and determine status Document use of habitat (e.g. breeding, foraging) 	<ul style="list-style-type: none"> Avoid occupied nests during breeding season (Feb-Sep) Avoid occupied burrows during nonbreeding season (Sep – Feb) Install one-way doors in occupied burrow (if avoidance not possible) Monitor burrows with doors installed 	<ul style="list-style-type: none"> Establish buffer zones (250 ft around nests) Establish buffer zones (160 ft around burrows) 	pp. 6-39 to 6-41
<input type="checkbox"/> Giant garter snake	<ul style="list-style-type: none"> Delineate aquatic habitat up to 200 ft from water’s edge on each side Document any occurrences 	<ul style="list-style-type: none"> Limit construction to Oct-May Dewater habitat April 15 – Sep 30 prior to construction Minimize clearing for construction 	<ul style="list-style-type: none"> Delineate 200 ft buffer around potential habitat near construction Provide field report on monitoring efforts Stop construction activities if snake is encountered; allow snake to passively relocate Remove temporary fill or debris from construction site Mandatory training for construction personnel 	pp. 6-43 to 6-45
<input checked="" type="checkbox"/> California tiger salamander	<ul style="list-style-type: none"> Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence on site 	<ul style="list-style-type: none"> Allow agency staff to translocate species, if requested 	<ul style="list-style-type: none"> None 	p. 6-45
<input checked="" type="checkbox"/> California red-legged frog	<ul style="list-style-type: none"> Provide written notification to USFWS and CDFW regarding timing of construction and likelihood of occurrence on site 	<ul style="list-style-type: none"> Allow agency staff to translocate species, if requested 	<ul style="list-style-type: none"> None 	p. 6-46
<input type="checkbox"/> Covered shrimp	<ul style="list-style-type: none"> Establish presence/absence Document and evaluate use of all habitat features (e.g. vernal pools, rock outcrops) 	<ul style="list-style-type: none"> Establish buffer near construction activities Prohibit incompatible activities 	<ul style="list-style-type: none"> Establish buffer around outer edge of all hydric vegetation associated with habitat (50 ft or immediate watershed, whichever is larger) Mandatory training for construction personnel 	pp. 6-46 to 6-48
<input type="checkbox"/> Townsend’s big-eared bat	<ul style="list-style-type: none"> Establish presence/absence Determine if potential sites were recently occupied (guano) 	<ul style="list-style-type: none"> Seal hibernacula before Nov Seal nursery sites before April Delay construction near occupied sites until hibernation or nursery seasons are over 	<ul style="list-style-type: none"> None 	pp. 6-36 to 6-37
<input checked="" type="checkbox"/> Swainson’s hawk	<ul style="list-style-type: none"> Determine whether potential nests are occupied 	<ul style="list-style-type: none"> No construction within 1,000 ft of occupied nests within breeding season (March 15 - Sep 15) If necessary, remove active nest tree after nesting season to prevent occupancy in second year. 	<ul style="list-style-type: none"> Establish 1,000 ft buffer around active nest and monitor compliance (no activity within established buffer) 	pp. 6-41 to 6-43
<input checked="" type="checkbox"/> Golden Eagle	<ul style="list-style-type: none"> Establish presence/absence of nesting eagles 	<ul style="list-style-type: none"> No construction within ½ mile near active nests (most activity late Jan – Aug) 	<ul style="list-style-type: none"> Establish ½ mile buffer around active nest and monitor compliance with buffer 	pp. 6-38 to 6-39

¹⁰ The requirements in this table are not comprehensive; they are detailed in the next section on the following page.

2) Required Preconstruction Surveys, Avoidance and Minimization, and Construction Monitoring

All preconstruction surveys shall be conducted in accordance with the requirements set forth in Section 6.4.3, Species-Level Measures, and Table 6-1 of the ECCC HCP/NCCP. Detailed descriptions of preconstruction surveys, avoidance and minimization, and construction monitoring applicable to each of the wildlife species in Table 3 are located below. Please remove the species-specific measures that do not apply to your project (highlight entire section and delete).

SAN JOAQUIN KIT FOX**Preconstruction Surveys**

Prior to any ground disturbance related to covered activities, a USFWS/CDFW– approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as supporting suitable breeding or denning habitat for San Joaquin kit fox. The surveys will establish the presence or absence of San Joaquin kit foxes and/or suitable dens and evaluate use by kit foxes in accordance with USFWS survey guidelines (U.S. Fish and Wildlife Service 1999). Preconstruction surveys will be conducted within 30 days of ground disturbance. On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 250-foot radius from the perimeter of the proposed footprint to identify San Joaquin kit foxes and/or suitable dens. Adjacent parcels under different land ownership will not be surveyed. The status of all dens will be determined and mapped. Written results of preconstruction surveys will be submitted to USFWS within 5 working days after survey completion and before the start of ground disturbance. Concurrence is not required prior to initiation of covered activities.

If San Joaquin kit foxes and/or suitable dens are identified in the survey area, the measures described below will be implemented.

Avoidance and Minimization Requirements

- If a San Joaquin kit fox den is discovered in the proposed development footprint, the den will be monitored for 3 days by a USFWS/CDFW– approved biologist using a tracking medium or an infrared beam camera to determine if the den is currently being used.
- Unoccupied dens should be destroyed immediately to prevent subsequent use.
- If a natal or pupping den is found, USFWS and CDFW will be notified immediately. The den will not be destroyed until the pups and adults have vacated and then only after further consultation with USFWS and CDFW.
- If kit fox activity is observed at the den during the initial monitoring period, the den will be monitored for an additional 5 consecutive days from the time of the first observation to allow any resident animals to move to another den while den use is actively discouraged. For dens other than natal or pupping dens, use of the den can be discouraged by partially plugging the entrance with soil such that any resident animal can easily escape. Once the den is determined to be unoccupied it may be excavated under the direction of the biologist. Alternatively, if the animal is still present after 5 or more consecutive days of plugging and monitoring, the den may have to be excavated when, in the judgment of a biologist, it is temporarily vacant (i.e., during the animal’s normal foraging activities).

Construction Monitoring

If dens are identified in the survey area outside the proposed disturbance footprint, exclusion zones around each den entrance or cluster of entrances will be demarcated. The configuration of exclusion zones should be circular, with a radius measured outward from the den entrance(s). No covered activities will occur within the exclusion zones. Exclusion zone radii for potential dens will be at least 50 feet and will be demarcated with four to five flagged stakes. Exclusion zone radii for known dens will be at least 100 feet and will be demarcated with staking and flagging that encircles each den or cluster of dens but does not prevent access to the den by kit fox.

WESTERN BURROWING OWL

Preconstruction Surveys

Prior to any ground disturbance related to covered activities, a USFWS/CDFW- approved biologist will conduct a preconstruction survey in areas identified in the planning surveys as having potential burrowing owl habitat. The surveys will establish the presence or absence of western burrowing owl and/or habitat features and evaluate use by owls in accordance with CDFW survey guidelines (California Department of Fish and Game 1995).

On the parcel where the activity is proposed, the biologist will survey the proposed disturbance footprint and a 500-foot radius from the perimeter of the proposed footprint to identify burrows and owls. Adjacent parcels under different land ownership will not be surveyed. Surveys should take place near sunrise or sunset in accordance with CDFW guidelines. All burrows or burrowing owls will be identified and mapped. Surveys will take place no more than 30 days prior to construction. During the breeding season (February 1– August 31), surveys will document whether burrowing owls are nesting in or directly adjacent to disturbance areas. During the nonbreeding season (September 1–January 31), surveys will document whether burrowing owls are using habitat in or directly adjacent to any disturbance area. Survey results will be valid only for the season (breeding or nonbreeding) during which the survey is conducted.

Avoidance and Minimization and Construction Monitoring

This measure incorporates avoidance and minimization guidelines from CDFW's *Staff Report on Burrowing Owl Mitigation* (California Department of Fish and Game 1995).

If burrowing owls are found during the breeding season (February 1 – August 31), the project proponent will avoid all nest sites that could be disturbed by project construction during the remainder of the breeding season or while the nest is occupied by adults or young. Avoidance will include establishment of a non-disturbance buffer zone (described below). Construction may occur during the breeding season if a qualified biologist monitors the nest and determines that the birds have not begun egg-laying and incubation or that the juveniles from the occupied burrows have fledged. During the nonbreeding season (September 1 – January 31), the project proponent should avoid the owls and the burrows they are using, if possible. Avoidance will include the establishment of a buffer zone (described below).

During the breeding season, buffer zones of at least 250 feet in which no construction activities can occur will be established around each occupied burrow (nest site). Buffer zones of 160 feet will be established around each burrow being used during the nonbreeding season. The buffers will be delineated by highly visible, temporary construction fencing.

If occupied burrows for burrowing owls are not avoided, passive relocation will be implemented. Owls should be excluded from burrows in the immediate impact zone and within a 160-foot buffer zone by installing one-way doors in burrow entrances. These doors should be in place for 48 hours prior to excavation. The project area should be monitored daily for 1 week to confirm that the owl has abandoned the burrow. Whenever possible, burrows should be excavated using hand tools and refilled to prevent reoccupation (California Department of Fish and Game 1995). Plastic tubing or a similar structure should be inserted in the tunnels during excavation to maintain an escape route for any owls inside the burrow.

CALIFORNIA TIGER SALAMANDER

Minimization

Written notification to USFWS, CDFW, and the Implementing Entity, including photos and breeding habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFW staff to translocate individuals, if requested. USFWS or CDFW must notify the project proponent of their intent to translocate California tiger salamanders within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFW access to the site prior to construction if they request it.

There are no restrictions under this Plan on the nature of the disturbance or the date of the disturbance unless CDFW or USFWS notify the project proponent of their intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFW to translocate the individuals. USFWS and CDFW shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFW).

CALIFORNIA RED-LEGGED FROG

Minimization

Written notification to USFWS, CDFW, and the Implementing Entity, including photos and habitat assessment, is required prior to disturbance of any suitable breeding habitat. The project proponent will also notify these parties of the approximate date of removal of the breeding habitat at least 30 days prior to this removal to allow USFWS or CDFW staff to translocate individuals, if requested. USFWS or CDFW must notify the project proponent of their intent to translocate California red-legged frog within 14 days of receiving notice from the project proponent. The applicant must allow USFWS or CDFW access to the site prior to construction if they request it.

There are no restrictions under this Plan on the nature of the disturbance or the date of the disturbance unless CDFW or USFWS notify the project proponent of their intent to translocate individuals within the required time period. In this case, the project proponent must coordinate the timing of disturbance of the breeding habitat to allow USFWS or CDFW to translocate the individuals. USFWS and CDFW shall be allowed 45 days to translocate individuals from the date the first written notification was submitted by the project proponent (or a longer period agreed to by the project proponent, USFWS, and CDFW).

SWAINSON'S HAWK

Preconstruction Survey

Prior to any ground disturbance related to covered activities that occurs during the nesting season (March 15–September 15), a qualified biologist will conduct a preconstruction survey no more than 1 month prior to construction to establish whether Swainson's hawk nests within 1,000 feet of the project site are occupied. If potentially occupied nests within 1,000 feet are off the project site, then their occupancy will be determined by observation from public roads or by observations of Swainson's hawk activity (e.g., foraging) near the project site. If nests are occupied, minimization measures and construction monitoring are required (see below).

Avoidance and Minimization and Construction Monitoring

During the nesting season (March 15–September 15), covered activities within 1,000 feet of occupied nests or nests under construction will be prohibited to prevent nest abandonment. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be used, the Implementing Entity will coordinate with CDFW/USFWS to determine the appropriate buffer size.

If young fledge prior to September 15, covered activities can proceed normally. If the active nest site is shielded from view and noise from the project site by other development, topography, or other features, the project applicant can apply to the Implementing Entity for a waiver of this avoidance measure. Any waiver must also be approved by USFWS and CDFW. While the nest is occupied, activities outside the buffer can take place.

All active nest trees will be preserved on site, if feasible. Nest trees, including non-native trees, lost to covered activities will be mitigated by the project proponent according to the requirements below.

Mitigation for Loss of Nest Trees

The loss of non-riparian Swainson's hawk nest trees will be mitigated by the project proponent by:

- If feasible on-site, planting 15 saplings for every tree lost with the objective of having at least 5 mature trees established for every tree lost according to the requirements listed below.

AND either

- 1) Pay the Implementing Entity an additional fee to purchase, plant, maintain, and monitor 15 saplings on the HCP/NCCP Preserve System for every tree lost according to the requirements listed below, OR
- 2) The project proponent will plant, maintain, and monitor 15 saplings for every tree lost at a site to be approved by the Implementing Entity (e.g., within an HCP/NCCP Preserve or existing open space linked to HCP/NCCP preserves), according to the requirements listed below.

The following requirements will be met for all planting options:

- Tree survival shall be monitored at least annually for 5 years, then every other year until year 12. All trees lost during the first 5 years will be replaced. Success will be reached at the end of 12 years if at least 5 trees per tree lost survive without supplemental irrigation or protection from herbivory. Trees must also survive for at least three years without irrigation.
- Irrigation and fencing to protect from deer and other herbivores may be needed for the first several years to ensure maximum tree survival.
- Native trees suitable for this site should be planted. When site conditions permit, a variety of native trees will be planted for each tree lost to provide trees with different growth rates, maturation, and life span, and to provide a variety of tree canopy structures for Swainson's hawk. This variety will help to ensure that nest trees will be available in the short term (5-10 years for cottonwoods and willows) and in the long term (e.g., Valley oak, sycamore). This will also minimize the temporal loss of nest trees.
- Riparian woodland restoration conducted as a result of covered activities (i.e., loss of riparian woodland) can be used to offset the nest tree planting requirement above, if the nest trees are riparian species.
- Whenever feasible and when site conditions permit, trees should be planted in clumps together or with existing trees to provide larger areas of suitable nesting habitat and to create a natural buffer between nest trees and adjacent development (if plantings occur on the development site).
- Whenever feasible, plantings on the site should occur closest to suitable foraging habitat outside the UDA.
- Trees planted in the HCP/NCCP preserves or other approved offsite location will occur within the known range of Swainson's hawk in the inventory area and as close as possible to high-quality foraging habitat.

GOLDEN EAGLE

Preconstruction Survey

Prior to implementation of covered activities, a qualified biologist will conduct a preconstruction survey to establish whether nests of golden eagles are occupied (see Section 6.3.1, *Planning Surveys*). If nests are occupied, minimization requirements and construction monitoring will be required.

Avoidance and Minimization

Covered activities will be prohibited within 0.5 mile of active nests. Nests can be built and active at almost any time of the year, although mating and egg incubation occurs late January through August, with peak activity in March through July. If site-specific conditions or the nature of the covered activity (e.g., steep topography, dense vegetation, limited activities) indicate that a smaller buffer could be appropriate or that a larger buffer should be implemented, the Implementing Entity will coordinate with CDFW/USFWS to determine the appropriate buffer size.

Construction Monitoring

Construction monitoring will focus on ensuring that no covered activities occur within the buffer zone established around an active nest. Although no known golden eagle nest sites occur within or near the ULL, covered activities inside and outside of the Preserve System have the potential to disturb golden eagle nest sites. Construction monitoring will ensure that direct effects to golden eagles are minimized.

3) Construction Monitoring Plan

Before implementing a covered activity, the applicant will develop and submit a construction monitoring plan to the planning department of the local land use jurisdiction and the East Contra Costa County Habitat Conservancy for review and approval. Elements of a brief construction monitoring plan will include the following:

- Results of planning and preconstruction surveys.¹¹
- Description of avoidance and minimization measures to be implemented, including a description of project-specific refinements to the measures or additional measures not included in the HCP/NCCP.
- Description of monitoring activities, including monitoring frequency and duration, and specific activities to be monitored.
- Description of the onsite authority of the construction monitor to modify implementation of the activity.

Check box to acknowledge this requirement.

¹¹ If the preconstruction surveys do not trigger construction monitoring, results of preconstruction surveys should still be submitted to the local jurisdiction and the East Contra Costa County Habitat Conservancy.

V. SPECIFIC CONDITIONS ON COVERED ACTIVITIES

1) Check off the HCP conservation measures that apply to the project.

APPLIES TO ALL PROJECTS

Conservation Measure 1.11. Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds. This conservation measure applies to all projects. All projects will avoid all impacts on extremely rare plants and fully protected species listed in Table 6-5 of the ECCC HCP/NCCP. See HCP pp. 6-23 to 6-25, and Table 6-5.

APPLIES TO PROJECTS THAT IMPACT COVERED PLANT SPECIES

Conservation Measure 3.10. Plant Salvage when Impacts are Unavoidable. This condition applies to projects that cannot avoid impacts on covered plants and help protect covered plants by prescribing salvage whenever avoidance of impacts is not feasible. Project proponents wishing to remove populations of covered plants must notify the Conservancy of their construction schedule to allow the Conservancy the option of salvaging the populations. See HCP pp. 6-48 to 6-50.

APPLIES TO PROJECTS THAT INCLUDE ARE ADJACENT TO STREAMS, PONDS, OR WETLANDS

Conservation Measure 2.12. Wetland, Pond, and Stream Avoidance and Minimization. All projects will implement measures described in the HCP to avoid and minimize impacts on wetlands, ponds, streams, and riparian woodland/scrub. See HCP pp. 6-33 to 6-35.

APPLIES TO NEW DEVELOPMENT PROJECTS

Conservation Measure 1.10. Maintain Hydrologic Conditions and Minimize Erosion. All new development must avoid or minimize direct and indirect impacts on local hydrological conditions and erosion by incorporating the applicable Provision C.3 Amendments of the Contra Costa County Clean Water Program's (CCCWP's) amended NPDES Permit (order no. R2-2003-0022; permit no. CAS002912). The overall goal of this measure is to ensure that new development covered under the HCP has no or minimal adverse effects on downstream fisheries to avoid take of fish listed under ESA or CESA. See HCP pp. 6-21 to 6-22.

APPLIES TO NEW DEVELOPMENT PROJECTS THAT INCLUDE OR ARE ADJACENT TO STREAMS, PONDS, OR WETLANDS

Conservation Measure 1.7. Establish Stream Setbacks. A stream setback will be applied to all development projects covered by the HCP according to the stream types listed in Table 6-2 of the HCP. See HCP pp. 6-15 to 6-18 and Table 6-2.

APPLIES TO NEW DEVELOPMENT PROJECTS ADJACENT TO EXISTING PUBLIC OPEN SPACE, HCP PRESERVES, OR LIKELY HCP ACQUISITION SITES

Conservation Measure 1.6. Minimize Development Footprint Adjacent to Open Space. Project applicants are encouraged to minimize their development footprint and set aside portions of their land to contribute to the HCP Preserve System. Land set aside that contributes to the HCP biological goals and objectives may be credited against development fees. See HCP pages 6-14 to 6-15.

Conservation Measure 1.8. Establish Fuel Management Buffer to Protect Preserves and Property. Buffer zones will provide a buffer between development and wildlands that allows adequate fuel management to minimize the risk of wildlife damage to property or to the preserve. The minimum buffer zone for new development is 100 feet. See HCP pages 6-18 to 6-19.

Conservation Measure 1.9. Incorporate Urban-Wildlife Interface Design Elements. These projects will incorporate design elements at the urban-wildlife interface to minimize the indirect impacts of development on the adjacent preserve. See HCP pp. 6-20 to 6-21.

APPLIES TO ROAD MAINTENANCE PROJECTS OUTSIDE THE UDA

Conservation Measure 1.12. Implement Best Management Practices for Rural Road Maintenance. Road maintenance activities have the potential to affect covered species by introducing sediment and other pollutants into downstream waterways, spreading invasive weeds, and disturbing breeding wildlife. In order to avoid and minimize these impacts, BMPs described in the HCP will be used where appropriate and feasible. See HCP pp. 6-25 to 6-26.

APPLIES TO NEW ROADS OR ROAD IMPROVEMENTS OUTSIDE THE UDA

Conservation Measure 1.14. Design Requirements for Covered Roads Outside the Urban Development Area (UDA). New roads or road improvements outside the UDA have impacts on many covered species far beyond the direct impacts of their project footprints. To minimize the impacts of new, expanded, and improved roads in agricultural and natural areas of the inventory area, road and bridge construction projects will adopt siting, design, and construction requirements described in the HCP and listed in Table 6-6. See HCP pp. 6-27 to 6-33 and Table 6-6.

APPLIES TO FLOOD CONTROL MAINTENANCE ACTIVITIES

Conservation Measure 1.13. Implement Best Management Practices for Flood Control Facility Maintenance. Flood control maintenance activities have the potential to affect covered species by introducing sediment and other pollutants into downstream waterways and disturbing breeding wildlife. In order to avoid and minimize these impacts, BMPs described in the HCP will be used where appropriate and feasible. See HCP pp. 6-26 to 6-27.

- 2) For all checked conservation measures, describe how the project will comply with each measure. Attach as Attachment C: Project Compliance to HCP Conditions.

VI. MITIGATION MEASURES

- 1) **Mitigation Fee Calculator(s)**

Complete and attach the fee calculator (use permanent and/or temporary impact fee calculator as appropriate), and attach as **Attachment D: Fee Calculator(s)**.

- 2) **Briefly describe the amount of fees to be paid and when applicant plans to submit payment.**

The HCP/NCCP Fee Calculators have been attached as Attachment D Exhibit 1 and 2. All impacts will be temporary.

Location A: PG&E will pay temporary impact fees for the Location A project site as the temporary impacts associated with this location are within the initial UDA and are subject to the temporary impact fee. As shown in the attached fee calculator, Exhibit 1, a development fee of \$2,063.21 is due for temporary impacts to 1.12 acres of land within Fee Zone II.

Location D: Location D of the project is outside the initial UDA. Temporary projects outside the initial UDA include an area of impact on covered species that is larger than the actual project footprint. These projects require further consultation with the Conservancy, USFWS, and CDFW in order to determine the "project impact area" that would be subject to the temporary impact fee. PG&E has opted to mitigate for the temporary impacts associated with Location D by paying the full development fee for the work area footprint, which is an option provided in the HCP/NCCP in lieu of further negotiations regarding indirect impact footprint with the Conservancy and wildlife agencies, consistent with Chapter 9.3.1. As show in the attached fee calculator, Exhibit 2, a development fee of \$6,650.01 is due for temporary impacts to 0.26 acres of land in Fee Zone II.

With the Contribution to Recovery applied to this project, the final payment due to the Conservancy is \$17,426.44. The fees shall be paid prior to construction.

Note: Fees will be adjusted on March 15, 2017. Fees are required to be paid at the rate in effect or the calendar year in which the project proponent pays them. Fees for this project will need to be calculated in accordance with the updated Fee Calculator following March 15, 2017.

ATTACHMENT A: PROJECT DESCRIPTION

Attachment A: Project Description

Background:

As mandated by the California Public Utilities Commission (CPUC), Pacific Gas and Electric Company (PG&E) is conducting hydrostatic pressure testing on its natural gas transmission lines. Line (L) 114 (known as hydrotest T-1047A) has no known hydrostatic test records and hydrotesting this portion of the gas transmission line is necessary to ensure that it is reliable and within approved safety standards.

Introduction:

The T-1047A Hydrotest project involves hydrostatic testing (hydrotesting) of approximately 1.84 miles of 24-inch diameter gas pipeline L-114. Hydrotesting is considered routine gas pipeline maintenance, and involves temporarily evacuating all gas from a portion of the gas pipeline, filling it with water, pressurizing the pipeline for the hydrotest, removing the water from the pipeline after the successful test, and returning the gas pipeline back into service. No new permanent structures will be installed. As this work involves maintenance activities on an existing gas pipeline, it is CEQA exempt under a Class 1 Categorical Exemption under CEQA (see CEQA guidelines Section 15301 et seq., paragraph (b)).

Two work locations (Locations A and D) are required for this hydrotest and are within the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP) coverage area. See Figure 1 for a vicinity map of the project and Figure 2 for exhibits showing the work areas and access roads for the hydrotest. Figure 3 includes field-verified land cover mapping for the vicinity of the project and Figure 4 includes representative photos from the two work locations and associated access roads. Figure 5 includes the biological planning survey maps for the project area and access roads. All figures are located in Attachment B.

Excavations at Locations A and D are required to prepare T-1047A for hydrotesting. These excavations are required to install test heads on the ends of the test segment and remove pipeline features that prevent pipeline inspection equipment (PIGs) from traveling through the pipeline. Ensuring that PIGs can pass through the pipeline is a prerequisite for hydrotesting as PIGs are used to clean the pipe prior to the hydrotest, fill it with water for the hydrotest, and dewater it following the hydrotest. The project has been designed to minimize temporary disturbances to land within the ECCC HCP/NCCP permit area. See Table 1 for the acreage of the natural communities that will be disturbed by the project. Below is a brief summary of steps involved with hydrotesting the gas pipeline.

Hydrostatic Testing

Hydrostatic testing, the industry standard for testing pipelines and pressure valves, is a safe method of verifying the maximum operating pressure and ensuring the integrity of a pipeline. T-1047A will be hydrotested to verify that it is safe to operate at its designed maximum operating pressure. The following describes the hydrostatic testing process and the potential effects associated with each step in the process.

Fill

Water will be used as the test medium. Test water will be brought to Location A and housed in water storage tanks by water trucks that are filled from a metered fire hydrant or similar municipal water source. The water source that is used will be located in a paved, publicly accessible area, and filling of

ATTACHMENT A

the water trucks will not disturb any natural habitat. Hydrostatic test water will be potable and chlorinated.

Perform Hydrostatic Test

The gas pipeline will be filled with water using pumps located at Location A. Once the pipeline is filled to the appropriate level and ready for testing, the water will be slowly pressurized using high pressure pumps to approximately 980 pounds per square inch. At the end of the test, the pipeline is emptied of water through the use of pumps and air compressors.

Dewater

The pipeline will be dewatered using water pumps and air compressors that push the water out of pipeline and back into the water storage tanks at Location A. From there the water will be discharged directly into a sanitary sewer or temporarily held in water storage tanks and trucked offsite to a sanitary sewer discharge location. Discharge to a sanitary sewer would involve temporarily laying soft or hard sided pipe on the grounds surface to a sanitary sewer manhole.

Dry

Once the pipe is emptied of water, it is dried thoroughly with compressed air or a drying device.

Restoration

Following the successful hydrotest, connections to adjacent gas pipelines, taps, and regulators will be reconnected and the pipeline will be put back into service. All construction material and debris will be removed and disposed of at appropriate permitted landfills. All work areas will be graded and restored to as close to preconstruction contours as feasible, and the areas restored per the Stormwater Pollution Prevention Plan (SWPPP).

Work Locations:

Locations A and D and the unpaved or ungraveled portions of the access roads will be surrounded by rope and t-posts or orange construction fencing prior to initial disturbance or contractor mobilization. Excavation at both work locations will be conducted by typical excavation equipment including tracked excavators, rubber tire backhoes, and similar. Excavation will also be conducted by hand. All spoils will be kept onsite within the impact area associated with each work location, and will be used for backfill. Any remaining soil will be offhauled to an appropriate soil disposal location.

Location A:

Location A is the northernmost work location. An approximately 39,850 square foot (0.91 acre) work area is proposed at Location A immediately south of PG&E's Brentwood Terminal. A 10-foot by 20-foot excavation is required to install a hydrostatic testing head (test head) and one 6-foot by 6-foot sniff hole excavation will be located within this work area. The test head is where water and PIGs are inserted into the gas pipeline for the hydrotest, and a sniff hole is used as a safety precaution to detect gas intrusions into the pipeline. Approximately 25 water tank storage will be staged at this location to hold water for the hydrotest.

Access to this location will be off of Miwok Avenue to the south, the unpaved or ungraveled portion of this temporary access road will be 30-feet wide and approximately 336-feet long (Figure 2). An alternative access route along an existing road on the west side of PG&E's Brentwood Terminal is also proposed to be used. This road originates off of Concord Avenue, and the unpaved or ungraveled portion of this temporary access road will be 20-feet wide and 148-feet long. A total of 13,040 square

ATTACHMENT A

feet (0.30 acre) will be temporarily impacted by these access roads. See Figure 2 for the site plan for this temporary work area and access roads.

A total of 52,890 square feet (1.21 acres) of annual grassland habitat will be impacted at this work location and the associated access roads. These acreages are reported in Table 1 in the Application Form and Planning Survey Report.

For fire safety, all herbaceous vegetation will be removed from this work area.

Location D:

Location D is the southernmost work location. An approximately 9,600 square foot (0.22 acre) work area will be located within PG&E's existing easement for L-114. Two 6-foot by 20-foot excavations will be required to install a test head and replace an underground pipeline feature. One 4-foot by 4-foot sniff hole excavation will be located within this laydown and staging area. A 1-foot by 1-foot excavation to temporarily install a temperature probe for the duration of the project will be located immediately southeast of the laydown and staging area. The impact area associated with this temperature probe location is 400-square feet (0.01 acre). One water storage tank will be staged at this location.

Access to this location will be off of Marsh Creek Road, the unpaved or ungraveled portion of this temporary access road will be 20-feet wide and 71-feet long. A total of 1,420 square feet (0.03 acre) will be temporarily impacted by this access roads. See Figure 2 for the site plan for this temporary work area and access road.

A total of 11,420 square feet (0.26 acre) of annual grassland habitat will be impacted at this work location and the associated access road. These acreages are reported in Table 1 in the Application Form and Planning Survey Report. For fire safety, all herbaceous vegetation will be removed from this work area.

Best Management Practices and Avoidance and Minimization Measures:

The following Best Management Practices (BMPs) and Avoidance and Minimization Measures (AMMs) will be implemented for the project.

- Environmental Tailboard. Prior to starting any work on the test segment all PG&E employees and contractors must receive training on environmental and cultural conditions and requirements applicable to this test segment. If additional crewmembers arrive later in the job, they must go through the training prior to beginning work. Training will include a discussion of the avoidance and minimization measures that must be implemented. Training will include information on the federal and state Endangered Species Acts and the consequences of noncompliance with these acts, and requirements under the ECCC HCP/NCCP. Workers will be informed about the presence, life history and habitat requirements of all special-status species, including nesting birds that have the potential to be affected by the project. Training will also include information on state and federal laws protecting nesting birds, wetlands and other water resources. Construction crews will be provided with an educational brochure that will include color photos of sensitive species and a discussion of avoidance and minimization measures that must be implemented.
- Staging and Parking. Vehicles and equipment must be parked on pavement, existing roads, and previously disturbed areas or access roads identified on the Issued For Construction drawings only.

ATTACHMENT A

- Work Area Requirements. Trash dumping, firearms, open fires (such as barbecues) that are not required by the activity, hunting, and pets are prohibited at all work locations and access roads.
- Spill Protection for Equipment. Stationary equipment (e.g. pumps, generators, compressors, lights) must be positioned over secondary containment.
- Spill Protection for Water Storage Tanks. Water storage tanks and poly tanks must be positioned over drip or spill protection.
- Litter and Trash Management. All food scraps, wrappers, food containers, cans, bottles and other trash from the work area must be disposed in closed trash containers. Trash must be removed completely from the work area at the end of each working day.
- Stockpiles. Stockpiling of material is not allowed outside of the established work area shown on the exhibits approved by the ECCC HCP/NCCP. Stockpiled materials must be in compliance with the Stormwater Pollution Prevention Plan (SWPPP).
- Access Roads. Any work, road widening, staging or access outside of the areas shown on the exhibits approved by the ECCC HCP/NCCP will require prior approval. Not all requests may be approved. Existing access and ROW roads must be used as identified on the exhibits that were approved by the ECCC HCP/NCCP. No other access roads may be used.
- Dust Control. Use a water truck to control dust from disturbed soils, stockpiles, and unpaved access roads as needed.
- Erosion Control Materials. No monofilament plastic will be used for erosion control (e.g. matting, fiber roll, wattles, silt fencing backing, or sod) in natural areas. Sod may be used when restoring landscaped areas. Appropriate materials would be burlap, coconut fiber, or as identified in the general and site-specific SWPPP.
- Wetland/Drainage Protection. Prevent construction site runoff into wetlands, vernal pools, creeks and other waterways by implementing PG&E standard erosion and sediment control BMPs identified in the general and site-specific SWPPP.
- Refueling. Vehicular and equipment refueling is prohibited within 200 feet of a wetland, vernal pool, stream, drainage, or other waterway unless secondary containment is constructed (e.g. a berm and lined refueling area) or the topography of the site drains away from a wetland/waterway. Proper spill prevention and cleanup equipment must be maintained in all refueling areas.
- Tree trimming/removal or work within dripline. Any tree removal, pruning, or work within the drip line of trees other than in paved areas must be reviewed, approved, and conducted by a PG&E-approved arborist or their designee. Tree removal must be conducted outside of the bird nesting season to the extent possible. If this is not feasible, a preconstruction survey for active nests must be performed prior to tree removal. If an active nest is observed in the tree, the tree shall not be removed until the bird has finished nesting or September 15th, whichever is sooner. Additional measures (such as root pruning, monitoring, stump grinding) may be required by the arborist. Contractor shall notify arborist a minimum of three business days prior to requiring the arborist's services.
- Tree trimming/removal permission. For tree removal or trimming, a permit or other landowner permissions may be required. Perform no tree removal or trimming without contacting the PG&E biologist/land planner (contact biologist- Bobby Vogt by email at ravi@pge.com or by cell phone at 925-244-3616, land planner- Steve Willoughby - 415-314-2818, sewb@pge.com). For removal/trimming between February 1st and September 15th, a qualified biologist will need to perform a nesting bird survey prior to tree trimming or removal. If an active nest is observed in the tree, the PG&E biologist will be consulted. Tree trimming or removal may not be permitted until the bird has finished nesting.
- Excavation plating. To prevent entrapment of sensitive species, all open holes, steep-walled holes, or trenches more than 2 feet deep shall be covered at the close of each work day by plywood or similar materials with all voids beneath the plates should be filled, or provided with

one or more escape ramps constructed of earth fill or wooden planks. Before such holes or trenches are filled, they should be thoroughly inspected for trapped animals. Escape ramps must be set at an angle less than 33 degrees to ensure wildlife can climb out. The PG&E planner must also be contacted to determine if there are conflicting requirements from other documents or permits.

- Exclusion. Pipes and culverts greater than four inches in diameter must be covered and stored to prevent wildlife from taking refuge. If this is not possible the PG&E biologist must be consulted to develop an alternative. An inspection for wildlife must be conducted prior to moving the materials. If any wildlife are found the PG&E biologist must be contacted immediately to determine next steps.
- Pre-construction surveys for ECCC HCP/NCCP. Pre-construction surveys will be required for both work locations to comply with the ECCC HCP/NCCP guidelines. These surveys are for San Joaquin kit fox, western burrowing owl, Swainson's hawk, and golden eagle. Requirements and reporting requirements for these surveys are identified in the ECCC HCP/NCCP application package. Construction monitoring will be required if Swainson's hawk or golden eagle nests are identified within the buffers in the ECCC HCP/NCCP.
- Pre-construction nesting bird surveys. If work is scheduled to take place between February 1 and August 31 a pre-construction nesting bird survey will be conducted by a qualified biologist within 14 days of construction, covering a radius of 250 feet for non-listed raptors and 100 feet for non-listed passerines at all locations. If an active bird nest is found within these buffers, PG&E will work with the ECCC HCP/NCCP to determine an appropriate pathway forward.
- Exclusion fencing. Exclusion fencing in the form of rope and t-posts or orange construction fencing must be installed around the perimeter of the Location A and D work areas, and along the unpaved or ungraveled portions of the access roads that lead to both work locations.
- Biological monitoring. A biological monitor must be present during fencing installation, initial contractor mobilization, and during the first 4 feet of excavation at each excavation location for Locations A and D. Additional monitoring may be required depending upon the results of the pre-construction surveys to comply with the ECCC HCP/NCCP requirements, nesting bird surveys, by the PG&E biologist, or at the request of the ECCC HCP/NCCP.

Restoration:

Following the completion of hydrotest activities, all construction material and debris will be removed and disposed of at appropriate permitted landfills. All work areas and unpaved or ungraveled access roads will be graded and restored to as close to pre-project contours as feasible. Only native species will be used during site restoration. However, as described below, the vicinity of the project area is dominated by non-native vegetation, and it is unlikely that native vegetation will persist long-term in this area.

Existing vegetation:

The only land cover type that will be disturbed during work activities is annual grassland. Location A is immediately adjacent to the PG&E Brentwood Terminal, and is also adjacent to a partially-developed housing subdivision. Location D is located within a horse pasture that is within Marsh Creek State Park. Both locations are dominated by non-native plants including riggut brome (*Bromus diandrus*), Italian ryegrass (*Festuca perennis*), false barley (*Hordeum murinum*), London rocket (*Sisymbrium irio*), wild radish (*Raphanus raphanistrum*), and redstem filaree (*Erodium cicutarium*).

Stabilization and Seeding

Broadcast seeding or hydroseeding will take place within all disturbed areas for the project, and a layer of tackifier and mulch will be spread over the seeds. If on a slope, jute netting or similar monofilament free and biodegradable materials will be used to assist with stabilization. Table 1 identifies a potential seed mix that will be used during restoration. However, to aid in project flexibility during restoration, it is requested that this seed mix or a similar weed-free, native, and habitat appropriate seed mix will be applied during restoration. These mixes will have a target application of 45 pounds of seeds per acre.

Table 1. Potential seed mix for use during habitat restoration*

Scientific Name	Common Name
<i>Bromus carinatus</i>	California Brome
<i>Elymus glaucus</i>	Blue Wildrye
<i>Vulpia microstachys</i>	Three Weeks Fescue
<i>Trifolium ciliolatum</i>	Tree Clover

*To aid in project flexibility and speed restoration, PG&E requests that a similar seed mix that is weed-free, native, and habitat appropriate can be substituted in place of the above seed mix.

Schedule:

Work activities are planned to occur during the summer and fall of 2016 to allow for the project site to be restored prior to the rainy season. Table 2 provides the estimated construction schedule for the project.

Table 2. Estimated Construction Schedule

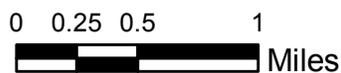
Task	Date
Construction Mobilization	8/1/2016
Tie-in (pipeline put back into service)	9/1/2016
Demobilization and Restoration Complete	9/30/2016

ATTACHMENT B: FIGURES



Sources: Esri, DeLorme, NAVTEQ, USGS, Intermap, iPC, NRCAN, Esri Japan, METI, Esri China (Hong Kong), Esri (Thailand), TomTom, 2013

-  Approximate Dig Location
-  Los Vaqueros Watershed



PG&E Gas Line 114
HT 1047
Figure 1: Project Vicinity
Brentwood, CA
December 2015

LOCATION A

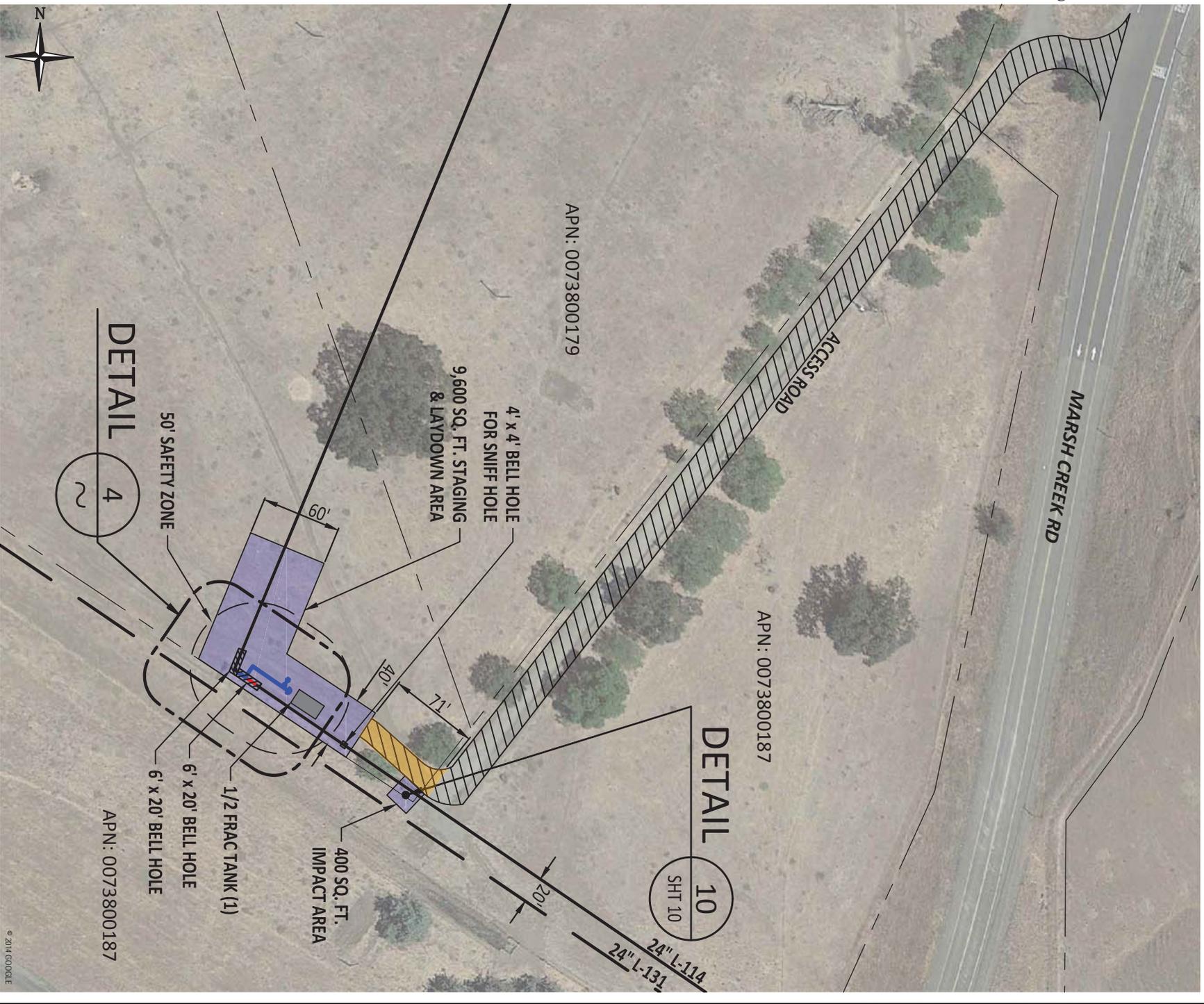
BRENTWOOD TERMINAL ACCESS ROAD & STAGING AREA

(SCALE: 1" = 300')



Legend:

-  Work Area Temporary Impact:
0.91 acre
-  Unpaved and Ungravelled access
Road Temporary Impact:
0.30 Acre



Legend:

- Work Area Temporary Impact:
0.23 acre
- Unpaved and Ungravelled
Access Road Temporary
Impact:
0.03 Acre

THIS DRAWING IS FOR VISUAL REFERENCE ONLY. SCALE IS APPROXIMATE. LOCATION OF EXISTING AND PROPOSED STRUCTURES IS APPROXIMATE. ANY AND ALL APPROXIMATE ORIGINAL DRAWING SIZE 8.5"x11" IMAGE SOURCE: 60084E EARTH



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575 LEMON LN, SUITE 250
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(925) 478-8530
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DATE LAST WORKED ON
03/30/2016

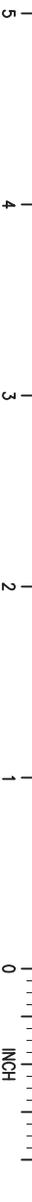
HYDROTEST T-1047 EXHIBIT 4
LOCATION D, L-114
MP 16.82

BRENTWOOD, CALIFORNIA

SCALE
1" = 100'

DRAWING NUMBER
GTS-15010-01

SHEET
4 OF 6



DETAIL 4

DETAIL 10
SHT 10

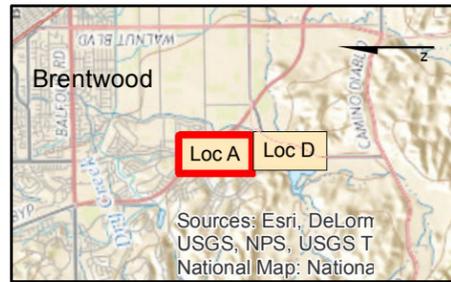
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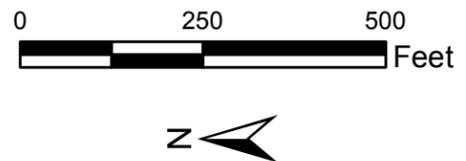
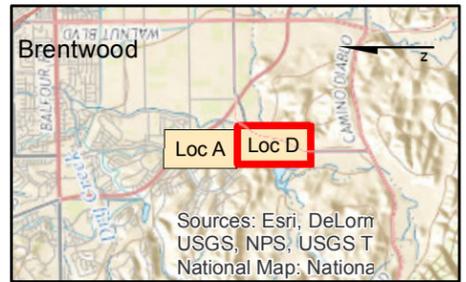


- Line 114 (Approximate)
- - - Dirt Access Road
- - - Gravel Access Road
- - - Overland Access Road
- Work Area
- Disturbance Area
- Study Area
- Grassland
- Urban/Future Urban



PG&E Gas Line 114
 HT 1047 - Location A
 Figure 3: Land Cover within
 ECCC HCP/NCCP Area
 Map 1 of 2

Brentwood, CA
 December 2015



PG&E Gas Line 114
 HT 1047 - Location D
 Figure 3: Land Cover within
 ECCC HCP/NCCP Area
 Map 2 of 2



Brentwood, CA
 December 2015

**Figure 4.
Representative Photographs of the T-1047 Hydrotest Project Work Areas**

Location A



Photo 1: Location A work area, taken facing north on 12-10-14. PG&E's Brentwood Terminal is visible in the background (right side).



Photo 2: Overview of the Location A from an adjacent residential area to the west. The Riparian zone along Marsh Creek is visible in the background. In the foreground vehicle tracks mark the overland access route to the site from the north. Taken facing east on 1-17-15.



Photo 3: Overland portion of northern access routes to Location A. Taken facing north on 1-17-15.



Photo 4: Southern access route to the Location A work area. The pavement visible here connects with a residential development located south of the site. Taken facing southeast on 1-17-15.

Location D



Photo 5: Gate located along paved/gravel access road to Location D. Taken on 12-10-14 facing south.



Photo 6: View of the Location D work area, visible to the left of orange and white pipeline marker. Overland portion of the access route is visible from the vehicle parked in the background. Taken on 1-17-15 facing east.



Photo 7: Typical California ground squirrel burrow found in the vicinity of the Location D work area. Taken on 1-17-15.



Photo 8: Drainage ditch located just outside of the Location D work area. The ditch will not be affected by project activities. Taken facing west on 12-10-14.

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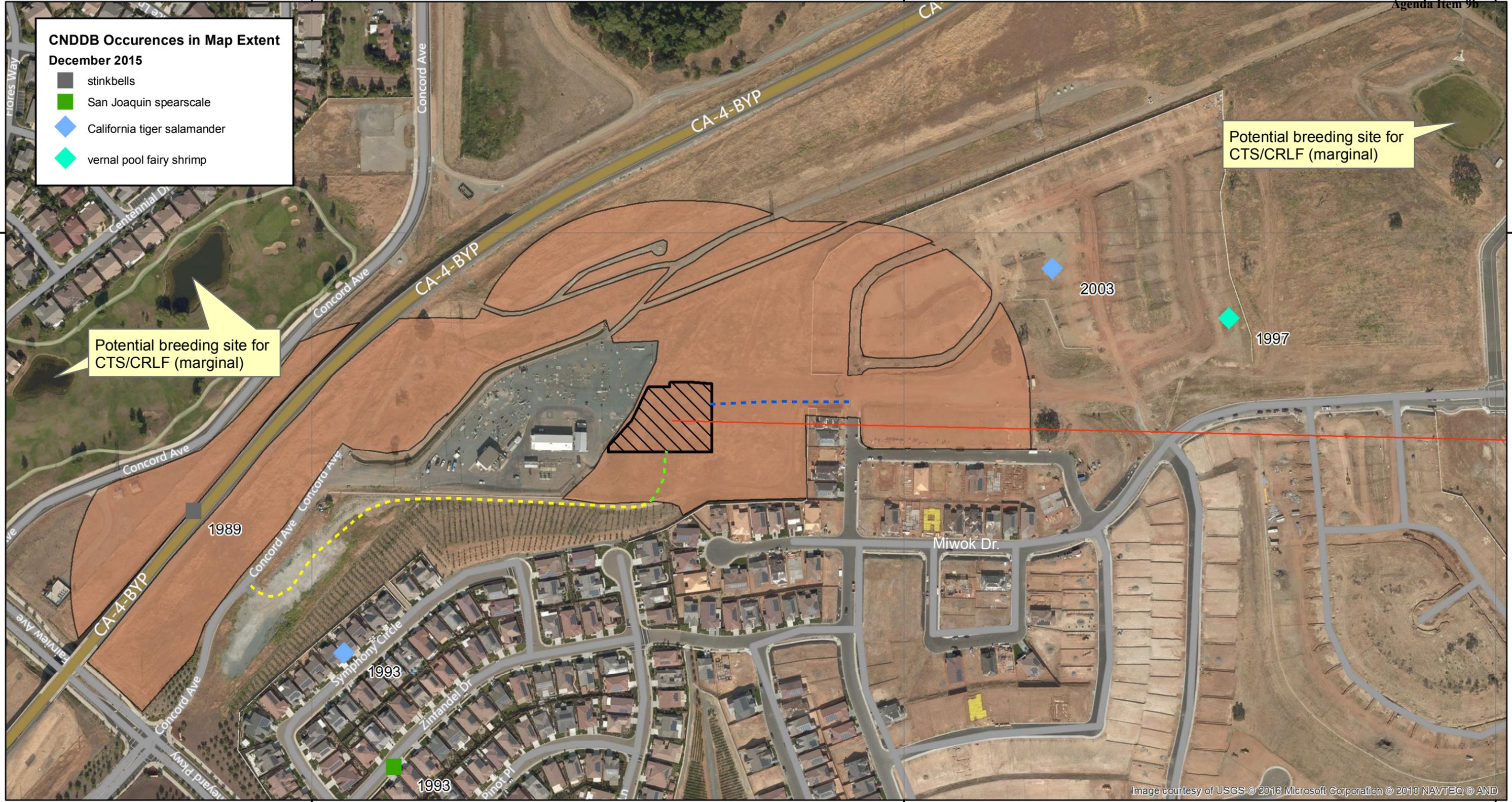
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Agenda Item 9b

**CNDDDB Occurrences in Map Extent
December 2015**

- stinkbells
- San Joaquin spearscale
- California tiger salamander
- vernal pool fairy shrimp



Potential breeding site for CTS/CRLF (marginal)

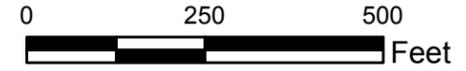
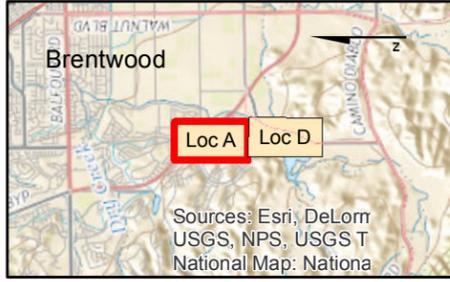
Potential breeding site for CTS/CRLF (marginal)

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612500 000000

- Line 114 (Approximate)
- Dirt Access Road
- Gravel Access Road
- Overland Access Road

- Disturbance Area
- Potential Burrowing Owl Habitat



PG&E Gas Line 114
HT 1047 - Location A
Figure 5: Planning Survey
Species Habitat Maps
Map 1 of 3

Brentwood, CA
December 2015

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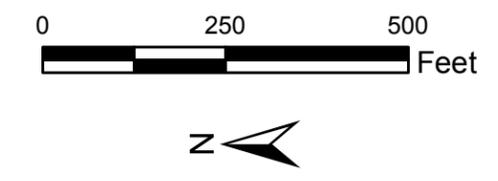
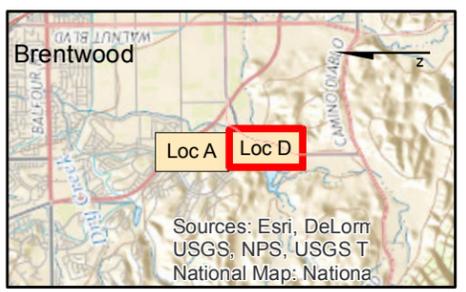
4195000 000000

Image courtesy of USGS © 2016 Microsoft Corporation © 2010 NAVTEQ © AND

CNDDB Occurences in Map Extent
December 2015
California tiger salamander

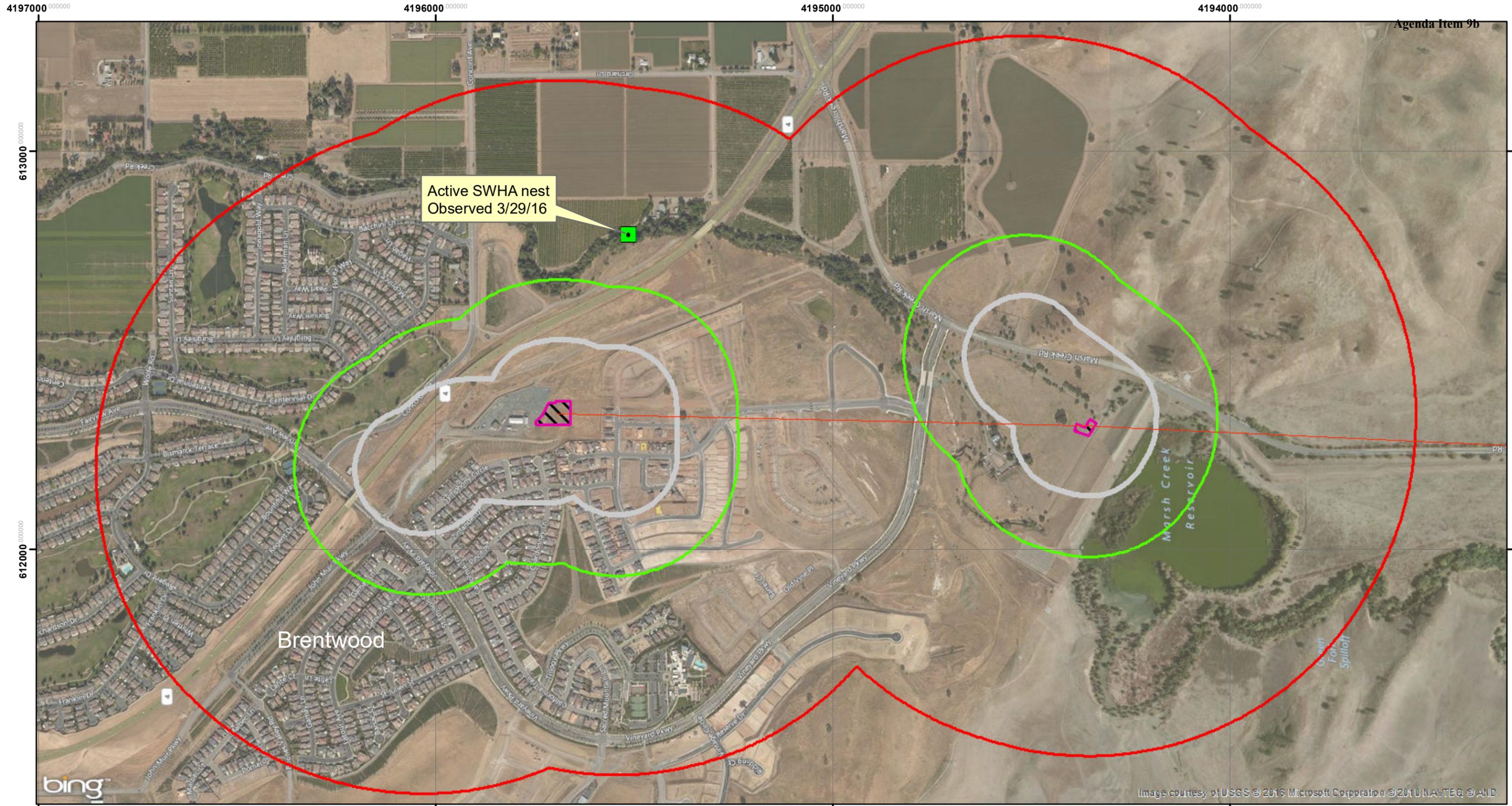


- Dirt Access Road
- Gravel Access Road
- Overland Access Road
- Line 114 (Approximate)
- ▨ Disturbance Area
- ▨ Potential San Joaquin Kit Fox Habitat
- ▨ Potential Burrowing Owl Habitat



PG&E Gas Line 114
HT 1047 - Location D
Figure 5: Planning Survey
Species Habitat Maps
Map 2 of 3

Brentwood, CA
December 2015

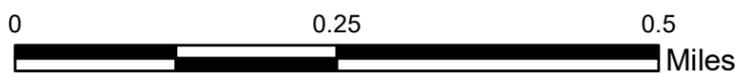
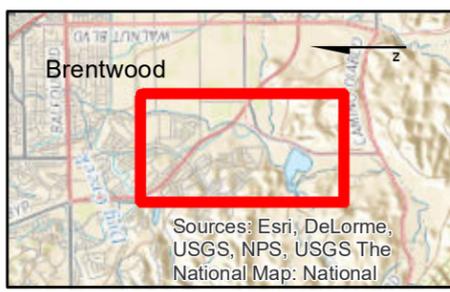


Active SWHA nest
Observed 3/29/16

Brentwood

Image courtesy of USGS © 2016 Microsoft Corporation © 2010 NAVTEQ © AND

- SWHA nest
- Line 114 (Approximate)
- Study Area
- Work Area
- Disturbance Area
- Work area one half mile buffer
- Work area 1000ft buffer



PG&E Gas Line 114
 HT 1047 - Locations A, D
 Figure 5: Planning Survey
 Nesting Birds Observations
 Map 3 of 3



Brentwood, CA
 April, 2016

ATTACHMENT C: PROJECT COMPLIANCE TO HCP CONDITIONS

Attachment C: Project Compliance to HCP Conditions.

The only Conservation Measure that is applicable to this project is conservation Measure 1.11: Avoid Direct Impacts on Extremely Rare Plants, Fully Protected Wildlife Species, or Migratory Birds.

The required planning surveys were conducted for plants and wildlife. Plant surveys took place during the appropriate blooming periods as identified in the East Contra Costa County Habitat Conservation Plan/Natural Community Conservation Plan (ECCC HCP/NCCP), and no special-plant species were observed within or adjacent to the work areas. As there were no special-status or no-take plant species at the work locations, there will be no direct or indirect impacts to extremely rare plants.

Several wildlife species that have potential to occur in the vicinity of the project are listed as fully protected (as defined under Sections 3511 and 4700 of the California Fish and Game Code). These are white-tailed kite (*Elanus leucurus*), peregrine falcon (*Falco peregrinus*), and golden eagle (*Aquila chrysaetos*). All three species forage widely throughout the ECCC HCP/NCCP inventory area but nest in discrete locations. To ensure there will be no take of these species, pre-construction surveys will take place following the requirements in the ECCC HCP/NCCP. If any nests associated with these species are determined to be active during the pre-construction surveys, the appropriate no-work buffer will be set up around the nest. Work will not proceed until the young fledge, the nest fails, or a reduced buffer is determined to be necessary around the nest.

In addition, the project will avoid take of all migratory birds that are subject to the prohibitions of the Migratory Bird Treaty Act (MBTA). This includes avoiding killing or possessing covered migratory birds, their young, nests, feathers, or eggs. The following Avoidance and Minimization Measure (AMM) will be implemented to protect migratory birds. This measure is also included in Attachment A.

- Pre-construction nesting bird surveys. If work is scheduled to take place between February 1 and August 31 a pre-construction nesting bird survey will be conducted by a qualified biologist within 14 days of construction, covering a radius of 250 feet for non-listed raptors and 100 feet for non-listed passerines at all locations. If an active bird nest is found within these buffers, PG&E will work with the ECCC HCP/NCCP to determine an appropriate pathway forward.

The required planning surveys were also conducted for wildlife that has the potential to occur in the habitats surrounding the project area. The AMMs included in Section IV of the Application Form and Planning Survey Report, and in Attachment A will be implemented for the species that have potential to occur in the vicinity. These include conducting pre-construction surveys for San Joaquin kit fox (*Vulpes macrotis mutica*), Western burrowing owl (*Athene cunicularia*), Swainson's hawk (*Buteo swainsonii*), and golden eagle. Personnel at the California Department of Fish and Wildlife and United States Fish and Wildlife Service will also be notified about the work associated with this project so that they can relocate California red-legged frog and California tiger salamander from the impact areas.

ATTACHMENT D: FEE CALCULATOR(S)

**Exhibit 1: ECCC HCP/NCCP 2016 Fee Calculator Worksheet
Temporary Impacts**

PROJECT APPLICANT: PG&E
PROJECT NAME: PG&E T-1047A Hydrotest Project
APN(s): Location A: 010050003
JURISDICTION: Participating Special Entity
DATE: April 5, 2016

<u>TEMPORARY DEVELOPMENT FEE</u>	<u>ACREAGE TEMPORARILY IMPACTED (TABLE 1)¹</u>	<u>YEARS OF DISTURBANCE (MIN. SHOWN)²</u>	<u>FEE PER ACRE (SUBJECT TO CHANGE)³</u>	
See appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone	Fee Zone 1	2 / 30	\$12,788.47	= \$0.00
	Fee Zone 2	2 / 30	\$25,576.95	= \$2,063.21
	Fee Zone 3	2 / 30	\$6,394.24	= \$0.00
	Fee Zone 4 ⁴	2 / 30	\$19,182.71	= \$0.00
			Development Fee Total	= \$2,063.21

<u>TEMPORARY WETLAND MITIGATION FEE</u>	<u>ACREAGE TEMPORARILY IMPACTED (TABLE 1)¹</u>	<u>YEARS OF DISTURBANCE (MIN. SHOWN)²</u>	<u>FEE PER ACRE (SUBJECT TO CHANGE)³</u>	
Riparian woodland / scrub		5 / 30	\$95,601.46	= \$0.00
Perennial Wetland		2 / 30	\$140,461.72	= \$0.00
Seasonal Wetland		2 / 30	\$325,600.04	= \$0.00
Alkali Wetland		2 / 30	\$328,894.77	= \$0.00
Ponds		2 / 30	\$178,180.49	= \$0.00
Aquatic (open water)		2 / 30	\$89,090.25	= \$0.00
Slough / Channel		2 / 30	\$129,841.87	= \$0.00

<u>STREAMS</u>	<u>LINEAR FEET TEMPORARILY IMPACTED (TABLE 1)</u>	<u>YEARS OF DISTURBANCE (MIN. SHOWN)²</u>	<u>FEE PER LINEAR FOOT (SUBJECT TO CHANGE)²</u>	
Streams 25 feet wide or less		2 / 30	\$362.94	= \$0.00
Streams greater than 25 feet wide		2 / 30	\$544.41	= \$0.00
			Wetland Mitigation Fee Total	= \$0.00

FEE REDUCTION⁵	Development Fee reduction for land in lieu of fee	=	
	Development Fee reduction (up to 33%) for permanent assessments	=	
	Wetland Mitigation Fee reduction for wetland restoration/creation performed by applicant	=	
	Reduction Total	=	\$0.00

FINAL FEE CALCULATION	Development Fee Total	=	\$2,063.21
	Wetland Mitigation Fee Total	+	\$0.00
	Fee Subtotal	=	\$2,063.21
	Contribution to Recovery⁶	+	
	TOTAL AMOUNT TO BE PAID	=	\$2,063.21

¹ Conservancy staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.
² Years of disturbance is the number of calendar years in which the activity occurs. For activities that disturb soil, 1 year must be added to each activity interval to account for the longer delay in habitat recovery (e.g. X = 3 if the activity disturbs soil, lasts 2 years, and only occurs once in 30 years).
³ The Conservancy Governing Board adopted a periodic fee audit, as required by the HCP/NCCP, on June 27, 2013. The fee schedule above is based on the periodic fee audit, as adopted on June 27, 2013 and subject to the annual automatic fee adjustment. Development fees are adjusted annually according to a formula that includes both a Home Price Index (HPI) and a Consumer Price Index (CPI). The Wetland Mitigation Fees are adjusted according to a CPI.
⁴ "Fee Zone 4" is not shown on Figure 9-1 of the HCP/NCCP but refers to the fee applicable to those few covered activities located in northeastern Antioch (p. 9-21).
⁵ Fee reductions must be reviewed and approved by the Conservancy.
⁶ Conservancy requires PSEs to pay fees over and above permanent and temporary impact mitigation fees to cover indirect costs of extending permit coverage, including a portion of the costs of the initial preparation of the Plan, and a portion of the costs of conservation actions designed to contribute to species recovery. This amount will be determined by the Conservancy, in accordance with the implementation policy adopted by the Conservancy Governing Board.

**Exhibit 2: ECCC HCP/NCCP 2016 Fee Calculator Worksheet
Temporary Impacts at Permanent Rate**

PROJECT APPLICANT: PG&E
PROJECT NAME: PG&E T-1047A Hydrotest Project
APN(s): Location D: 007380011
JURISDICTION: Participating Special Entity
DATE: April 5, 2016

DEVELOPMENT FEE	ACREAGE PERMANENTLY IMPACTED (TABLE 1)¹	2016 FEE PER ACRE (SUBJECT TO CHANGE)²	=	
See appropriate ordinance or HCP/NCCP Figure 9-1 to determine Fee Zone	Fee Zone 1	\$12,788.47	=	\$0.00
	Fee Zone 2	0.26 x \$25,576.95	=	\$6,650.01
	Fee Zone 3	x \$6,394.24	=	\$0.00
	Fee Zone 4 ³	x \$19,182.71	=	\$0.00
		Development Fee Total	=	\$6,650.01

WETLAND MITIGATION FEE	ACREAGE PERMANENTLY IMPACTED (TABLE 1)¹	2016 FEE PER ACRE (SUBJECT TO CHANGE)²	=	
	Riparian woodland / scrub	x \$95,601.46	=	\$0.00
	Perennial Wetland	x \$140,461.72	=	\$0.00
	Seasonal Wetland	x \$325,600.04	=	\$0.00
	Alkali Wetland	x \$328,894.77	=	\$0.00
	Ponds	x \$178,180.49	=	\$0.00
	Aquatic (open water)	x \$89,090.25	=	\$0.00
	Slough / Channel	x \$129,841.87	=	\$0.00
	STREAMS			
	Streams 25 feet wide or less	x \$362.94	=	\$0.00
	Streams greater than 25 feet wide	x \$544.41	=	\$0.00
		Wetland Mitigation Fee Total	=	\$0.00

FEE REDUCTION⁴	Development Fee reduction for land in lieu of fee	=	
	Development Fee reduction (up to 33%) for permanent assessments	=	
	Wetland Mitigation Fee reduction for wetland restoration/creation performed by applicant	=	
	Reduction Total	=	\$0.00

FINAL FEE CALCULATION	Development Fee Total	=	\$6,650.01
	Wetland Mitigation Fee Total	+	\$0.00
	Temporary Development Fee Total	+	\$2,063.21
	Fee Subtotal	=	\$8,713.22
	Contribution to Recovery⁵	+	\$8,713.22
	TOTAL AMOUNT TO BE PAID	=	\$17,426.44

¹ Conservancy staff will consult the land cover map in the Final HCP/NCCP and will reduce the acreage subject to the Development Fee by the acreage of the subject property that was identified in the Final HCP/NCCP as urban, turf, landfill or aqueduct land cover.
² The Conservancy Governing Board adopted a periodic fee audit, as required by the HCP/NCCP, on June 27, 2013. The fee schedule above is based on the periodic fee audit, as adopted on June 27, 2013 and subject to the annual automatic fee adjustment. Development fees are adjusted annually according to a formula that includes both a Home Price Index (HPI) and a Consumer Price Index (CPI). The Wetland Mitigation Fees are adjusted according to a CPI.
³ "Fee Zone 4" is not shown on Figure 9-1 of the HCP/NCCP but refers to the fee applicable to those few covered activities located in northeastern Antioch (p. 9-21).
⁴ Fee reductions must be reviewed and approved by the Conservancy.
⁵ Conservancy requires PSEs to pay fees over and above permanent and temporary impact mitigation fees to cover indirect costs of extending permit coverage, including a portion of the costs of the initial preparation of the Plan, and a portion of the costs of conservation actions designed to contribute to species recovery. This amount will be determined by the Conservancy, in accordance with the implementation policy adopted by the Conservancy Governing Board.

ATTACHMENT E: WETLAND DELINEATION (if applicable)