

Attachment G

**Pacific Gas and Electric Company
Gas Pipeline 303 In-Line Inspection and Repair Project**

**California Department of Fish and Game
Consistency Determination**

CALIFORNIA DEPARTMENT OF FISH AND GAME
ECOSYSTEM CONSERVATION DIVISION
1416 NINTH STREET
SACRAMENTO, CA 95814



**CALIFORNIA ENDANGERED SPECIES ACT
CONSISTENCY DETERMINATION NO. 2080-2010-049-03**

Project: Gas Line 303ILI Repair Project
Location: Contra Costa and Alameda Counties
Applicant: Pacific Gas and Electric Company

Background

The Pacific Gas and Electric Company (PG&E) proposes to inspect anomalies and repair corrosion at three sites along the PG&E Line 303 gas pipeline to ensure that it functions properly and safely (Project). Sites 1 and 2 are located near Camino Diablo Road in Contra Costa County. Site 3 is located in Alameda County just north of the City of Livermore.

Pipeline repair work associated with the Project is scheduled to occur during the 2011 dry season (April 1 through November 1). At all three repair sites, the 36-inch diameter pipeline will be exposed, inspected, and repaired. The repair will require a 50-foot x 50-foot work area which will be delineated by environmentally sensitive area fencing. Each pipeline anomaly will require excavation of a 10-foot x 20-foot hole in order to expose the anomaly and facilitate inspection and potential repair work. Soil from the excavation will be stockpiled alongside the pipe, within the work area and outside of any wetland areas. In areas where wetlands cannot be avoided PG&E will excavate soil from the area in layers and will stockpile each distinct layer in a separate pile. After the pipe has been exposed, examined, and repaired, a protective epoxy coat will be applied and the pipe trench will be backfilled. Layered soil from wetland areas will be replaced as they were found. The temporarily impacted areas will then be restored to pre-construction conditions using a native seed mix appropriate for the area.

The Project activities described above are expected to incidentally take California tiger salamander (*Ambystoma californiense*) and San Joaquin kit fox (*Vulpes macrotis mutica*). California tiger salamander is designated as a threatened species under the federal Endangered Species Act (ESA) (16 U.S.C. § 1531 et seq.) and the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.). (See Cal. Code Regs., tit. 14, § 670.5, subd. (b)(3)(G).) San Joaquin kit fox is designated as an endangered species under the ESA (16 U.S.C. § 1531 et seq.) and a threatened species under CESA (Fish & G. Code, § 2050 et seq.). (Cal. Code Regs. tit. 14 § 670.5, subd. (b)(6)(E).)

In particular, California tiger salamander and San Joaquin kit fox could be incidentally taken

by being entombed in their burrows, trapped in pipes or trenches, buried or crushed, hit and injured or killed by vehicle strikes, harassed by noise and vibration, and indirectly affected by invasive exotic plants whose numbers may be increased by habitat disturbance.

California tiger salamander are documented as present less than 1 mile from the Project site and there is suitable California tiger salamander habitat within and adjacent to the Project site. San Joaquin kit fox have been documented approximately 0.5 miles from Sites 1 and 2 at the intersection of Marsh Creek Road and Camino Diablo Road and approximately 3.1 miles from Site 3. Because of the proximity of the nearest documented California tiger salamander and San Joaquin kit fox, the species' dispersal patterns, and the presence of suitable habitat at the Project site, the United States Fish & Wildlife Service (Service) determined that Project activities are expected to result in the incidental take of California tiger salamander and San Joaquin kit fox. According to the Service, Project construction will result in the temporary loss of 0.5 acres of suitable California tiger salamander and San Joaquin kit fox habitat.

Because the Project is expected to result in take of species designated as threatened and endangered under the federal ESA, the United States Army Corps of Engineers (Corps) consulted with the Service as required by the ESA. On November 2, 2009, the Service issued a biological opinion (Service file No. 84120-2009-F-0782-1) (BO) to the Corps. The BO describes the Project, requires PG&E to comply with terms of the BO and its incidental take statement (ITS), and incorporates additional measures. On January 7, 2010, the Service issued an amendment to the BO (Service file No. 84120-2009-F-0782-2) following re-initiation by the Corps to clarify the minimization and mitigation measures for San Joaquin kit fox. On August 30, 2010, the Service issued a second amendment to the BO (Service file No. 81420-2009-F-0782-R001) (the BO and two amendments are collectively referred to as the Amended BO) to clarify minimization and mitigation measures for the California tiger salamander.

On September 20, 2010, the Director of the Department of Fish and Game (DFG) received a notice from PG&E requesting a determination, pursuant to Fish and Game Code section 2080.1, that the Amended BO and its related ITS are consistent with CESA for purposes of the Project, California tiger salamander, and San Joaquin kit fox. (See Cal. Reg. Notice Register 2010, No. 40-Z, p. 1600.)

Determination

DFG has determined that the Amended BO, including the ITS, is consistent with CESA as to the Project, California tiger salamander and San Joaquin kit fox because the mitigation measures contained in the Amended BO and ITS meet the conditions set forth in Fish and Game Code section 2081, subdivisions (b) and (c), for authorizing incidental take of CESA-listed species. Specifically, DFG finds that: (1) take of California tiger salamander and San Joaquin kit fox will be incidental to an otherwise lawful activity; (2) the mitigation measures identified in the Amended BO and ITS will minimize and fully mitigate the impacts of the

authorized take; (3) PG&E has ensured adequate funding to implement the required avoidance, minimization and mitigation measures and to monitor compliance with and effectiveness of those measures; and (4) the Project will not jeopardize the continued existence of California tiger salamander and San Joaquin kit fox. The mitigation measures in the Amended BO and ITS include, but are not limited to, the following:

Avoidance, Minimization, and Mitigation Measures

- PG&E will purchase 1.5 acres of California tiger salamander habitat credits and 0.5 acres of San Joaquin kit fox habitat credits from a Service and DFG approved conservation bank(s). PG&E will provide the Service and DFG with a copy of the credit purchase agreement(s) for the required credits.
- PG&E will revegetate areas disturbed as a result of the Project with an appropriate assemblage of native riparian, wetland, and upland vegetation.
- Surveys for California tiger salamander and San Joaquin kit fox will be conducted by a DFG and Service-approved biologist two weeks before Project activities commence. If California tiger salamanders are found, the Service and DFG will be contacted to determine if relocation is appropriate.
- A worker training session covering California tiger salamander and San Joaquin kit fox will be conducted for all construction personnel.
- Work activities will be completed between April 1 and November 1. Should PG&E demonstrate a need to conduct activities outside this period, the Corps may authorize such activities after obtaining approval from the Service and DFG.
- To prevent inadvertent entrapment of California tiger salamanders and San Joaquin kit fox, all excavated, steep-walled holes or trenches more than 6-inches deep will be covered at the close of each working day with plywood or similar material, or provided with one or more escape ramps constructed of earth fill or wooden planks. Before holes or trenches are filled, they will be thoroughly inspected for trapped California tiger salamander or San Joaquin kit fox.
- A Service and DFG-approved biologist will be present at the Project sites until all minimization and avoidance measures have been completed.

Monitoring and Reporting Measures

- PG&E will notify the Service and DFG within one working day of the finding of any injured California tiger salamander or any unanticipated damage to California tiger salamander habitat.

Financial Assurances

- PG&E will provide, subject to review and approval by the Service and DFG, a cost estimate for the restoration and revegetation of temporary impacts. Upon approval of the cost estimate, and prior to the initiation of Project activities PG&E will provide DFG with a financial commitment in a form approved by DFG's Office of the General Counsel to ensure performance of the restoration and revegetation of temporary impacts.

Pursuant to Fish and Game Code section 2080.1, take authorization under CESA is not required for the Project for incidental take of California tiger salamander and San Joaquin kit fox, provided PG&E implements the Project as described in the Amended BO, including adherence to all measures contained therein, and complies with the mitigation measures and other conditions described in the Amended BO and ITS. If there are any substantive changes to the Project, including changes to the mitigation measures, or if the Service amends or replaces the Amended BO or ITS, PG&E shall be required to obtain a new consistency determination or a CESA incidental take permit for the Project from DFG. (See generally Fish & G. Code, §§ 2080.1, 2081, subds. (b) and (c).)

By: _____



Sandra Morey, Deputy Director
Ecosystem Conservation Division
California Department of Fish and Game

Date: 10/19/10