

**PUBLIC UTILITIES COMMISSION**505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**03-03-11
04:20 PM

March 3, 2011

TO PARTIES OF RECORD IN CASE 10-11-001

This proceeding was filed on November 1, 2010, and is assigned to Commissioner Michael R. Peevey and Administrative Law Judge's (ALJ) Maribeth A. Bushey and Katherine Kwan MacDonald. This is the decision of the Presiding Officer, ALJ Katherine Kwan MacDonald.

Any party to this adjudicatory proceeding may file and serve an Appeal of the Presiding Officer's Decision within 30 days of the date of issuance (i.e., the date of mailing) of this decision. In addition, any Commissioner may request review of the Presiding Officer's Decision by filing and serving a Request for Review within 30 days of the date of issuance.

Appeals and Requests for Review must set forth specifically the grounds on which the appellant or requestor believes the Presiding Officer's Decision to be unlawful or erroneous. The purpose of an Appeal or Request for Review is to alert the Commission to a potential error, so that the error may be corrected expeditiously by the Commission. Vague assertions as to the record or the law, without citation, may be accorded little weight.

Appeals and Requests for Review must be served on all parties and accompanied by a certificate of service. Any party may file and serve a Response to an Appeal or Request for Review no later than 15 days after the date the Appeal or Request for Review was filed. In cases of multiple Appeals or Requests for Review, the Response may be to all such filings and may be filed 15 days after the last such Appeal or Request for Review was filed. Replies to Responses are not permitted. (See, generally, Rule 14.4 of the Commission's Rules of Practice and Procedure at www.cpuc.ca.gov.)

If no Appeal or Request for Review is filed within 30 days of the date of issuance of the Presiding Officer's Decision, the decision shall become the decision of the Commission. In this event, the Commission will designate a decision number and advise the parties by letter that the Presiding Officer's Decision has become the Commission's decision.

/s/ CHARLOTTE F. TERKEURST for
Karen V. Clopton, Chief
Administrative Law Judge

KVC:oma

Attachment

PRESIDING OFFICER'S DECISION (Mailed March 3, 2011)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Central Valley Gas Storage, LLC (U915G),

Complainant,

vs.

David W. Lanza, Trustee of the David W. Lanza Trust dated February 6, 1996; Patrick Laughlin, Trustee of the Patrick Laughlin Trust dated March 1999; Vintage Production California, LLC, a Delaware limited liability company; Southam & Son, a partnership; Fred C. Southam, an unmarried man; Raymond Norval Baker, as his separate property; Donald Bransford, aka Donald Richard Bransford; Julie Geraldine Bransford Sage, Formerly Julie Bransford; Marjorie Ellen Bransford LaGrande, formerly Marjorie Bransford; Sara Z. Burrows, aka Sara Zumwalt, Trustee of the Zumwalt Grandchildren Trusts for the benefit of Elizabeth Megan Burrows Seaver; Mark Galentine and Patricia Lynn Weber, Co--Trustees of the George R. Zumwalt Testamentary Trust A for the benefit of Ruth Ann Spence; All of the heirs and devisees of Harry Gonick and Eleanor Gonick, including, but not limited to, Catherine Gonick and Jean Gonick; Ralph L. Keeley, III, Trustee of the Mattie Z. Keeley 1989 Revocable Trust; Joyce Ann Kephart, formerly Joyce Ann Feliciano, who acquired title as Joyce Ann Baker, as her separate

(EDM)
Case 10-11-001
(Filed November 1, 2010)

property; Debbie Lewis and/or Ed Lewis, Successor Trustee of the Ed and Winifred Lewis Revocable Trust under Declaration of Trust, Established April 27, 1994; All the heirs and devisees of Luella Southam, deceased, excluding Jerry Southam and including, but not limited to, Barbara Rice; Ruth L. Lundeen; Dorothy I. Pendleton, surviving spouse; All of the heirs and devisees of W. G. Poage, deceased, excluding Elizabeth Ann Perkins and Patricia Mary Young, also known as Patricia M. Young and Patricia M. Wilson, and including, but not limited to: Jean McArthur Britzman and Christopher Corlett; All of the heirs and devisees of Charles A. Poage, Jr., deceased, excluding Jean McArthur Britzman, Elizabeth Ann Perkins, and Patricia Mary Young, also known as Patricia M. Young and Patricia M. Wilson, and including, but not limited to Christopher Corlett; All of the heirs and devisees of Margaret Poage Carter, deceased, excluding Jean McArthur Britzman, Elizabeth Ann Perkins, and Patricia Mary Young, also known as Patricia M. Young and Patricia M. Wilson, and including, but not limited to Christopher Corlett; Richard Rheem, as his separate property; Charles S. Thompson; Nancy Z. Ward, formerly Nancy Zumwalt and Nancy Z. Irwin; Patricia Lynn Weber and Sue A. Bailey, successor Co-Trustees of the George R. Zumwalt Testamentary Trust C for the benefit of Mark Galentine, aka Dexter Mark Galentine; Mark Galentine and Patricia Lynn Weber, successor Co-Trustees of the George R. Zumwalt Testamentary Trust C for the benefit of Sue A. Bailey aka Sue Adele Mayberry; Mark Galentine and

Sue A. Bailey, successor Co-Trustees of the George R. Zumwalt Testamentary Trust C for the benefit of Patricia Lynn Weber; David G. Wehlitz, Successor Trustee of the George R. Zumwalt Testamentary Trust B for the benefit of Sara Z. Burrows; Kenneth P. Woods, successor Trustee of George R. Zumwalt Testamentary Trust for the benefit of David F. Burrows; Agnes Ann Zumwalt, Trustee of the Ivy G. Zumwalt QTIP Trust, aka Marital Qualified Terminal Interest Property Trust, effective August 1, 2002, a successor Subtrust under the Zumwalt Family Trust dated October 4, 1993; Venoco, Inc., a Delaware Corporation; Allen E. Azevedo and Mary Anne Azevedo, husband and wife as Community Property; Jack L. Barrett, Jr. and Donna M. Barrett, husband and wife, as joint tenants; William R. Dirks, Jr. and Dora Dirks, husband and wife, as joint tenants; N. Joel Danley, also known as Newland Joel Danley, a married man; Lorene D. Stephen also known as Lorene K. Stephen, a married woman; Frances M. Etchepare, Trustee of the Testamentary Trust Under the Will of Leon W. Etchepare dated February 23, 1968; Dennis Fox; Green Valley Corporation, a California Corporation; Joseph L. Wucher and Jenny B. Wucher, husband and wife as joint tenants; Gunnersfield Enterprises, Inc., a California Corporation; Cleveland Teeter and Lisa Teeter, Trustees of The Teeter Family Trust, dated April 6, 1998, as the sole and separate property of Lisa Teeter; Evelyn T. Thompson, as Trustee of The Evelyn T. Thompson Trust Under agreement dated January 6, 1999; Evelyn Thompson, John H. Thompson and

Deborah M. Medeiros, as Trustees of the Marital Trust under The Thompson 1984 Trust under declaration dated January 27, 1984, as amended; Evelyn Thompson, John H. Thompson and Deborah M. Medeiros as Trustees of the GST Exempt Marital Trust under The Thompson 1984 Trust under declaration dated January 27, 1984; Kevin D. Towne and Patricia I. Towne, as Co-Trustees or their successors in trust, under The Kevin D. Towne and Patricia I. Towne Revocable Living Trust Dated June 28, 1996; Leo M. Holthouse, as successor Trustee of the Wilfred E. Holthouse Testamentary Trust; Leo M. Holthouse and Diane M. Holthouse, Trustees of The Holthouse Family Trust; Enerland, LLC; Charles W. Tuttle, Jr. and Sue Tuttle Noack, Co-Trustees of the Charles W. Tuttle Farm Trust for the Benefit of Charles W. Tuttle, Jr.; Charles W. Tuttle, Jr. and Sue Tuttle Noack, Co-Trustees of the Charles W. Tuttle Farm Trust for the Benefit of Sue Tuttle Noack; Richard J. Perez and Tori L. Perez, as Trustees of the Richard J. and Tori L. Perez Family Trust dated February 13, 2009; Douglas McGeoghegan; Allen Cabral; Frank Eichhorn; Craig Felix; Triple J Farms, LLC, a California limited liability company; Woodford A. Yerxa,

Defendants.

Christopher Schindler, Attorney, Hogan Lovells
US LLP, for Central Valley Gas Storage,
LLC

Martin A. Mattes, Attorney, Nossaman, LLP, for
Enerland, LLC

Gary Funamura, Attorney, Trainor Fairbrook,
for Kevin D. Towne and Patricia I. Towne,
as Co- Trustees or their successors in trust,
under The Kevin D. Towne and Patricia I.
Towne Revocable Living Trust Dated June
28, 1996 / Leo M. Holthouse and Diane M.
Holthouse, Trustees of The Holthouse
Family Trust

Mark Atlas, Attorney, for Richard J. Perez and
Tori L. Perez, as Trustees of the Richard J.
and Tori L. Perez Family Trust

Fred Meckfessel, Attorney, Meckfessel Hopkins
& Byrd, for Raymond Norval Baker, as his
Separate Property / Sara Z. Burrows, aka
Sara Zumwalt, Trustee of the Zumwalt
Grandchildren Trusts for the benefit of
Elizabeth Megan Burrows Seaver / Joyce
Ann Kephart, formerly Joyce Ann Feliciano,
who acquired title as Joyce Ann Baker, as
her separate property / David G. Wehlitz,
Successor Trustee of the George R. Zumwalt
Testamentary Trust B for the benefit of Sara
Z. Burrows / N. Joel Danley, also known as
Newland Joel Danley, a married man and
Lorene D. Stephen also known as Lorene K.
Stephen, a married woman

Mark G. Steidlmayer, Attorney, Trezza,
Ithurnburn, Steidlmayer & Ithurnburn, for
Southam & Son, a Partnership / Fred C.
Southam, an unmarried man / David W.
Lanza, Trustee of the David W. Lanza Trust
dated February 6, 1996 / Patrick Laughlin,
Trustee of the Patrick Laughlin Trust dated
March 1999

Thomas Eres, Attorney, for Frances M.
Etchepare, Trustee of the Testamentary

Trust Under the Will of Leon W. Etchepare
dated February 23, 1968

**PRESIDING OFFICER'S DECISION FINDING THAT CONDEMNATION
WOULD SERVE THE PUBLIC INTEREST**

1. Summary

This decision holds that Central Valley Gas Storage, LLC's condemnation of mineral rights related to the Central Valley Gas Storage Project would serve the public interest.

2. Background and Description of Property to be Condemned

On November 1, 2010, Central Valley Gas Storage, LLC (Central Valley) filed the above-entitled complaint against the listed defendants seeking a Commission finding that the complainant's proposed condemnation of property related to the Central Valley Gas Storage Project (Project) would serve the public interest.

The Project, located in Colusa County, is comprised of (1) an 11 billion cubic feet (bcf) underground natural gas storage field, (2) a compressor station and associated dehydration units, (3) a remote well pad site, (4) injection/withdrawal, observation, and salt water disposal wells, (5) a metering station, and (6) a natural gas pipeline extending 14.7 miles to an interconnection with the metering station and Pacific Gas and Electric Company's Line 400/401 gas transmission pipeline. Complainant states that it has been working diligently to acquire by mutual agreement the three types of property rights necessary for the project: (1) gas storage rights, (2) rights to construct and operate ancillary surface and pipeline facilities, and (3) mineral

rights or consent from the mineral rights holders necessary for safety and operational purposes.

Complainant states it has acquired some of the storage rights, pipeline easements and mineral interests necessary for the project, but has been unable to reach agreements with all property owners or lessees. Where Complainant has been unable to reach agreements to acquire the rights necessary for the project, Complainant plans to condemn three types of property rights and seeks a finding by this Commission that the planned condemnations would serve the public interest.

All owners and lessees are identified as such and listed in Attachment A. First, Complainant seeks to condemn storage rights from owners in the storage field boundary which are necessary to fulfill the principal purpose of gas storage operations for the Project. Complainant has identified five owners of storage rights in Colusa County and those are listed in Attachment A. Second, Complainant seeks to condemn certain mineral interests needed for the project. Complainant specifies that it is not seeking to condemn any exploration or production rights, but only those necessary to protect the integrity of the Storage Field. Complainant is specifically seeking to condemn the mineral interests that include the rights to drill through and into the sequence of five hydrologically separate sandstone layers that lie within the Kione Formation shown in the complaint at Exhibit B. Complainant has identified 26 owners and one lessee of mineral rights that have been severed from the surface land in Colusa County shown in Attachment A, whose mineral interests are required for project operations.

Third, Complainant seeks to condemn temporary construction and permanent easements for gas pipeline in Colusa County. Specifically,

Complainant seeks to condemn a 100-foot temporary easement and a 30-foot permanent easement in Colusa County for operation of the pipeline along approximately 6.5 miles of the pipeline route in Colusa County from 18 owners and five lessees identified in Attachment A.

Complainant seeks Commission authorization, pursuant to Pub. Util. Code § 625, to condemn the above-described property for the purpose of providing public utility services. Complainant stated in the verified complaint (Complaint) that it served the Complaint by first class mail on the property owners and known representatives.

On November 4, 2010, the assigned Commissioner and Chief Administrative Law Judge (ALJ) issued their ruling instructing defendants to answer, providing notice of the prehearing conference/evidentiary hearing, setting the scope of the proceeding, and designating ALJ Katherine Kwan MacDonald as the presiding officer.

On December 1, 2010, defendants Enerland, LLC (Enerland), and Leo M. Holthouse as successor trustee of the Wilfred E. Holthouse Testamentary Trust and Leo M. Holthouse and Diane M. Holthouse, trustees of the Holthouse Family Trust (Holthouse) filed answers to the complaint. Defendant Enerland's answer denies that Complainant has made a serious attempt to obtain property rights from it through mutual agreement. Enerland further denies that Central Valley has made a written offer to acquire any outstanding property rights for the Project. Lastly, Enerland's answer denies that the complaint accurately describes the reasons why it and Central Valley have not yet been able to reach an agreement.

On December 8, 2010 Gunnerfield Enterprises, Inc. (Gunnerfield), filed the Answer of Gunnersfield Enterprises, Inc. to the complaint. Gunnersfield argues,

amongst other things, that the proposed condemnation is not in the public interest, in part because the public good would best be served by utilizing the existing Wild Goose Pipeline. Similarly, Gunnersfield also asserts that the Gunnersfield property is not necessary for the project because Central Valley could utilize the Wild Goose Pipeline. Gunnersfield argues that a disproportionate burden was being placed on certain landowners due to the existing Wild Goose Pipeline. Finally, Gunnersfield believes the Commission should not use its condemnation authority to benefit private economic interests.

On December 10, 2010, Mr. Raymond N. Baker filed an answer to the Complaint that asserts the mineral interests sought are not necessary for the project because Central Valley does not intend to prevent the mineral owner from exploring to achieve future gas production.

As provided in the scoping memo, an evidentiary hearing was convened on December 13, 2010 in Colusa, California. Complainant was the only party that appeared at the hearing. None of the defendants presented testimony or conducted cross-examination during the evidentiary hearing.¹

Complainant presented two witnesses. James B. Keifer testified that the proposed condemnation of the remaining storage rights, mineral interests, and pipeline easements is in the public interest because the condemnation satisfies all four criteria set forth in Pub. Util. Code § 625(b)(2): the public interest and necessity require the project; the property to be condemned is necessary for the project; the public benefit of acquiring the property by eminent domain

¹ Subsequent to the evidentiary hearing, Catherine, Eleanor, Harry and Jean Gonick filed an answer to the complaint but took no position on whether the proposed condemnation is in the public interest.

outweighs the hardship to the owners of the property; and the project is located in the manner most compatible with the public good and least private injury.

The testimony explained that the Commission granted the Complainant a certificate of public convenience and necessity to construct and operate the Project, and that the Commission served as the lead agency for review of the Project under the California Environmental Quality Act (CEQA) and adopted the Final Negative Declaration for the Project. (See Decision (D.) 10-10-001.) The storage rights and pipeline easements to be condemned are necessary to carry out the principal purpose of the Project – natural gas storage. The mineral interests to be condemned will preclude the interest owners or lessees from drilling into or through the storage reservoirs, causing damage to the formations, or the taking of stored gas.

Complainant further stated it has entered into underground gas storage lease agreements with the owners of the fee simple surface interests covering approximately 88% of the total acreage within the Storage Field boundary. Complainant is continuing to work to achieve agreements with the remaining surface estate owners. Where the surface estate owners also own mineral rights, Complainant stated it has acquired or attempted to acquire consent for the Project operations through mutual agreement in the underground storage leases. Regarding the pipeline easements, Complainant has acquired 56% of the necessary easements. Complainant further stated that it has acquired consent to Project operations from the owners and lessees of many, but not all, of the mineral rights severed from the surface rights within the Project boundaries. These remaining storage, mineral interest, and pipeline easement owners are listed defendants in this proceeding and are set out by interest type in Attachment A.

Complainant's second witness, Thomas D. McLaughlin, is a Senior Landman of PPC Land Consultants and was hired by Complainant to assist in acquiring gas storage rights, certain surface rights, and mineral interests necessary for the Project. His testimony described the communications with defendant Enerland attempting to obtain consents for the Project. Enerland holds a negative covenant from the Holthouse Trust which prohibits the installation of a natural gas pipeline without Enerland's consent. The Project will also enter onto lands which the Holthouse Trust has granted an option to lease to Enerland. McLaughlin testified that he contacted Enerland directly in July 2010 and spoke with Bob Musseter, Manager Member of Enerland. The testimony indicated that Enerland was not opposed to the Project but desired a higher monetary offer before it would consent to locate the pipeline segment on Enerland property, although he did not state a firm amount. On September 8, 2010, McLaughlin left a voicemail message for Mr. Musseter indicating he would like to continue negotiations and that he had a formal offer to present Enerland. McLaughlin testified that he has had no response from Enerland.²

On January 4, 2011, Central Valley filed the *Combined Motion to Offer Supplemental Direct Testimony into Evidence, Dismiss Defendants, and Correct Exhibit* (Combined Motion).³ On January 19, 2011, the Assigned ALJ issued a ruling granting Central Valley's request to admit Supplemental Direct Testimony, to

² McLaughlin kept a phone log to this effect.

³ Complainant sought only to dismiss certain named defendants from the proceeding as the result of successful settlements with these named defendants.

dismiss certain named defendants, and to correct typographical errors in Exhibit.⁴

James B. Kiefer explained in Central Valley's Supplemental Direct Testimony that the Wild Goose Pipeline could not accommodate the capacity needs of Central Valley and the capacity needs of Wild Goose.⁵ Mr. Kiefer further testified that the alternative route proposed by Gunnersfield to avoid Gunnersfield's property was not feasible in part because of its location in or in close proximity to the Sacramento National Wildlife Refuge.⁶ The proposed pipeline route was selected to minimize potential environmental impacts.

Complainant filed its opening brief on January 12, 2011. On January 22, 2011, Mr. Raymond N. Baker filed a reply brief. Mr. Baker asserted that the impact to mineral rights owners' ability to engage in future exploration is an important issue which should be addressed. Mr. Baker conceded, however, that this issue is not the appropriate consideration at this time or in this forum. No other party filed a brief or opposed the relief requested.

⁴ Subsequent to the ALJ ruling granting Central Valley's motion, Central Valley discovered it had inadvertently included Joyce Ann Kephart in its request for dismissal of certain defendants. Central Valley filed a motion to correct this error and restore Ms. Kephart's party status. That motion is granted. Due to the timing of her dismissal, Ms. Kephart's rights will in no way be prejudiced by restoring her party status to correct Central Valley's administrative error.

⁵ Supplemental Direct Testimony at 1.

⁶ Supplemental Direct Testimony at 3.

3. Discussion

3.1. The Proposed Condemnation is Subject to the Public Interest Test in § 625

The Commission is charged under § 625(a)(1)(A) with determining if a utility may condemn property for the purpose of competing with another entity:

For the purpose of this article, except as specified in paragraph (4), a public utility that offers competitive services may not condemn any property for the purpose of competing with another entity in the offering of those competitive services, unless the commission finds that such an action would serve the public interest...

We next analyze the four statutory standards in relation to the evidence presented.⁷ We analyze the standards in the following order:

- Whether the property to be condemned is necessary for the proposed project;
- Whether the public benefit of acquiring the property by eminent domain outweighs the hardship to the owners of the property;
- Whether the proposed project is located in a manner most compatible with the greatest public good and least private injury; and
- Whether the public interest and necessity require the proposed project.

3.2. The Property to be Condemned is Necessary for the Proposed Project

Complainant's witness, Kiefer, demonstrated that the storage rights and pipeline easements proposed to be condemned are necessary for the purpose of

⁷ These standards are set forth in § 625(b)(2)(A) – (D). Section 625(b)(1) sets forth an alternative condition for showing “public interest,” namely, that the proposed project would provide service to an unserved area.

the Project. He also demonstrated that the mineral rights proposed to be condemned are necessary to ensure that gas storage operations are not interfered with by mineral rights owners or lessees drilling into or through the storage structure. Defendant Gunnersfield asserts in its Answer that Central Valley should utilize a parallel, existing pipeline instead of constructing new pipeline in order to eliminate the need to condemn its property. However, Complainant's proposed pipeline route minimizes agricultural and environmental impacts while achieving the Project's objectives. Complainant's testimony states that it chose the preferred pipeline route because it avoids or substantially lessens any significant impacts from the Project by following an existing pipeline route. In addition, Complainant's Supplemental Direct Testimony adds that Gunnersfield's alternative route goes into or in close proximity to the Sacramento National Wildlife Refuge; would cross lands that would most likely be delineated as jurisdictional wetlands; and crosses several flood control areas. Gunnersfield did not provide any testimony at the hearing.

We, therefore, conclude that the property to be condemned is necessary for the proposed gas storage facility.

3.3. The Public Benefit of Acquiring the Property by Eminent Domain Outweighs the Hardship to the Owners of the Property

In the decision granting Complainant a Certificate of Public Convenience and Necessity for the Central Valley Storage Project, the Commission determined that the Project would improve the reliability of natural gas supplies in California and reduce volatility in natural gas prices. See D.10-10-001 at Findings of Fact 3.

The harm to the owners or lessees of the mineral rights of a condemnation will be minimal because the Complainant is only condemning the rights

necessary to protect the safety and usefulness of the Project. Mineral rights owners and lessees will be able to use and enjoy the portions of their mineral rights that Complainant is not acquiring, subject to Complainant's approval of any such uses that may affect the storage formation. The pipeline easement owners will be able to undertake most surface activities in the vicinity of the pipeline, so long as those activities do not have the potential to damage the pipeline or prevent access to the surface above the pipeline for maintenance purposes.

Gunnersfield states in its answer that the public benefit of the Project does not outweigh Gunnersfield's hardship for four reasons: (1) the proposed pipeline runs the same course as a previously existing pipeline and those property owners will suffer repeat condemnation; (2) the proposed pipeline creates cumulative impacts on a small set of landowners, due to the prior existing pipeline; (3) the compensation given landowners from the condemnation will not fully offset the burdens associated with the Project; and (4) public policy dictates that multiple project burdens should not be placed upon the same landowners. However, Gunnersfield did not provide testimony to this effect.

The public benefits set out in D.10-10-001, namely, improved reliability of natural gas supplies in California and reduced volatility of natural gas prices, are significant. We conclude, therefore, that the public benefit of the Complainant's proposed condemnation outweighs the private harm.

3.4. The Proposed Project is Located in a Manner Most Compatible with the Greatest Public Good and Least Private Injury

The proposed storage rights, mineral rights and pipeline easement condemnation are located adjacent to the gas storage formations, are part of the Project approved by the Commission, and are necessary for safe storage

operations. Gunnersfield proposed in its answer that Complainant utilize an alternative route than the proposed pipeline route, which would create a shorter route by approximately one mile. However, Gunnersfield did not produce any testimony on this point. We, therefore, conclude that the proposed condemnation is most compatible with the greatest public good and least private injury.

3.5. The Public Interest and Necessity Requires the Proposed Project

In D.10-10-001, the Commission granted Complainant its Certificate of Public Convenience and Necessity after considering the need for and the benefits of competitive gas storage facilities in California pursuant to Pub. Util. Code § 1001 and § 1002. Complainant presented uncontested evidence that these benefits continue. We therefore conclude that the public interest and necessity require the proposed condemnation.

3.6. The Proposed Project Has Been Reviewed Under CEQA

CEQA (Public Resources Code Section 21000 *et seq.*) applies to discretionary projects to be carried out or approved by public agencies, and requires the Commission to consider the environmental consequences of its discretionary decisions, such as § 625 findings of public interest. A basic purpose of CEQA is to “inform governmental decision-makers and the public about the potential significant environmental effects of the proposed activities.” (Title 14 of the California Code of Regulations, hereinafter CEQA Guidelines Section 15002.)

Here, the Central Valley Storage Project was fully evaluated by the Commission in Application (A.) 09-08-008. The Commission adopted the

Final Mitigated Negative Declaration and Mitigation Monitoring Program
in D.10-10-001.

We, therefore, find that the proposed condemnation is part of the project that has been previously reviewed by this Commission and that no further CEQA review is required.

4. Assignment of Proceeding

President Michael R. Peevey is the assigned Commissioner. Maribeth Bushey and Katherine Kwan MacDonald are the assigned ALJs in this proceeding. Katherine Kwan MacDonald was designated as the Presiding Officer in this proceeding.

Findings of Fact

1. The storage rights, mineral rights and pipeline easements adjacent to the gas storage facility are necessary to enable Complainant to safely operate the Project.
2. The public will benefit from improvement in the reliability of natural gas supplies in California and reduced volatility in natural gas prices from the proposed condemnation.
3. No party has presented evidence of harm from the proposed condemnation.
4. The storage property rights to be taken are minimal.
5. The mineral property rights to be taken are minimal.
6. The pipeline easements to be taken are minimal.
7. The environmental review of the project was included in A.09-08-008.
8. Complainant presented qualified witnesses in support of their request.
9. No other party presented witnesses.

Conclusions of Law

1. The storage rights proposed to be condemned by Complainant are necessary for the project approved in D.10-10-001.
2. The mineral rights proposed to be condemned by Complainant are necessary for the project approved in D.10-10-001.
3. The pipeline easements proposed to be condemned by Complainant are necessary for the project approved in D.10-10-001.
4. The public benefits of the proposed condemnation outweigh the hardship to the owners and lessees of the storage rights, mineral rights and pipeline easements.
5. The public interest and necessity require Complainant's proposed condemnation.
6. The Project has been previously reviewed pursuant to CEQA and no further review is required.
7. The public interest would be served by Complainant's proposed condemnation.
8. The application should be granted.
9. Today's order should be made effective immediately.

O R D E R

IT IS ORDERED that:

1. Pursuant to Public Utilities Code Section 625, this Commission finds that the condemnation by Central Valley Gas Storage, LLC of storage rights, mineral rights, and pipeline easements owned or leased by the parties listed in Attachment A to this decision, with the legal descriptions as set forth in

Attachment G of Hearing Exhibit CVGS-1, subject to the revisions of the Combined Motion, will serve the public interest.

2. Defendant Joyce Ann Kephart's status as a party is restored.
3. Case 10-11-001 is closed.

This order is effective today.

Dated _____, at San Francisco, California.

ATTACHMENT A

Defendant Mineral Owners and Lessees in Colusa County

Colusa County Lending

Storage Rights Owners

David W. Lanza, Trustee of the David W. Lanza Trust dated February 6, 1996.

Patrick Laughlin, Trustee of the Patrick Laughlin Trust dated March 1999.

Vintage Production California, LLC, a Delaware limited liability company.

Southam & Son, a partnership.

Fred C. Southam, an unmarried man.

Mineral Owners

Raymond Norval Baker, as his separate property.

Sara Z. Burrows, aka Sara Zumwalt, Trustee of the Zumwalt Grandchildren Trusts for the benefit of Elizabeth Megan Burrows Seaver.

All of the heirs and devisees of Harry Gonick and Eleanor Gonick, including, but not limited to, Catherine Gonick and Jean Gonick.

Joyce Ann Kephart, formerly Joyce Ann Feliciano, who acquired title as Joyce Ann Baker, as her separate property.

Debbie Anne Lewis, Successor Trustee of the Ed and Winifred Lewis Revocable Trust under Declaration of Trust, Established April 27, 1994.

All the heirs and devisees of Luella Southam, deceased, excluding Jerry Southam and including, but not limited to, Barbara Rice.

Ruth L. Lundeen.

All of the heirs and devisees of W.G. Poage, deceased, excluding Elizabeth Ann Perkins and Patricia Mary Young, also known as Patricia M. Young and Patricia M. Wilson, and including, but not limited to: Jean McArthur Britzman, and Christopher Corlett.

All of the heirs and devisees of Charles A. Poage, Jr., deceased, excluding Jean McArthur Britzman, Elizabeth Ann Perkins, and Patricia Mary Young, also known as Patricia M. Young and Patricia M. Wilson, and including, but not limited to Christopher Corlett.

All of the heirs and devisees of Margaret Poage Carter, deceased, excluding Jean McArthur Britzman, Elizabeth Ann Perkins, and Patricia Mary Young, also known as Patricia M. Young and Patricia M. Wilson, and including, but not limited to Christopher Corleta.

Charles S. Thompson.

Nancy Z. Ward, formerly Nancy Zumwalt and Nancy Z. Irwin.

David G. Wehlitz, Successor Trustee of the George R. Zumwalt Testamentary Trust B for the benefit of Sara Z. Burrows.

Kenneth P. Woods, successor Trustee of George R. Zumwalt Testamentary Trust for the benefit of David F. Burrows.

Vintage Production California, LLC, a Delaware limited liability company.

Mineral Lessees

Venoco, Inc., a Delaware Corporation.

Pipeline Easement Owners

N. Joel Danley, also known as Newland Joel Danley, a married man and Lorene D. Stephen also known as Lorene K. Stephen, a married woman.

Frances M. Etchepare, Trustee of the Testamentary Trust Under the Will of Leon W. Etchepare dated February 23, 1968.

Green Valley Corporation, a California Corporation.

Joseph L. Wucher and Jenny B. Wucher, husband and wife as Joint Tenants.

Gunnersfield Enterprises, Inc., a California corporation.

Cleveland Teeter and Lisa Teeter, Trustees of The Teeter Family Trust, dated April 6, 1998, as the sole and separate property of Lisa Teeter.

Evelyn T. Thompson, as Trustee of The Evelyn T. Thompson Trust Under agreement dated January 6, 1999.

Evelyn Thompson, John H. Thompson and Deborah M. Medeiros, as Trustees of the Marital Trust under The Thompson 1984 Trust under declaration dated January 27, 1984, as amended.

Evelyn Thompson, John H. Thompson and Deborah M. Medeiros as Trustees of the GST Exempt Marital Trust under The Thompson 1984 Trust under declaration dated January 27, 1984.

Kevin D. Towne and Patricia I. Towne, as Co-Trustees or their successors in trust, under The Kevin D. Towne and Patricia I. Towne Revocable Living Trust Dated June 28, 1996.

Leo M. Holthouse, as successor Trustee of the Wilfred E. Holthouse Testamentary Trust and Leo M. Holthouse and Diane M. Holthouse, Trustees of The Holthouse Family Trust.

Enerland, LLC.

Richard J. Perez and Tori L. Perez, as Trustees of the Richard J. and Tori L. Perez Family Trust dated February 13, 2009.

Lessees of Pipeline Easement Owners

Douglas McGeoghegan.

Allen Cabral and Frank Eichhorn.

Craig Felix.

Triple J Farms, LLC, a California limited liability company.

(END OF ATTACHMENT A)