Decision **ALTERNATE PROPOSED DECISION OF COMMISSIONER SIMON** (Mailed 3/9/2012)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application by SACRAMENTO NATURAL GAS STORAGE, LLC, for a Certificate of Public Convenience and Necessity for Construction and Operation of Natural Gas Storage Facilities and Requests for Related Determinations.	Application 07-04-013 (Filed April 9, 2007)

(See Attachment C for Appearances)

DECISION GRANTING SACRAMENTO NATURAL GAS STORAGE, LLC'S, APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE A GAS STORAGE FACILITY

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DECISION GRANTING SACRAMENTO NATURAL GAS STORAGE, LLC'S APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE A GAS STORAGE FACILITY

1. Summary

This decision grants Application 07-04-013 (Application), Sacramento Natural Gas Storage, LLC's (SNGS's) request for a certificate of public convenience and necessity (CPCN) to construct and operate the Sacramento Natural Gas Storage Facility (Proposed Project) to provide natural gas storage services at market-based rates. This decision certifies the environmental impact report (EIR) for the Proposed Project, with modification to the addendum to the Final EIR, as discussed below.

The decision grants the Application after weighing the need for competitive gas storage services as well as the factors set forth in Public Utilities Code (Pub. Util. Code) § 1002, and considering the EIR. The EIR prepared for the Proposed Project identifies three significant environmental impacts that cannot be mitigated to less than significant levels: (1) the potential hazards involving the leakage of gas after re-pressurization of the Florin Gas Field for gas storage; (2) potential impacts to groundwater quality resulting from gas field operation and maintenance; and (3) construction activities at the wellhead site that would temporarily increase local noise levels.

In weighing the need for the Proposed Project, the Commission finds that the Proposed Project will mitigate the potential risks and consequences of a disruption of the natural gas supply to the Sacramento Municipal Utility District and advances the state's energy policies. These benefits constitute overriding considerations which justify approval of the Proposed Project despite its unavoidable environmental effects.

Numerous mitigation measures are incorporated into the Proposed Project, among other things, to mitigate potential hazards involving the leakage of gas and potential impacts to hydrology. This decision conditions the CPCN on the mitigation measures set forth in the EIR and other requirements specified in the decision. The mitigation measures and other requirements we order will ensure that the Proposed Project can be constructed and operated in a way that protects the safety of workers, the public, and the environment.

This decision embraces and incorporates all mitigation measures recommended by the EIR, and all state and federal safety requirements applicable to the Proposed Project, including natural gas pipeline requirements recently enacted by the Legislature.

As a result of our granting this Application, SNGS is a public utility with respect to the Proposed Project authorized by the CPCN. As a public utility, SNGS will have eminent domain power pursuant to Pub. Util. Code § 613. However, SNGS must comply with Pub. Util. Code § 625 before it can exercise the power of eminent domain.

2. Background

2.1. Overview of the Application and the Proposed Project

Sacramento Natural Gas Storage, LLC (SNGS or Applicant), is a California limited liability company. SNGS filed Application (A.) 07-04-013 (Application) for a certificate of public convenience and necessity (CPCN) to construct and operate the Sacramento Natural Gas Storage Facility (Proposed Project), including ancillary pipelines and other components required to provide natural gas storage services at market-based rates.

In addition, the Application requests that the Commission waive the requirements of Rule 3.1(f) of the Commission's Rules of Practice and Procedure (Rules), and determine that SNGS's financing of the Proposed Project is exempt from the requirements of Public Utilities Code (Pub. Util. Code) § 818 and § 851[1] and the Commission's competitive bidding rules (Competitive Bidding Rule).[2] The September 12, 2008 amendment to the Application requests that the Commission complete and certify an environmental impact report (EIR).[3]

The Proposed Project includes (1) an underground natural gas storage reservoir; (2) a wellhead site; (3) a control center and compressor station site; (4) a buried 16-inch interconnection pipeline (approximately 1.4 miles long) between the wellhead and compressor site; and (5) a 16-inch buried interconnection pipeline (approximately 0.8 mile long) between the compressor site and Sacramento Municipal Utility District (SMUD) Line 700, which will provide, via leased capacity, an interconnection with the Pacific Gas & Electric Company's (PG&E's) Line 400/401.

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[1] All statutory references are to the Public Utilities Code unless otherwise indicated.

[2] SNGS filed under seal information on the economic feasibility of the Proposed Project, pursuant to Rule 3.1(f), and financial, budget, contract, and appraisal information in connection with the Proposed Project, pursuant to Rule 3.1(g), and a motion for confidential treatment of this information.

[3] On July 16, 2007, SNGS filed a supplement to the Proponent's Environmental Assessment (PEA) included with the Application. On October 9, 2007, and on September 12, 2008, SNGS amended the Application to propose modifications to the pipeline construction and interconnections described in the Application, and revised the estimate of construction costs.

The Proposed Project will utilize a depleted natural gas reservoir (the Florin Gas Field) located partly within the City of Sacramento (City) and partly within an adjacent unincorporated area of the County of Sacramento (County).

The Florin Gas Field underlies approximately 379 acres of surface land, is approximately 3,800 feet underground, and is capped by a dome-shaped shale formation ranging in thickness from 150 to 300 feet. (Reference Exhibit (Ref. Exh.) B, Vol.2 at B-2, B-9 to B-10.) Between 1977 and 1987, more than 8 billion cubic feet (bcf) of natural gas was extracted from the Florin Gas Field by Proctor and Gamble, Venada National, TXO Production Company and Union Oil Company. After production ended, five extraction wells and three non-producing wells were properly abandoned under the supervision of the California Department of Conservations, Division of Oil, Gas and Geothermal Resources (DOGGR).

The zoning classifications of the land overlying the Florin Gas Field are primarily "residential" and "industrial," with a small amount zoned "commercial" and "agricultural-open space." The zoning classification of the land where Proposed Project facilities (wellhead site and compressor station) will be located is "industrial." (Ref. Exh. B, Vol.2 at D.8-13.) Approximately two-thirds of the surface area overlying the Florin Gas Field contains residential parcels (717 parcels); approximately one-quarter of the overlying surface area contains commercial or industrial parcels (43 parcels); and the remainder of the overlying surface area is owned by the City (11 parcels).[4]

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[4] August 4, 2009 SNGS Response in Opposition to Consumer Protection and Safety Division (CPSD) Motion, Attachment E (Schneider Declaration, Exhibit A), and Application at 8.

The wellhead site will include up to six injection/withdrawal wells, one water disposal well and one observation well. Up to 8 bcf of natural gas will be injected, of which approximately 7.5 bcf will be working gas and the remainder will be cushion gas. The control center and compressor station will be located approximately one mile from the proposed wellhead site on a five-acre parcel situated within the Florin Depot Industrial Park (Depot Park), an industrial park at the former site of the Sacramento Army Depot.

The pipelines connecting the wellhead and compressor sites, and connecting the compressor site and SMUD Line 700, will be placed, for the most part, in existing power easements and within or parallel to Union Pacific Railroad or utility rights of way. All surface facilities and equipment will be located within the City limits.

2.2. Procedural Background

SNGS filed the Application on April 9, 2007. Notice of the Application appeared in the Commission's April 16, 2007 Daily Calendar.

In Resolution (Res.) ALJ 176-3191, dated May 3, 2007, the Commission preliminarily categorized this proceeding as ratesetting and preliminarily determined that hearings were needed.

On May 16, 2007, the Division of Ratepayer Advocates (DRA) and Lodi Gas Storage, LLC (Lodi) filed responses to the Application. On May 29, 2007, PG&E filed a protest to the Application, a motion to accept late-filed protest, and a motion for party status.[5]

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[5] The June 5, 2007 Administrative Law Judge (ALJ) ruling granted PG&E's motion for party status, and the June 12, 2007 ALJ ruling granted PG&E's request to late file the protest. The June 12 ruling treated the May 4, 2007 Wild Goose Storage, LLC

Footnote continued on next page

On September 14, 2007, the Avondale Glen-Elder Neighborhood Association (AGENA) filed a motion for party status, and on December 13, 2007, the City filed a motion for party status.[6] On January 24, 2008, AGENA filed a protest and motion to accept late-filed protest.[7]

A prehearing conference was held on May 9, 2008, where representatives of SNGS, AGENA, the City, DRA, Lodi, PG&E, and Wild Goose were in attendance.[8]

On July 25, 2008, the assigned Commissioner and ALJ issued a joint scoping memo and ruling (Scoping Memo). The Scoping Memo affirmed the Commission's preliminary findings in Res. ALJ 176-3191 that the category for this proceeding is ratesetting and that hearings are necessary.

Evidentiary hearings on non-environmental/CPCN issues were held on October 20 and 21, 2008. On November 18, 2008, parties filed opening briefs on non-environmental issues, and reply briefs were filed on November 25, 2008. AGENA, City, DRA, and SNGS participated in hearings and filed briefs.

(Wild Goose) motion to intervene as a motion for party status, and granted the motion. The September 14 ALJ ruling granted, in part, the July 20, 2009 the CPSD motion for, among other things, party status. The January 11, 2010 ALJ ruling denied Southern California Gas Company's December 4, 2009 motion for party status.

[6] The October 11, 2007 ALJ ruling granted AGENA's request. The December 27, 2007 ALJ ruling granted the City's request.

[7] The February 20, 2008 ALJ ruling granted AGENA's motion. On May 22, 2008, AGENA filed its Notice of Intent to Claim Compensation for its participation in this proceeding. The August 18, 2008 ALJ ruling preliminarily determined that AGENA was eligible to seek an award of intervenor compensation.

[8] AGENA, the City, DRA and SNGS submitted prehearing conference statements, pursuant to the April 28, 2008 ALJ ruling.

On April 8, 2009, the Commission's Energy Division released the Draft EIR (DEIR). On April 28, 2009, the Energy Division held an informational meeting on the DEIR to respond to questions and provide information regarding the analysis and conclusions presented in the DEIR.[9]

In addition, on April 28, 2009, the Commission held the first of two public participation hearings (PPHs) in Sacramento in the vicinity of the Proposed Project (April 28 PPH). The April 28 PPH was held in conjunction with the Energy Division's public informational meeting on the DEIR, and provided the public an opportunity to comment on non-environmental issues and on the DEIR. Pursuant to the September 14, 2009 ALJ ruling, the Commission held a second PPH on October 27, 2009, in Sacramento in the vicinity of the Proposed Project.[10]

On January 21, 2010, the assigned Commissioner and ALJ issued an amended scoping memo and ruling (Amended Scoping Memo), requesting comments from parties on the issues that should be considered in any

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[9] The public, including parties to this proceeding, were also provided an opportunity to submit written comments on the DEIR through the environmental review process.

[10] The September 14 ALJ ruling granted, in part, the July 20, 2009 CPSD motion for a new PPH and the July 20, 2009 CPSD motion for party status, and denied the July 20, 2009 CPSD motion for the Commission to revise the Scoping Memo and issue an order to show cause to SNGS for violations of Rule 1.1 of the Commission's Rules of Practice and Procedure. CPSD's involvement in this proceeding was limited to its involvement in the July 20, 2009 motions, and CPSD's party status was limited to preserving its appeal rights with regard to the disposition of the July 20, 2009 motions.

supplemental evidentiary hearings needed after issuance of the Final EIR (FEIR).[11]

On June 10, 2010, the Energy Division released the FEIR. On July 13, 2010, the assigned Commissioner and ALJ issued the second amended scoping memo (Second Amended Scoping Memo) scheduling supplemental evidentiary hearings to address the economic feasibility of the environmentally superior gas field alternatives identified in the FEIR (Alternative Gas Fields).

Pursuant to the Second Amended Scoping Memo, on July 23, 2010, SNGS served direct supplemental testimony addressing the economic feasibility of the Alternative Gas Fields. No party served rebuttal supplemental testimony, and no party requested cross examination of SNGS's witnesses.

The September 10, 2010, ALJ ruling determined that evidentiary hearings were not needed on the economic feasibility of the Alternative Gas Fields, directed SNGS to submit additional evidence to assist the Commission determine the economic feasibility of the Alternative Gas Fields, and provided parties an opportunity to comment on SNGS's response. On September 20, 2010, SNGS filed its response with additional information (Additional Evidence), and on September 30, 2010, AGENA filed comments on the Additional Evidence.[12]

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[11] On June 21, 2010, AGENA, City, PG&E, and SNGS submitted comments. On June 28, 2010, AGENA and SNGS submitted reply comments.

[12] SNGS concurrently filed a confidential version of the Additional Evidence and a motion to file under seal portions of the confidential version. SNGS did not provide parties with access to the confidential version of the Additional Evidence. On September 24, 2010, AGENA filed a motion for disclosure of the confidential version of the Additional Evidence and a motion to modify the schedule. On September 27, 2010, AGENA filed a response in opposition to the SNGS motion to file under seal, and on September 30, 2010, AGENA filed a request to file supplemental rebuttal testimony. On

Footnote continued on next page

On October 25, 2010, the assigned Commissioner and ALJ issued the third amended scoping memo (Third Amended Scoping Memo), granting, in part, the July 27, 2010 AGENA motion for reconsideration of the Second Amended Scoping Memo.

Pursuant to the Third Amended Scoping Memo, supplemental evidentiary hearings on the issue of need for the Proposed Project were held on January 10 and 11, 2011. Post-hearing supplemental briefs were filed on February 7, 2011 by AGENA and SNGS, and supplemental reply briefs were filed on February 18, 2011 by AGENA, the City and SNGS. No oral argument was held, and the proceeding was submitted upon the filing of reply briefs.

The April 29, 2011 ALJ ruling directed SNGS to prepare reference exhibits, and set aside submission to receive those exhibits and to receive the October 11, 2010 email message to the ALJ from Darryl Gruen, Commission Staff Attorney (Ref. Exh. C). The proceeding was re-submitted on May 5, 2011.

In July 2011, the Energy Division prepared an addendum to the FEIR (Addendum) in response to comments on the FEIR made in the parties' supplemental briefs and supplemental reply briefs. The July 25, 2011 ALJ ruling set aside submission to admit into the record the Addendum as Ref. Exh. G, and the proceeding was re-submitted on July 25, 2011 upon the receipt of Ref. Exh. G.

November 1, 2010, AGENA filed supplemental comments on the Additional Evidence. The October 21, 2010 ALJ ruling granted, in part, SNGS's motion to file materials under seal; granted AGENA's motion for disclosure; granted, in part, AGENA's motion to modify the proceeding schedule; and denied AGENA's request to for permission to file supplemental rebuttal testimony.

The February 17, 2012 ALJ ruling set aside submission to take official notice of recently-enacted legislation concerning natural gas regulation and adding sections to the Public Utilities Code.

3. Standard of Review and Governing Law

3.1. Burden of Proof

As the Applicant, SNGS must demonstrate a need for the Proposed Project for the Commission to issue the CPCN.[13] The applicant has the burden of affirmatively establishing the reasonableness of all aspects of its application. (D.06-05-016 at 7.)

Evidence Code § 115 defines burden of proof as follows:

> "Burden of proof" means the obligation of a party to establish by evidence a requisite degree of belief concerning a fact in the mind of the trier of fact … The burden of proof may require a party to raise a reasonable doubt concerning the existence or nonexistence of a fact or that he establish the existence or nonexistence of a fact by a preponderance of the evidence, by clear and convincing evidence, or by proof beyond a reasonable doubt.
>
> Except as otherwise provided by law, the burden of proof requires proof by a preponderance of the evidence.

The preponderance of the evidence is generally the default standard in civil and administrative law cases and we apply that standard in this decision. California Administrative Hearing Practice, 2d Edition (2005) at 365.

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[13] Decision 06-11-018 at 22 ["The Commission has long held that the applicant carries the burden of proof in a certification proceeding, and we reiterate those determinations today"].

3.2. The CPCN and the California Environmental Quality Act (CEQA) Processes

Two different regulatory schemes define this Commission's responsibilities in reviewing SNGS's request for the approval of this Application. First, §§ 1001, *et seq.*, require that before SNGS can construct the Proposed Project, the Commission must grant a CPCN on the grounds that the present or future public convenience and necessity require or will require construction of the Proposed Project. Second, Public Resources Code §§ 21000, *et seq.*, require that the Commission, as lead agency for the Proposed Project, prepare an EIR assessing the environmental effects of the Proposed Project for the Commission's use in considering the request for a CPCN. D.90-09-059, 37 CPUC2d 413, 421.

To administer the Commission's dual responsibilities under the Public Utilities Code and Public Resources Code, the proceeding was bifurcated into a review of non-environmental/CPCN issues and an environmental review pursuant to CEQA. This was done to avoid confusion and unnecessary duplication of efforts while ensuring a complete record on all issues germane to the Application.

The environmental and non-environmental parts of the proceeding converged when the FEIR was submitted for certification by the Commission, and, at that time, became part of the proceeding record. After the FEIR was submitted, a further record was developed on the economic feasibility of the Alternative Gas Fields, and supplemental evidentiary hearings were held to further consider need for the Proposed Project.

3.3. Section 1001, et seq.

The Public Utilities Code requires the Commission to determine that a project is necessary before granting a CPCN. Also, before granting a CPCN, the

Commission considers the financial impacts of a project on the utility's ratepayers and shareholders. The Commission reviews the expected project costs, and for those projects estimated to cost more than $50 million the Commission sets the maximum amount that can be spent by the utility on a project without seeking further Commission approval.

The Gas Storage Decision (D.93-02-013) and subsequent decisions modified some of these requirements as they apply to competitive independent gas storage service applicants under the Commission's policy for competitive markets. These modifications are discussed more fully below.

In addition, § 1002 requires the Commission to consider the following factors in determining whether or not to grant a CPCN: (1) community values; (2) recreational and park areas; (3) historical and aesthetic values, and (4) influence on the environment.

3.3.1. CEQA

CEQA requires the lead agency to prepare an EIR when there is substantial evidence that a project may have a significant effect on the environment. The lead agency is the governmental body with primary authority over a proposed project which, for this Application, is this Commission. The lead agency determines whether or not to prepare an EIR, and, as appropriate, prepares and certifies the EIR.

In preparing the EIR, the lead agency must consider alternatives to the project, including the alternative of no project at all ("no project" alternative). The lead agency must identify all significant and potentially significant impacts of the project, must identify the mitigation measures available to lessen those impacts, and must determine whether those mitigation measures would reduce

the impacts to less than significant levels. The lead agency cannot approve the project until it has certified that the EIR is complete.

If the EIR concludes that a project will have a significant impact on the environment even after all reasonable mitigation measures are applied, any CPCN that is granted must be accompanied by a statement of overriding considerations explaining why the project should still be approved. The authorization that is finally issued must be conditioned on completion of any adopted mitigation measures.

4. Summary of Parties' Positions

This section briefly summarizes the positions of those parties who participated in the October 2008 and January 2011 evidentiary hearings.[14]

4.1. SNGS

SNGS states that the Proposed Project is responsive to California's energy policies recognizing the continuing need for increased natural gas storage capacity. SMUD's interest in becoming an anchor customer of SNGS, according to SNGS, demonstrates the need for the Proposed Project at the proposed location. SNGS states that the Proposed Project is uniquely situated to reinforce the reliability of PG&E's services to non-core customers, and help relieve constraints on SMUD's gas supply system.

According to SNGS, the Proposed Project will be located in proximity to growing utility, commercial, industrial and governmental loads, and will allow deliveries to PG&E customers through PG&E's local transmission and

[14] As noted above, CPSD was granted limited party status to pursue its July 20, 2009 motions and to preserve its appeal rights with regard to the disposition of those motions, but did not otherwise actively participate in this proceeding.

distribution pipelines. SNGS states that other potential customers in the vicinity of the Proposed Project include the California Department of General Services' heating and cooling plant in downtown Sacramento, the University of California Davis Medical Center in Sacramento, the Sacramento State University, the Department of Motor Vehicles headquarter building, the Folsom State Prison, Sacramento Regional Transit's compressed natural gas bus fleet, the Sutter Medical Center, Kaiser Permanente Medical Facilities, Campbell's Soup Plant, Crystal Cream and Butter Company, Mather Commerce Center, the Farmer's Rice Cooperative, and various rock quarries (for asphalt production and aggregates drying).

SNGS states that the Proposed Project satisfies all § 1002(a) factors, and that most property owners in the area support the Proposed Project. According to SNGS, the Proposed Project will not interfere with the continued use of parks or recreational areas, and is consistent with the historical and aesthetic values characterizing the surrounding area, including the historical gas production from the Florin Gas Field and the current industrial uses of the Depot Park.

4.2. AGENA

AGENA states that it is not opposed to the idea of natural gas storage, in general, but contends that there is not a specific need for the Proposed Project at the proposed location, given the potential risks associated with it. According to AGENA, locating the Proposed Project in a community of predominately low-income persons of color creates the perception of environmental injustice in the community.

AGENA asserts that there is strong community opposition to the Proposed Project, and that the Proposed Project is contrary to community, park and recreation, and historic values of the area. AGENA argues the Proposed Project

will have negative economic, environmental, and other effects on the community. AGENA contends that the Proposed Project will decrease local property values and the availability of homeowners' insurance, and that the actual and perceived environmental risks created by the Proposed Project will degrade the livability of the primarily residential area.

AGENA asserts that SMUD has adequate resources and contingency plans to satisfy its natural gas needs for the foreseeable future. According to AGENA, energy from developing renewable sources, energy efficiency programs, and pending or recently completed gas transmission and storage projects will increase the supply of natural gas and gas storage capacity available to SMUD, and these developments eliminate any need for the Proposed Project.

4.3. City

The City states that it wants to ensure that the public safety and environmental issues raised by the Application are thoroughly and completely considered, but does not explicitly take a position for or against the Application. The City raises concerns about the burden the Proposed Project will place on the City's public safety and emergency response resources, and asserts the EIR improperly defers mitigation measures that address this concern. The City disputes SNGS's claim that the City has informally agreed to use storage lease income to maintain and improve Danny Nunn Park, and questions the quality of SNGS's analysis of the Proposed Project's economic benefits.

The City sought to join the Commission as co-lead for CEQA purposes and for the City to have the opportunity to act on all required City approvals

necessary to construct the Proposed Project prior to the Commission issuing a CPCN.[15]

4.4. DRA

DRA states that it generally supports the development of independent gas storage operations in California and supports the Application, including SNGS's requests to charge market-based rates for its storage services and for exemption from the requirements of § 818 and § 851 and the Competitive Bidding Rule in connection with financing the Proposed Project.

DRA requests that SNGS be required to file annual reports detailing its operations, including 1) the capacity of the facilities (i.e., total inventory, injection and withdrawal rights); 2) average monthly inventory in storage, injections, and withdrawals; 3) daily operating records; 4) firm capacity under contract, on a monthly and annual basis; 5) interruptible capacity sold, on a monthly and annual basis; and 6) annual safety report describing all safety-related incidents. DRA and SNGS reached agreement on reporting requirements and on exemptions from the requirements of § 818 and § 851 and the Competitive Bidding Rule.

4.5. PG&E

Although PG&E protested the Application, it did not actively participate in the proceeding except to confirm that it and SNGS resolved all interconnection issues related to the Proposed Project. As discussed below, on January 9, 2009,

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[15] The Scoping Memo determined that the Commission would not join the City as co-leads for the CEQA review of the Proposed Project, and would not hold any draft decision in abeyance until the City completed its own hearings.

SNGS and PG&E filed a stipulation resolving all issues PG&E raised in its protest.

5. Consideration of § 1001 Factors

Pursuant to § 1001, a CPCN applicant must demonstrate that the present or future public convenience and necessity require or will require construction and operation of a proposed project. To decide if public convenience and necessity require the construction of this Proposed Project, the Commission assesses the need for gas storage facilities, considers if SNGS has the financial resources and technical expertise to construct and operate a gas storage facility, and considers if the Proposed Project will be constructed and operated in a way that protects the safety of workers, the public, and the environment. We first consider need for the Proposed Project.

5.1. Need for Proposed Project

As discussed below, we find the Proposed Project is needed to improve SMUD's energy system reliability and operational flexibility. The Proposed Project (1) is consistent with and advances the Commission's policy for competitive gas storage facilities; (2) provides benefits to SMUD by improving reliability and operational flexibility; and (3) is consistent with and advances state energy policy.

The Proposed Project improves SMUD's energy system reliability and operational flexibility by providing a backup supply of natural gas close to SMUD's power plants that, in an emergency, will help SMUD avoid and mitigate the adverse impacts of constraints or disruptions on PG&E's transmission system, and eliminate the risk that gas supplies will be curtailed or diverted during high demand conditions.

The need for and benefits of the Proposed Project are discussed below.

5.1.1. Consistency with Commission's Competitive Gas Storage Policy

The Proposed Project is consistent with and meets the requirements of the Commission's policy, established in the Gas Storage Decision, for the construction and operation of competitive gas storage facilities.

The Gas Storage Decision determined that, for new facilities dedicated to core customers, the Commission would rigorously test for need, basing its decisions on factors including reasonable projections of core need, and resource plans that include cost-benefit analysis, renewed emphasis on conservation, and the uncertainty inherent in demand forecasts.[16] However, D.93-02-013 concluded that the Commission should not be in the business of testing storage projects serving non-core customers for need as long as all of the risk of unused new capacity resides with the builders and users of the new facilities, including the risk that actual costs of expansion may exceed cost estimates used in planning.

Thus, pursuant to the Commission's gas storage policy, the only showing of need required under § 1001, *et seq.*, regarding demand for a competitive gas storage facility is a showing that the storage utility and its customers agree to expanded storage service. In particular, pursuant to the Commission's gas storage policy, applicants are not required to provide projections of demand or resource plans that include cost-benefit analyses as a part of any showing of need for a competitive gas storage project serving noncore customers.[17]

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[16] D.93-02-013 at 127 and Finding of Fact 37.

[17] SMUD is a noncore customer. As defined in PG&E's tariffs, "Noncore End-Use Customers are typically large commercial, industrial, cogeneration, wholesale or electric generation Customers who meet the usage requirements for service under a noncore rate schedule and who have executed a Natural Gas Service Agreement. Electric

Footnote continued on next page

SMUD and SNGS have entered into a 20-year agreement for gas storage services to be provided by the Proposed Project.[18] SMUD confirms that it has a contract with SNGS for storage services, and that it wishes to continue the contract. (TR 385:22 – 386:6.) The 20-year gas storage agreement between SMUD and SNGS satisfies the showing of need required by the Commission's gas storage policy.

Pursuant to the Commission's gas storage policy, when considering need under § 1001, evidence concerning the adequacy of an independent gas storage provider's customer's (in this case, SMUD's) energy supply and/or system reliability is irrelevant to the Commission's consideration of demand for a competitive gas storage facility.[19] However, such evidence is relevant to our consideration of any overriding considerations that may justify approval of the Proposed Project, as discussed below.

Generation, Enhanced Oil Recovery, Cogeneration, and Refinery Customers with historical or potential annual use exceeding 250,000 therms per year or rated generation capacity of five hundred kilowatts (500 kW), or larger, are permanently classified as Noncore End-Use Customers." *See* Cal. P.U.C. Sheet No. 21978-G, Gas Rule No. 1 Definitions (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_1.pdf).

Pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of PG&E Gas Rule No. 1 - Definitions (Schedule Cal. P.U.C. Sheet No. 21978-G, (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_1.pdf)).

[18] Exhibit AGENA-14 is a draft copy of the Gas Storage Services Agreement between SMUD and SNGS. A copy of the executed Amended and Restated Gas Storage Services Agreement between SMUD and SNGS, dated October 2, 2008, is included as Exhibit B to SNGS's Supplemental Opening Brief.

[19] SMUD is a publicly-owned utility that is not subject to the jurisdiction of this Commission.

The Gas Storage Decision directly responds to the Legislature's policy to encourage development of independent storage. However, the Gas Storage Decision acknowledges that other statutory requirements will affect implementation of that policy. In this proceeding, the other statutory requirements that apply are the Public Resources Code and Title 14 of the California Administrative Code, § 15000 *et seq.* (the CEQA Guidelines).

Because, as discussed below, the EIR has determined that the Proposed Project will have unavoidable environmental impacts, the Commission may not approve the Proposed Project unless it first determines, based on substantial evidence, that social, technological, or other benefits, including region-wide or statewide environmental benefits of the Proposed Project outweigh its unavoidable environmental risks. Although SNGS has made a sufficient showing of need pursuant to the Commission's gas storage policy to satisfy the Commission's requirements with regard to demand for competitive gas storage services, a fuller showing of need for the Proposed Project is necessary for the purpose of determining if there are overriding considerations that justify approval of the Proposed Project despite its adverse environmental effects.[20]

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[20] The applicant in A.98-11-012 leading to D.00-05-048 objected to the scope of that proceeding requiring the applicant to make a showing of need, given the Commission's gas storage policy. In addressing this objection, D.00-05-048 states "if [the applicant] only relies on the Gas Storage Decision for a presumptive showing of need, it may be difficult for the Commission to determine whether or not there is evidence to support a finding of overriding consideration, if necessary, with respect to the EIR that CEQA requires in this case. In short, in some instances, a fuller showing of need may be necessary to the extent required by law." (6 CPUC 3rd 230 at 241 (Footnote omitted)). As a result, the applicant made a showing of need, and D.00-05-048 relied on that showing to support the decision's statement of overriding consideration.

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5.1.2. Operational and Reliability Benefits

SMUD provides electric power to approximately 600,000 customers in a 900 square mile service area in and around Sacramento. SMUD currently has 995 megawatts (MW) of gas-fired electricity generating capacity, representing about 30 percent of SMUD's peak load. SMUD uses from 125,000 decatherms (Dth)/day to 130,000 Dth/day of natural gas to support this load. (SNGS-5 at 1-2.)

Sacramento is at the end of natural gas pipelines serving Northern California from as far away as 1,000 miles. Supplies of natural gas from out-of-state and from gas storage facilities in California must use PG&E's gas transmission system (PG&E Lines 400/401) to reach SMUD Line 700. SMUD Line 700 connects SMUD's gas-fired power plants to PG&E Lines 400/401, and natural gas is delivered to SMUD Line 700 via PG&E's gas transmission system.

California imports more than 87 percent of its natural gas supplies from sources outside the state, and this reliance on imported natural gas leaves the state vulnerable to price shocks and supply disruptions.[21] All of the natural gas SMUD uses is from out-of-state. (SNGS-5 at 3.)

D.02-07-036 in A.01-06-029 (citing D.00-05-048) states that establishing conformance with § 1002, establishing a basis for a finding of overriding consideration, or in connection with eminent domain under § 625, are examples where a fuller showing of need may be necessary. The applicant in that proceeding, too, made a showing of need, and D.02-07-036 at 8-9 relied on the applicant's showing to support that decision's statement of overriding consideration.

[21] 2007 Integrated Energy Policy Report (IEPR) at 167-168; 2009 IEPR at 33, 131.

SMUD cannot operate reliably without any natural gas.[22] In 2010, SMUD was capable of importing 1,880 MW of power into its service area to support its Load Serving Capability of 3,340 MW. (AGENA-45, Exhibit O, Table 2-1). SMUD can produce 1,695 MW of its own power, and SMUD's gas-fired power plants generate 1,016 MW of this amount. (*Ibid*., Table 1-2.) If gas supplies to its gas-fired power plants were disrupted and SMUD lost its 1,016 MW of internal gas-fired generation, it would not be able to meet peak demand.[23] SMUD will need to operate its gas-fired power generating system for at least the 20-year term of the storage agreement between SMUD and SNGS. (SNGS-41 at 2.)

Reliability is the most important benefit of gas storage to SMUD, and, in the event of an interruption in gas supply, local storage will provide a critical back up supply. In addition to providing physical reliability, gas storage provides SMUD operational flexibility, a hedge against extreme prices, and allows for price arbitrage.

SMUD has a contract with Wild Goose for gas storage services. Gas stored at Wild Goose must use PG&E's gas transmission system to deliver gas to SMUD Line 700 and SMUD's power plants. Similarly, gas stored at recently completed and pending gas storage facilities in California must use PG&E's gas

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[22] AGENA asserts that SMUD's participation in the Western Electricity Coordinating Council, and SMUD's membership in the Northwest Power Pool and the Transmission Agency of Northern California, mitigate the risk of electricity service disruption. AGENA further asserts that SMUD's demand-side management programs (including voluntary and involuntary curtailments), and the alternative renewable and stored energy sources ensure SMUD can meet peak electricity demand.

[23] SMUD has 200 MW of demand-side management capability that is currently used for emergencies or for mitigating delays in transmission or generation projects. (AGENA-45, Exhibit O at 6.)

transmission system to deliver gas to SMUD Line 700 and SMUD's power plants. (SNGS-44 at 15.)

SMUD has no alternative gas supply capability if gas deliveries from PG&E's gas transmission system to SMUD Line 700 were disrupted or substantially reduced. (SNGS-5 at 1-3.) If gas deliveries to SMUD's power plants are disrupted, all of SMUD's power plants will be out of service, and SMUD will be required to purchase electricity from distant sources but would not be able to import sufficient power to reliably meet peak demand. (SNGS-45 at 5.)

If gas deliveries to SMUD's power plants are disrupted, SMUD would have insufficient power to meet customer load and would have to implement curtailments. (TR 382:25-384:5.) Depending on circumstances (e.g., weather conditions), the impacts of curtailment of electricity could range from inconvenience and economic harm to loss of life. (*Ibid*.) The consequences of a gas supply disruption to SMUD are sufficiently serious that SMUD believes it is prudent to take steps to prevent supply disruption under any circumstances.

PG&E Gas Rule No. 14 contains rules and procedures for allocating pipeline capacity in the event of constraints on the PG&E transmission and distribution system, and applies to gas entering, leaving, or transported on PG&E's system. Pursuant to Gas Rule No. 14, PG&E may reduce, interrupt, or allocate natural gas transportation, storage or supply services for operational reasons or compliance with regulatory requirements in the event of projected or

actual supply or capacity shortages.[24] In the event of a disruption of PG&E's gas transmission lines, PG&E may be required to curtail gas deliveries, and, as a result, it may not be possible to deliver to SMUD gas stored at other storage facilities.

Gas Rule No. 14 further provides that PG&E may reduce the amount of gas PG&E receives on the customer's behalf due to operating conditions or regulatory requirements affecting all or a portion of PG&E's system, and that PG&E will take whatever steps it determines are operationally appropriate in the event of a constraint on PG&E's local transmission or distribution facilities.

Gas Rule No. 14 applies only to gas that is placed on or delivered through PG&E's system. Gas Rule No. 14 does not authorize PG&E to take gas from a private storage facility or from SMUD Line 700. Gas stored at the Proposed Project and delivered directly to SMUD's power plants through SMUD Line 700 without the use of the PG&E system is not subject to diversion or curtailment by PG&E.

The likelihood of PG&E curtailing or diverting natural gas supplies away from SMUD power plants is unknown. However, SMUD gas has been diverted at least once. (AGENA-34, Exhibit A at 6-7.) Thus, although it is an infrequent occurrence, diversion of natural gas supplies away from SMUD is possible.

In addition, although it is also an infrequent occurrence, a major disruption of service on PG&E's gas transmission system from natural or

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[24] Pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of PG&E Gas Rule No. 14 - Capacity Allocation and Constraint of Natural Gas Service (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_14.pdf).

man-made causes is possible.[25] The Commission has opened Rulemaking (R.) 11-02-019 to consider new pipeline safety regulations in the aftermath of the September 9, 2010 rupture of PG&E's gas transmission pipeline in San Bruno. R.11-02-019 will, among other things, assess the likelihood of similar events occurring, and consider recommendations for preventive measures and other safety improvements.

Because supplies of natural gas from existing and pending storage facilities must use the PG&E transmission system to deliver gas to SMUD, natural gas transported from those facilities may be curtailed or diverted at a time of constrained supplies. (TR 390:17 – 391:20.) Therefore, other gas storage facilities do not protect gas deliveries to SMUD from curtailment, diversion, or disruptions on the PG&E transmission system, and, as a result, these facilities will not provide the same level of reliability that a nearby storage facility directly connected to SMUD Line 700 would provide.

In addition, SMUD's gas-fired power plants are on the east side of the Sacramento River and the Deep Water Ship Channel, and the SMUD Line 700 interconnection with PG&E Lines 400/401 is on the west side of these waterways. SMUD Line 700 crosses under the Sacramento River and the Deep Water Ship Channel to deliver gas from PG&E Lines 400/401 to SMUD's gas-fired power plants. If SMUD Line 700 is damaged at either of these

[25] Res. L-403, adopted on September 23, 2010, provides, among other things, for an investigation into the explosion of PG&E's natural gas transmission line 132 in the City of San Bruno on September 9, 2010, and into the general safety risks associated with PG&E's other gas transmission lines in California.

crossings, SMUD's power plants could not now operate until repairs are made or a replacement pipe segment is installed. (SNGS-5 at 4.)

The Proposed Project will be directly connected to SMUD Line 700 on the east side of the Sacramento River and the Deep Water Ship Channel. As a result, gas stored at the Proposed Project can be delivered to SMUD's power plants if either of these underwater crossings is damaged.

Because gas stored at the Proposed Project would not be subject to curtailment or diversion, and because gas from the Proposed Project would not traverse the Sacramento River and the Deep Water Ship Channel to reach SMUD's gas-fired power plants, the Proposed Project is a more reliable storage option for SMUD. These important and unique advantages over other gas storage facilities improve the physical reliability of gas supply in the event of natural disaster, extreme weather, supply-affecting accidents or incidents, or other supply contingencies.

The Proposed Project will also permit SMUD to more effectively integrate renewable generation into its resource mix because a reliable, locally-available, supply of natural gas will help ensure that natural gas-fired generation is available when needed, for example, to meet peak demand.[26] Certain renewable generation technologies (such as wind) may not be available when power is most needed. Thus, to the extent SMUD obtains a portion of its energy from renewable sources, natural gas-fired generation will be needed to ensure reliable service during peak demand periods, and the Proposed Project will ensure supplies are available to support gas-fired generation when needed.

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[26] SNGS-5 at 4–5; SNGS-44 at 3, 20.

5.1.3. Consistency with State Energy Policy

The Proposed Project is consistent with California integrated energy policy planning, and approval of the Proposed Project advances this policy integration. Achieving an integrated energy policy is a product of close coordination between this Commission and the California Energy Commission (CEC) through the process set forth in Public Resources Code § 25300, *et seq*.

This statute requires the CEC to assess and forecast, at least every two years, all aspects of energy industry supply, production, transportation, delivery and distribution, demand, and prices, and to use these assessments and forecasts to develop energy policies that conserve resources, protect the environment, ensure energy reliability, enhance the state's economy, and protect public health and safety. The CEC fulfills this responsibility through its adoption every two years of an IEPR, pursuant to Public Resources Code § 25302.

For the purpose of ensuring consistency in the underlying information that forms the foundation of energy policies and decisions affecting the state, Public Resources Code § 25302(f) requires us to carry out our energy-related duties and responsibilities based upon the information and analyses contained in the IEPR unless we reasonably object to information contained in the IEPR. Public Resources Code § 25302(f) applies to this proceeding because rendering a decision on the Application is one of the Commission's energy-related duties and responsibilities.

The 2007, 2009, and 2011 IEPRs are relevant to this proceeding because they contain California's energy assessments and policy recommendations for

natural gas supply and storage infrastructure.[27] In particular, the 2007, 2009, and 2011 IEPRs provide current assessments of natural gas supply and demand, forecasts of system reliability and the need for resource additions, and set energy policies relevant to the need for the Proposed Project.

The energy assessments and policy recommendations contained in the 2007, 2009, and 2011 IEPRs recognize the continuing need for increased natural gas storage capacity in the state. We agree with the 2007, 2009, and 2011 IEPRs' assessments of the adequacy of natural gas supply and the need for additional natural gas storage in the state, and find no reasonable basis for objecting to the 2007, 2009, and 2011 IEPRs' analyses and conclusions.[28]

There is a need for additional gas storage in the state. Natural gas is used to generate more than 46 percent of California's electricity, and natural gas has become an increasingly important source of energy since more of the state's power plants rely on it.[29]

California's natural gas storage capability is instrumental in helping to guard against interruptions and severe weather changes, ensuring adequate supplies and contributing to price stability. The Proposed Project contributes to improving the state's natural gas storage infrastructure because it is the only storage facility that can ensure gas delivery to SMUD if there are constraints or

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[27] The 2007 IEPR was adopted in the year the Application was filed, and the 2009 and 2011 IEPR's were adopted while this proceeding was underway.

[28] We take official notice of the 2007 IEPR (CEC-100-2007-008-CMF) and the 2011 IEPR (CEC-100-2011-001-CMF), pursuant to Rule 13.9 and California Evidence Code § 452(c). The Third Amended Scoping Memo took official notice of the 2009 IEPR (CEC-100-2009-003-CMF).

[29] 2007 IEPR at 176-177; 2009 IEPR at 12-13, 47, 139-140.

disruptions on the PG&E gas transmission system or if SMUD Line 700 is damaged at the Sacramento River or the Deep Water Ship Channel crossings.

The state's natural gas storage facilities supply additional natural gas when sustained cold winter days make it difficult to satisfy all demand requirements by pipeline capacity. (2007 IEPR at 177.) Without sufficient natural gas storage, natural gas pipelines would have to increase in size to meet winter demand, leaving a huge investment standing idle during much of the year.[30]

The 2011 IEPR states that the primary infrastructure issue related to the natural gas sector is the safe and reliable operation of the state's network of natural gas pipelines, citing the September 9, 2010 San Bruno pipeline explosion. (2011 IEPR at 5.) According to the 2011 IEPR, pipeline pressure testing or replacement that has been ordered in the wake of the San Bruno pipeline explosion will take several years. As utilities pursue the extensive examination of pipeline system records, conduct hydrostatic testing, and replace pipelines, customers may experience reduced system pressures and capacity as well as occasional outages. (2011 IEPR at 96.)

The 2011 IEPR concludes that, even if less gas is able to flow over backbone capacity, curtailments should be able to be avoided by relying more on gas from underground storage. The 2011 IEPR states that this situation underscores the importance of filling not only PG&E storage but independent

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[30] Natural gas is withdrawn from storage during periods of high demand, such as in the winter for space heating and in the summer for power generation, and natural gas is injected into storage during the spring and fall when overall demand is low, making pipeline capacity available to bring in additional natural gas to fill the storage facilities.

storage as well to make up for the constrained backbone capacity on days when colder than average conditions occur. (2011 IEPR at 98.)

State energy policy requires California's natural gas transmission and storage infrastructure to be improved to ensure sufficient capacity and alternative supply routes to overcome any disruption in the system. (2009 IEPR at 12, 139–140.) The Proposed Project advances state energy policy and is in the public interest because it will ensure an ongoing supply of natural gas to SMUD and the Sacramento area by enhancing the reliability of the natural gas supply infrastructure.

Natural gas is the cleanest of the fossil fuels used in the state and will continue to be a significant energy source for the foreseeable future. (2009 IEPR at 12.) Maintaining a reliable natural gas delivery and storage infrastructure is important to support the receipt and delivery of adequate supply to California's natural gas consumers and keep prices low for the residential, commercial, industrial, and electric generation sectors.

Other California energy planning efforts are consistent with the policy pronouncements of the 2007, 2009, and 2011 IEPRs. For example, the 2003 Energy Action Plan (EAP) adopted by the CEC, the California Power Authority, and this Commission; the EAP II, adopted in 2005; and the 2008 EAP Update reach similar conclusions as those in the IEPRs. The EAP recognizes that natural gas and electricity are essential to every Californian's general welfare and the health of California's economy, and that California is vulnerable to high and volatile prices for natural gas. (EAP at 8.)

The EAP II states, among other things, that California must promote enhancements to natural gas pipeline and storage capacity, and it adopts key actions, including encouraging the development of additional in-state storage to

enhance reliability and mitigate price volatility. EAP II at 12-13. The 2008 EAP Update echoes the EAP and EAP II, stating that adequate natural gas transmission and storage infrastructure are important to ensuring the reliability of California's natural gas supplies. (2008 EAP Update at 17.)

Based upon the information and analyses contained in the 2007, 2009, and 2011 IEPRs, there is a clear and immediate need for additional gas storage in the state to provide energy system reliability, mitigate energy price volatility, and to support the transition to cleaner renewable energy sources. The Proposed Project responds to all of these needs, i.e., it will contribute to energy system reliability, help to mitigate energy price volatility, and support the transition to cleaner renewable energy sources.

Because California imports most of the natural gas used in the state, it remains vulnerable to supply constraints and price spikes resulting from weather-related events throughout the United States (U.S.) that disrupt production or increase demand. (2007 IEPR at 62.) The impact on California's economy is compounded because higher natural gas prices also lead to higher electricity prices. Price volatility for natural gas will likely increase over time due to California's increasing reliance on remote sources of production and from the curtailment of coal-fired generation in the eastern U.S.

The new natural gas storage projects that are recently approved or pending will contribute to the state's gas storage infrastructure, but these additions do not eliminate the need for additional gas storage.[31] The Proposed

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[31] The Gill Ranch Storage project approved by D.09-10-035, the Central Valley Gas Storage project approved by D.10-10-001, the Wild Goose Storage Phase 3 expansion approved by D.10-12-025, and the Tricor Ten Section HUB, LLC, storage project

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Project will further contribute to California's natural gas storage capability, improve the state's ability to provide a stable and reliable supply of gas, and enhance the reliability of the state's energy infrastructure to help to mitigate the impact of supply disruptions or severe weather changes and the state's vulnerability to price shocks.

Despite its unavoidable environmental impacts, the Proposed Project is necessary because, as discussed above, it provides substantial and unique benefits to the Sacramento area and because it advances state energy policy. These benefits constitute overriding considerations which justify approval of the Proposed Project despite its unavoidable environmental effects.

Reliable natural gas storage capacity is needed to avoid curtailment or diversion of gas supplies, and to mitigate any disruption of gas supplies to SMUD's power plants. Public convenience and necessity require the construction of the Proposed Project. SNGS should be granted a CPCN pursuant to § 1001, *et seq.*, to construct and operate the Proposed Project.

5.2. Financial and Technical Qualifications of Applicant

We also consider whether an applicant has the financial resources and technical expertise to construct and operate a gas storage facility, and conclude that SNGS does. SNGS is a California limited liability company. SNGS submitted with the Application a consolidated balance sheet and income

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pending before the Federal Energy Regulatory Commission (FERC) will make more than 74 bcf of additional gas storage available. (AGENA-48.Z)

statement for CNGS and SNGS that show SNGS has the financial resources to construct and operate the Proposed Project.[32]

SNGS has the technical expertise to construct and operate a gas storage facility. The current officers of SNGS are Jim Fossum, Chairman of the Board of Members; and Donald B. Russell, President. Fossum was involved in the development of the Lodi Gas Storage Facility, which obtained a CPCN in D.00-05-048.[33] Russell has managed natural gas storage facilities in the Gulf Coast region and participated in the development of three natural gas storage projects under the regulatory jurisdiction of the FERC.

6. Consideration of § 1002 Factors

As stated above, § 1002 requires the Commission to consider the following factors in determining whether to grant a CPCN:

(1) Community values;

(2) Recreational and park areas;

(3) Historical and aesthetic values; and

(4) Influence on the environment.

SNGS asserts the Proposed Project satisfies all § 1002(a) factors, and that the Proposed Project has the support of most property owners in the Proposed Project area.

AGENA asserts the Proposed Project is contrary to the community values of fairness, equal opportunity, and equal treatment under the law. AGENA contends that the Proposed Project will substantially decrease property values,

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[32] SNGS filed under seal the consolidated balance sheet and income statement for CNGS and SNGS, and a motion for confidential treatment of that information.

[33] D.00-05-048 was modified by D.00-08-024.

and is not consistent with park and recreational values in the area. AGENA also asserts that the actual and perceived safety and other environmental risks created by the Proposed Project will degrade the livability of the primarily residential area.

6.1. Consistency with Community Values

As discussed below, the Proposed Project is consistent with community values.

6.1.1. Community Views Concerning the Proposed Project

We give considerable weight to the views of the local community when assessing whether the Proposed Project is compatible with community values. The record shows that the local community is divided about the Proposed Project. However, most of the community supports the Proposed Project because, among other things, a majority of property owners in the Proposed Project area have entered into storage leases with SNGS and many property owners have also written letters in support of the Proposed Project.[34]

SNGS recommends that AGENA's opposition to the Proposed Project be disregarded because, according to SNGS, AGENA's leadership is self-appointed, does not represent the organization as a whole or the broader community in the Proposed Project area, and does not have broad support for its opposition to the Proposed Project. We will not disregard AGENA's opposition to the Proposed Project.

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[34] The support of affected landowners is one of the factors we consider in determining if an application for a proposed underground gas storage facility is consistent with community values. (*See* D.06-03-012.)

AGENA's participation in this proceeding may not represent the views of the community in the Proposed Project area, or even AGENA's membership as a whole. However, AGENA's participation clearly reflects the views of at least some affected community residents, and AGENA's participation, therefore, provides the Commission a perspective that might not otherwise be represented. As such, the weight given to AGENA's evidence is based on the relevance, credibility and persuasiveness of that evidence.

AGENA states that its members and those of the South East Village Neighborhood Association voted to oppose the Proposed Project.[35] AGENA presents testimony that, according to AGENA, shows that there is strong community opposition to the Proposed Project.

Three AGENA witnesses state that each has spoken to 25 to 150 residents, and that most or all of the residents that they spoke to opposed the Proposed Project. This testimony does not demonstrate that the community opposes the Proposed Project.

In particular, the witnesses do not disclose exactly how many of those spoken to expressed support for or opposition to the Proposed Project.[36] In addition, there is no evidence that each of AGENA's witnesses each spoke to a

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[35] SNGS contends the AGENA vote to oppose the Proposed Project is not valid because, according to SNGS, a quorum was not present at the time of the vote.

[36] Witness Kennedy testifies that 75 percent of the "around 150 people" she spoke to oppose the Proposed Project. Witness Pinkston testifies that "many" of the 50 people he spoke to oppose the Proposed Project. Witness Smith testifies that he spoke to "about 25 people" who oppose the Proposed Project. (AGENA-27, AGENA-28, and AGENA-29, respectively.)

unique set of persons and, therefore, the witnesses' estimates may overlap and include some of the same people spoken to by another witness.

If each witness spoke to an entirely different set of persons, if 100 percent of those spoken to opposed the Proposed Project, and if we include the nine AGENA witnesses testifying in opposition to the Proposed Project, the evidentiary record shows that, at most, 234 residents have expressed opposition to the Proposed Project. However, fewer than 234 residents expressed opposition to the Proposed Project because AGENA's witnesses make clear that not all of the people the witnesses spoke to expressed opposition to the Proposed Project.

The number of signed leases is an indicator of community support for the Proposed Project. As of August 1, 2009, SNGS has storage lease agreements with 556 property owners (72 percent). (Schneider Declaration, Exhibit A.) Seventy-one percent of owners of owner-occupied residential properties have entered into storage lease agreements, and 76 percent of owners of non-owner-occupied residential properties have entered into storage lease agreements.

AGENA argues that much of the apparent community support for the Proposed Project (as reflected by the large number of signed leases) is the result of what AGENA describes as SNGS's aggressive and misleading tactics to pressure property owners to sign lease agreements. AGENA contends that lease agreements with resident homeowners are likely an indication that these homeowners have capitulated to what they believe is inevitable. However,

AGENA undertook its own "Stop SNGS" effort to discourage area residents from supporting the Proposed Project.[37]

As of August 1, 2009, 124 property owners had not entered into storage lease agreements (16 percent), and 69 property owners have refused to enter into storage lease agreements (nine percent). (Schneider Declaration, Exhibit A.) Thus, a significant number of property owners have not succumbed to what AGENA describes as "SNGS's hard sell tactics."[38] There is no substantial evidence that any property owners who oppose the Proposed Project nevertheless signed a storage lease agreement.[39]

SNGS provides copies of 62 letters of support from property owners who signed storage lease agreements that were sent to former Sacramento Mayor Heather Fargo, City Council Member Kevin McCarty, and SNGS.[40] (SNGS-31, Attachment B.) AGENA provides written opposition to the Proposed Project in the testimony of nine property owners or residents that live in or near the Proposed Project area. (AGENA-22 through AGENA-30.)

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[37] SNGS-31 (Exhibits D, E, F); SNGS-32 at 23-24, 26, 31-33, 35-37, 39-40, 46, 52-53, 57-60, 68, 71-75.

[38] Witness Jiles testifies that although she felt pressured to sign a lease she refused to do so. (AGENA-26 at 2.) Witness Melbert did not sign a lease agreement even after numerous contacts on the part of SNGS. (AGENA-30 and SNGS-21.)

[39] One speaker at the October 27 PPH who is opposed to the Proposed Project states that she entered into a storage agreement with SNGS because of financial need, and regrets doing so. TR 317:23 - 318:13.

[40] When SNGS submitted the support letters in October 2008, Heather Fargo was Mayor of Sacramento.

AGENA also provides a letter of opposition from the Coalition on Regional Equity (CORE).[41] CORE asserts the Proposed Project will impose an environmental risk on the community comprised of predominantly poor people of color and will further exacerbate existing social inequities. CORE recommends that the Commission deny the Application.

The letters supporting the Proposed Project include as reasons for their support (1) income from storage lease agreements, (2) lower natural gas and gasoline prices for the community and region, (3) lower utility rates, (4) a reliable supply of locally available natural gas, (5) job creation and increased tax revenues, (6) reduced dependence on Middle East oil, energy savings as a result of local source of natural gas, (7) reduced air pollution, (8) happiness about interactions with SNGS and prospects of a positive future relationship, and (9) the potential for the SNGS-sponsored community foundation to fund neighborhood improvements.

The reasons stated for opposing the Proposed Project include (1) perceived and potential health and safety risks, (2) fear of negative impacts on insurance rates and property values, (3) unhappiness about interactions with SNGS or the perceived inadequate compensation offered by SNGS, and (4) concerns that the Proposed Project is a manifestation of environmental racism.

Although most of the support letters reflect an understanding of the issues raised by the Proposed Project, a few of the support letters reflect erroneous

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[41] The CORE letter states that CORE is a project of the Sacramento Housing Alliance, a collaboration of 20 regional organizations focusing on how land use impacts communities.

beliefs.[42] Other comments make assumptions about the presence or absence of health or safety impacts that are not based on the findings of the EIR. Nevertheless, the comments reflect the opinions of property owners and residents of the local community, and, on that basis, contribute to our assessment of the Proposed Project's consistency with community values.

The Commission also heard from many local community members and other members of the public at the PPHs and through correspondence to the Commission. The Commission heard from 34 speakers at the April 28 PPH.[43] Fifteen of the 34 speakers supported the Proposed Project (44 percent), 15 speakers were opposed (44 percent), and four speakers took neutral or ambiguous positions (12 percent).

In addition, the Commission heard from 45 speakers at the October 27 PPH where a majority of the speakers opposed the Proposed Project.[44] Nine of those who spoke at the April 28 PPH spoke again at the October 27 PPH (three spoke in support and six spoke in opposition to the Proposed Project). Thirty of the speakers at the October 27 PPH opposed the Proposed Project (67 percent), 13 speakers were in support (29 percent), and two speakers took neutral or ambiguous positions (four percent).

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[42] For example, some writers do not appear to understand that natural gas and gasoline are different products, trucks do not deliver natural gas to the state, the Proposed Project will not provide natural gas service directly to local residents, or that the Proposed Project will store imported natural gas rather than extract native natural gas.

[43] Presentations made by SNGS and AGENA that were permitted by the ALJ at the beginning of the April 28 PPH are not included in the count of speakers. One person who spoke twice is counted as a single speaker.

[44] Presentations made by SNGS and AGENA are not included in the count of speakers. Two people who spoke twice are counted once each.

The Commission heard from 70 members of the public at the April 28 and October 27 PPHs.[45] Twenty-five people spoke in favor of the Proposed Project (36 percent), 39 spoke against the Proposed Project (56 percent), and six took neutral or ambiguous positions (nine percent).

In addition to public comments at the PPHs, the Commission received letters and electronic mail (email) messages from 96 members of the public.[46] Twenty of the letters and emails were from persons who also spoke at a PPH. Of the remaining 76 letters and emails directed to the Commission, 30 letters expressed opposition to the Proposed Project (40 percent), 45 letters were in support (59 percent), and one letter does not clearly state a position.

The Commission received 114 letters or copies of letters to other public officials, including copies of 38 letters to the Sacramento Mayor or to Sacramento City Council members.[47] Thirty letters expressed opposition to the Proposed Project (26 percent), 83 letters were in support of the Proposed Project (73 percent), and one letter does not clearly state a position.

In total, the Commission heard from 184 members of the public at a PPH or through written correspondence. One-hundred eight people expressed support for the Proposed Project (58.7% percent), 69 oppose it (37.5% percent), and seven expressed neutral or ambiguous positions (3.8% percent). Public

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[45] Each of the nine individuals who spoke at both PPHs is counted only once.

[46] These communications do not include letters from public officials (discussed below), the 62 letters of support in SNGS-31 discussed above, or written comments on the DEIR.

[47] The count of letters to the Commission does not include seven letters to the Sacramento Mayor or City Council members that were written by persons who (1) spoke at a PPH and/or (2) separately wrote to the Commission, or (3) are included in Exhibit SNGS-31. Writers of multiple letters are counted only once.

input at a PPH and in written correspondence indicates that most of the public supports the Proposed Project.

We also consider the views of the elected representatives of the area when assessing the views of the local community regarding the consistency of the Proposed Project with community values because we believe they are speaking on behalf of their constituents. (D.00-05-048, as modified by D.00-08-024, at 28.) AGENA submitted letters from four elected officials representing residents in the Proposed Project area, including letters to Commissioner Simon from State Senator Darrell Steinberg, United States Congresswoman Doris Matsui, and a joint letter from Sacramento County Supervisors Jimmie R. Yee and Don Nottoli. (AGENA-22, Exhibits A, H, and I, respectively.)

Senator Steinberg states that protecting community values in the area is of critical importance to him and the community, and expresses confidence that AGENA accurately reflects the community's interests. Congresswoman Matsui states that natural gas is essential to the state's energy needs but neighborhood leaders have concerns about storing natural gas beneath homes and schools, and about the risks of exposure to noxious or carcinogenic chemicals and explosion if gas were to migrate from the storage facility. Senator Steinberg and Congresswoman Matsui urge the Commission to carefully consider AGENA's and community residents' concerns, but neither takes an explicit position in favor of or opposed to the Proposed Project.

Sacramento County Supervisors Jimmie R. Yee and Don Nottoli object to placing a natural gas storage facility in an urban residential area because they believe the resulting negative perceptions of health, safety and welfare are incompatible with community values. Supervisors Yee and Nottoli state that the Proposed Project would negatively impact how safe people feel in their homes,

schools and parks and within the community generally. Supervisors Yee and Nottoli acknowledge the importance of natural gas and the benefits of storage facilities, but contend facilities like the Proposed Project are inherently inconsistent with urban residential communities. They recommend that whenever possible natural gas storage facilities should be located away from residential neighborhoods.

Thus, Supervisors Yee and Nottoli oppose the Proposed Project. Other elected representatives take no position either in favor of or in opposition to the Proposed Project.[48]

In conclusion, public input at the PPHs and in written correspondence to the Commission reflects a divided community. A substantial portion of the community and some of their elected officials oppose the Proposed Project. However, most commenters support the Proposed Project. The public comments are consistent with the record evidence of community support for and opposition to the Proposed Project. On balance, we find that the Proposed Project is consistent with community values.

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[48] In comments on the proposed decision and alternate proposed decision, AGENA points to its August 5, 2011 Notice of Ex Parte Communication to argue that the proposed decision and alternate proposed decision misstate the record because they do not acknowledge that Senator Steinberg stated his opposition to the Proposed Project. Rule 8.3(k) states, "The Commission shall render its decision based on the evidence of record. Ex parte communications, and any notice filed pursuant to Rule 8.3, are not a part of the record of the proceeding."

6.1.2. Environmental Justice

The Proposed Project will not constitute an environmental injustice, and approval of the Proposed Project should not create the perception in the community that an environmental injustice has been committed.[49]

Residents in the Proposed Project area are poorer and disproportionately non-white when compared to the Sacramento area as a whole. (AGENA-35 at 24-25.) AGENA argues locating the Proposed Project in a community of predominately low-income persons of color creates the perception of environmental injustice in the community.

AGENA presents studies on the proximity of environmental hazards to low-income non-white communities. These studies conclude that race, ethnicity, and income are correlated with proximity to environmental hazards, including air pollution, hazardous waste facilities, landfills and incinerators, lead poisoning, pesticide exposure, toxic waste sites, and occupational illness and injury. (AGENA-35 at 6-14.) The studies presented by AGENA have little relevance to this proceeding because none of the studies considers the relationship between race, ethnicity, or income, and proximity to underground natural gas storage facilities.

AGENA asserts environmental laws and governmental agencies have in the past failed to protect low-income and non-white communities for reasons including free market economic forces leading to structural pollution and

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[49] Government Code § 65040.12(e) defines environmental justice as "the fair treatment of people of all races, cultures, and incomes with respect to the development, adoption, implementation, and enforcement of environmental laws, regulations, and policies."

structural racism.[50] According to AGENA, racially-based environmental injustice (environmental racism) most often results from structural dynamics, rather than intentional racial discrimination.

AGENA points to predominately white decision-making bodies, and the lack of resources and access to political decision-makers by communities that are predominantly people of color, as examples of the structural dynamics leading to environmental racism. (AGENA-35.) AGENA asserts low-income non-white communities may not understand the health risks of hazardous facilities, are susceptible to economic extortion (e.g., financial inducements), and ultimately surrender to what those living in disenfranchised communities may view as inevitable.

We find no evidence that structural factors have resulted in environmental racism with respect to the Proposed Project. The manifestations of what AGENA describes as environmental injustice are not substantially present here.

The record shows that (1) the residents of the Proposed Project area, and AGENA, in particular, have access to decision makers;[51] (2) the availability of resources has not impeded their participation in this proceeding;[52] (3) AGENA

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[50] AGENA describes "structural pollution" as legally permitted pollution that nevertheless causes illness and disease, and "structural racism" as predominately white decision-making organizations systematically down-zoning stable non-white residential communities to permit industrial uses. (AGENA-35 at 19-20.)

[51] *See, for example*, Notices of Ex Parte Communication reporting contacts with Commission decision makers on July 10, 2008; July 18, 2008; August 11, 2008; August 21, 2009; December 11, 2009; and January 28, 2010. *See also* AGENA-22 (Exhibits A, H, and I).

[52] *See, for example*, TR 18:4-16, and August 18, 2008 ALJ preliminary ruling finding AGENA eligible to claim intervenor compensation.

and community members have actively participated in this proceeding;[53] and (4) AGENA has actively opposed the Proposed Project in the community and before local, state and federal governmental representatives and agencies.[54]

Although many residents are concerned about potential negative impacts from the Proposed Project and are passionately opposed to it, many residents also believe that the Proposed Project will have positive impacts. Few community members have expressed the view that the community is being used as a dumping ground or that they are part of a disenfranchised community that is surrendering to the inevitable.

Numerous meetings about the Proposed Project have been held by opponents of the Proposed Project and SNGS,[55] and the Commission held two public participation hearings and additional public meetings concerning the environmental review. Thus, the community has had ample opportunity to become fully aware of the Proposed Project and its potential environmental effects. There is no evidence that any community resident has acquiesced to the Proposed Project as inevitable.

As discussed above, much of the community supports the Proposed Project and believes it will provide positive benefits to the community. Thus, approval of the Proposed Project will not constitute an environmental injustice

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[53] The record includes numerous AGENA exhibits and the testimony of community members, not including extensive comments and other materials submitted in connection with the environmental review of the Proposed Project.

[54] *See* SNGS-31 (Exhibits D, E); SNGS-32 (Exhibit A); AGENA-22 (Exhibits A, H).

[55] SNGS-17; SNGS-31 (Exhibits C though E); SNGS-32 (Exhibit A); AGENA-22 (Exhibit C).

and should not create the perception that an environmental injustice has been committed.

6.1.3. Economic Effects of the Proposed Project

The Proposed Project will provide economic benefits to and will not have negative economic effects on the local community or the Sacramento region.

6.1.3.1. Proposed Project's Impact on Property Values

The presence of the Proposed Project will not have a negative effect on local real estate property values. New residential communities are being developed in close proximity to underground natural gas storage facilities. Real estate developers would not construct new home projects near underground natural gas storage facilities if these locations had a negative effect on developers' ability to sell newly constructed homes.

SNGS presents a study analyzing listing prices of homes within one mile of five underground natural gas storage facilities to show that the presence of underground natural gas storage facilities does not have a negative effect on real estate property values (Schleimer Study (SNGS-18)), and a study to identify any influence that the Proposed Project may have on market values and appreciation rates of property in the area (Gimmy Study (SNGS-16)). The Schleimer and Gimmy studies are suggestive, but are not sufficiently rigorous for the Commission to rely on their conclusions about the potential impact of the Proposed Project on residential property values.

The Schleimer Study concludes that there is no correlation between the location of a home immediately above such natural gas storage facilities and its

property value even though the Schleimer Study does not apply any statistical procedures to measure correlation.[56]

The Gimmy Study analyzes historical sales price data for residential properties within the Florin Gas Field area and for the adjacent area to the north to identify any influence that the Proposed Project may have on market values and appreciation rates of property in the area. The Gimmy Study covers a period of time after the discontinuation of natural gas production from the Florin Gas Field. Thus, the Gimmy Study cannot conclusively determine the effect, if any, underground natural gas storage or production facilities would have on property values in the area. In addition, the conclusions of the Gimmy Study rely, in part, on the results of the Schleimer Study.

The meta-analysis and studies presented by AGENA are irrelevant because they examine only the effects on residential property values (sale prices) of homes in proximity to actual environmental contamination. (AGENA-32, Exhibit L at 113.) In particular, the meta-analysis and studies do not examine the impact of the presence of natural gas storage facilities on property values or the effect on property values resulting from the prospect of future potential contamination from natural gas storage facilities.

As a result, the parties' studies attempting to quantify the Proposed Project's potential effect on property values are not adequate to conclude that the proximity of the Proposed Project will have either positive or negative effects on

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[56] A "correlation" is a single number that describes the degree of relationship between two variables. In this case, correlation would measure the relationship, if any, between residential property values and the presence or absence of an underground natural gas storage field or facility.

residential property values. However, Schleimer identifies new home projects that are being developed within the boundaries of existing gas storage facilities, including Imperial Garden by Legend Homes in the Bammel area of Houston, Texas, Behlmann Farms and The Manors by Mayer Homes in St. Louis County, Missouri, and One West Bluff by Standard Pacific in Playa del Rey, California.

According to Schleimer, these builders would not have developed these projects if they were concerned that potential buyer would object to new homes being built inside the boundary of an underground natural gas storage facility. (SNGS-18 at 2-3.) We agree.[57] Because new residential communities are being developed in close proximity to underground natural gas storage facilities, we find that the presence of the Proposed Project will not have a negative effect on local real estate property values.

Moreover, in addition to the economic benefits of the Proposed Project discussed below, property owners that lease underground storage rights to SNGS will directly benefit from the Proposed Project because they will receive a minimum annual income of $1,000 per acre and not less than $500 per parcel. SNGS-8 at 8-9. According to Fountain, storage lease payments will increase the value of those properties, and will make the properties more attractive and marketable because they provide income with no offsetting costs to the property owners. (SNGS-1 at 5.) We agree.

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[57] In 1984 and 1985, during the time that the Florin Gas Field was in production, homes were constructed above the gas field and across the street from extraction wells. *See* City of Sacramento report of construction permit activity in 1984 and 1985 for homes built in the South Country Estates Unit No. 2 residential subdivision (discussed below).

6.1.3.2. Economic Benefits to the Local and Regional Economy

SNGS presents the Fountain Study as evidence that the Proposed Project will provide economic benefits to the local and regional economies. The Fountain Study relies on the Impact Analysis for Planning (IMPLAN) economic impact modeling system, an econometric input-output model, to estimate the effect of the Proposed Project on the local and regional economy.[58]

AGENA and the City argue that the Fountain Study does not include the underlying data, assumptions, and methodologies used in the analysis, and, as a result, it is not possible to verify the accuracy of Fountain's estimates. The City asserts that the Fountain Study does not provide sufficient detail to evaluate the study's estimate of economic and tax benefits. AGENA argues that the Fountain Study (1) does not explain how multipliers used in the analysis were computed, (2) the IMPLAN model does not consider "perception of risk" or other noneconomic factors, and (3) the IMPLAN model uses an overly aggregate analysis with limited ability to model microeconomic factors. Despite these criticisms, no party contends that it sought and was denied access to the underlying data or other materials needed to evaluate the study, and no party offers evidence to refute the study's analysis or conclusions.

We find the Fountain Study to be adequate and reasonable. The underlying data used to estimate the economic benefits of the Proposed Project

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[58] The U.S. Department of Agriculture, U.S. Forest Service and University of Minnesota developed the IMPLAN model in the 1970s to analyze the impact of federally-funded policies and projects. The IMPLAN model is currently required to analyze many federal and state public works and natural resources projects, and is used to test the economic implications of a wide range of policy decisions. SNGS-1, Exhibit B at 9.

were the estimated construction and operating costs for the Proposed Project, and economic activity data for the City of Sacramento and the Sacramento region that is publicly available from the U.S. Department of Commerce, Bureau of Economic Analysis.[59]

There is no evidence that the multipliers developed in the Fountain Study are inaccurate or otherwise unreasonable. Fountain computed a multiplier of 1.34 for the City of Sacramento, and a multiplier of 1.52 for the region, during the construction phase.[60] According to Fountain, the multiplier for the City of Sacramento is relatively low because many of the highly technical skills and firms needed for this job are not located in the City. The region has a higher multiplier because the region has more of the skills, materials, and services needed for the Proposed Project.

The Fountain study appropriately excludes non-economic factors from the analysis of economic benefits because non-economic factors should not be included in an analysis of economic benefits. Because the IMPLAN model is being used to estimate the Proposed Project's macroeconomic effects on the City and region, it is irrelevant that the IMPLAN model is limited in its ability to model microeconomic factors.

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[59] TR 41:4-41:19; TR 51:14-52:7.

[60] The estimated benefits to the local and regional economy are greater than the cost of construction due to the multiplier effect. The multiplier effect occurs because each dollar spent in a local economy will "ripple" through the economy when the recipient of that dollar, in turn, spends the dollar on other local goods and services, and so on. As a result, each dollar spent on the construction and operation of the Proposed Project will generate more than one dollar in benefits for the local and regional economy.

The version of IMPLAN used in the Fountain Study produces accurate estimates. IMPLAN was revised to correct the flaw that previously overstated induced impacts in relatively low wage industry sectors and understated induced impacts in industry high wage sectors relative to conventional multipliers. (SNGS-29.)

Construction and operation of the Proposed Project will provide economic benefits to the local community and to the Sacramento area. Based on construction costs of $58 million, construction of the Proposed Project will provide approximately $78 million in one-time economic benefits to the City and approximately $97.4 million in one-time economic benefits to the Sacramento region (i.e., Sacramento, Placer, El Dorado, and Yolo counties). (SNGS-1, Exhibit B at 3, 10.) Construction will directly employ about 200 people. (Application at 19-20.)

Also, construction will generate approximately $3.55 million in state and local taxes, of which approximately $1.06 million will accrue to the City of Sacramento's general fund. (SNGS-1, Exhibit B at 12.) Construction will generate approximately $7.03 million in state and local taxes for the Sacramento region, with $2.18 million going to the general funds of the local governments in the region. (*Ibid*.)

Based on annual revenues of $17 million, operation of the Proposed Project will provide approximately $25 million to the City and approximately $26 million to the Sacramento region in annual economic benefits. (SNGS-1, Exhibit B at 3, 11.) Operation will annually generate approximately $1.6 million in state and local taxes, of which approximately $489,000 will accrue to the City of Sacramento's general fund. (SNGS-1, Exhibit B at 13.) Operation will annually generate approximately $1.65 million in state and local taxes for the

Sacramento region, with approximately $507,200 going to the general funds of the local governments in the region. (*Ibid*.)

As noted above, construction of the Proposed Project will employ approximately 200 people. SNGS states that it has entered into a project labor agreement with the Sacramento-Sierra's Building and Construction Trades Council (Trades Council) to ensure that the Proposed Project is constructed with union labor. (SNGS-8 at 9.) According to SNGS, many of the residents of the local community are members of various labor unions, and, as a result, its Project Stabilization Agreement with the Trades Council will provide additional wage and benefits to some of those individuals.[61]

The Project Stabilization Agreement provides, with specified exceptions, that SNGS, Performance Mechanical, Inc. and ABR will perform all work associated with the Proposed Project using trades people dispatched by local unions affiliated with the Trades Council. (SNGS-8, Exhibit K.) The Project Stabilization Agreement does not apply to certain work performed by Exterran and other specialized contractors, work not directly related to on-site construction, or work performed by nonunion subcontractors when the Council cannot supply qualified, available union subcontractors.

The Project Stabilization Agreement further provides that the wages and fringe benefits for the employees of union subcontractors will be consistent with the local union's collective bargaining agreements. However, the wages and benefits of any non-union subcontractors that may be used are not governed by

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[61] Signatories to the Project Stabilization Agreement are SNGS, Exterran Energy Solutions, L.P. (Exterran), Performance Mechanical, Inc., ABR Inc, and the Trades Council and its affiliated unions.

the Project Stabilization Agreement or the local union's collective bargaining agreements.

The Project Stabilization Agreement states a preference to employ local workers on the job, and outreach efforts to employ minority workers and subcontractors, and that preference in the awarding of work will be given to contractors already employed on the job and performing satisfactorily.

General Order (GO) 156 contains procedures for gas, electric, and telephone utilities with gross annual revenues exceeding $25,000,000 and their Commission-regulated subsidiaries and affiliates to submit annual detailed and verifiable plans for increasing women, minority and disabled veteran business enterprises' (WMDVBE) procurement in all categories, pursuant §§ 8281-8286. GO 156 requires each applicable utility's WMDVBE program to be designed to ensure that WMDVBE's are encouraged to become potential suppliers of products and services to the utilities.

SNGS is not subject to the provisions of GO 156 at this time because the Proposed Project is not expected to generate gross annual revenues exceeding $25,000,000. However, SNGS has expressed its desire to be a valuable member of the local community, and points to the Project Stabilization Agreement as an example of how the Proposed Project will benefit residents of the local community that are members of various labor unions.

We note that the Project Stabilization Agreement expresses a preference to employ local workers, and to conduct outreach efforts to employ minority workers and subcontractors performing work covered by the Project Stabilization Agreement. Consistent with GO 156 and to the extent not in conflict with the Project Stabilization Agreement, SNGS is encouraged to actively

recruit minorities, women, and disabled veterans for subcontracting work on the Proposed Project that is addressed by the Project Stabilization Agreement.

SNGS makes no explicit commitment to reach out to and employ local minority workers and subcontractors performing work that is not covered by the Project Stabilization Agreement. Therefore, SNGS is further encouraged to commit itself to diversity, consistent with GO 156, by actively recruiting minorities, women, and disabled veterans to subcontract work on the Proposed Project that is not covered by the Project Stabilization Agreement.

6.1.3.3. Proposed Project's Effect on Homeowners Insurance

The Proposed Project will not adversely affect the cost or availability of homeowners insurance. SNGS's storage lease agreements with property owners (lessors) require SNGS to maintain liability insurance with limits of at least $10.0 million and to indemnify lessors from any and all claims, demands, losses, damages, and other costs and actions in connection with the Proposed Project. (SNGS-8, Exhibit I at 3.) If an accident occurs at the Proposed Project, the cost of homeowners insurance will not be affected as long as SNGS's storage lease agreements continue to indemnify property owners signing those agreements. (AGENA-37 at 10-11.)

There is no evidence that an insurance carrier would deny coverage or increase premiums solely because a property is near an underground natural gas storage facility or because a property owner signs a storage lease agreement.

Insurance carrier rating manuals must identify every factor or variable that affects the cost of homeowner insurance. (AGENA-37 at 7-8, 12-14.) Insurance carrier rating manuals do not identify the presence of or proximity to an

underground natural gas storage facility as a factor in determining the availability or cost of homeowners insurance. (*Ibid*).

6.1.4. Consistency with Other Community Values

The Proposed Project is consistent with other community values. The Proposed Project will enhance overall community security by providing security service patrols for Danny Nunn Park and the George Sims Community Center, and SNGS will work with the Power Inn Alliance to unify and coordinate SNGS's security patrol with other community security patrol services. (SNGS-8 at 9.) Improved neighborhood security is consistent with community values.

In addition, the Proposed Project will support a community foundation that will benefit the entire neighborhood including renters and those living outside the Proposed Project area. SNGS states that it will contribute 0.25 percent of the Proposed Project's annual gross revenues (estimated to range from $25,000 to $44,000 or more per year) to the community foundation to support community projects and activities. SNGS-8, Exhibit J. To ensure continued support for the community foundation, SNGS's commitment is a condition of approval of the Application. SNGS must establish the community foundation, with the mission, organization and operation as described in SNGS-8 at Exhibit J, and to annually contribute not less that 0.25 percent of the Proposed Project's annual gross revenues to the community foundation.

SNGS states that it is committed to contributing to other local charitable and non-profit organizations, including the local soccer league, the St. Johns Shelter for Women and Children, and the Power Inn Alliance. (SNGS-8 at 10.) Increased financial support of community projects and activities is consistent with community values. SNGS is encouraged to contribute at least 0.1 percent of

the Proposed Project's annual gross revenues to local charitable and non-profit organizations such as those described in SNGS-8 at 10.

In the spirit of raising awareness around gas pipeline safety and future gas industry workforce needs, SNGS is encouraged to establish a scholarship fund to award (1) a single four-year engineering scholarship for, at a minimum, $6000/year to cover the cost of tuition and fees for a student attending the California State University - Sacramento (CSUS), and (2) a single four-year engineering scholarship for, at a minimum, $6000/year to cover the cost of tuition and fees for a student attending the University of California, Davis (UCD). The scholarship recipients should be nominated with recommendations from the scholarship selection committees of the engineering departments of CSUS and UCD, and the scholarship recipients should be (1) from an underrepresented community in the greater Sacramento area, (2) the first member of its immediate family to attend college, and (3) meet the financial need requirements for receiving financial assistance. SNGS should work with the scholarship selection committees of the engineering departments and the office of scholarships from the CSUS and the UCD to facilitate this one-time scholarship award.

6.2. Recreational and Park Areas

The Proposed Project is consistent with recreational and park uses because no above-ground facilities will be located in any park or recreational area, and the Proposed Project will not interfere with the continued use of parks or

recreational areas.[62] As discussed above, SNGS has agreed to expanded security service patrols at the park and the community center. The increased security service patrols will enhance neighborhood recreational and park areas.

SNGS and the City have discussed the possibility of using a portion of the City's storage lease income to maintain and improve the park. SNGS states that the City informally agreed to use an estimated $37,500/year in storage lease income from the City's approximately 15 acres of property in the Proposed Project area to maintain and improve the Park.[63] However, the City has not formally agreed to this, and, therefore, this potential benefit is uncertain. (City-1 at 2.)

Maintenance and improvements of the Park will enhance neighborhood recreational and park areas. To ensure that this benefit will be realized, SNGS is encouraged to annually contribute $50,000/year, or an amount to be agreed upon between SNGS and the City of Sacramento, for the exclusive benefit of Park facilities and programs, in addition to any dedication of storage lease income the City may make to maintain and improve the Park.

The Proposed Project will not locate any above ground facilities in the park or displace any existing land uses. (Ref. Exh. B, Vol. 2 at D.8-58.) The closest above-ground facility to any park or recreational area is the proposed wellhead site located across Power Inn Road within view of the park on a parcel zoned for industrial use. (Ref. Exh. B, Vol. 2 at D.8-8, D.13-10.) SNGS will erect a

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[62] Portions of pipeline segments 1 and 2 traverse lands previously designated as "Parks-Recreation-Open Space", but which are now designated as "Industrial", pursuant to the Fruitridge Broadway Community Plan adopted on March 3, 2009. (Ref. Exh. B, Vol. 2 at D.8-7, D.8-13, and D.8-15.)

decorative masonry wall on the south and west sides of the wellhead site to shield the wellhead site from public view. (Ref. Exh. B, Vol. 2 at D.13-18.)

Sacramento County Zoning Code, § 301-19, requires oil and gas well sites to be located at least 1,000 feet from the boundary of property zoned for residential, interim residential, interim estate, or recreational.[64] Pursuant to Sacramento County Zoning Code Section 101-02 (Application of Code to County), the Sacramento County Zoning Code applies to all parts of the County outside of the incorporated cities within the County.[65] Section § 301-19 of the Sacramento County Zoning Code does not apply to the proposed wellhead site because the wellhead site will be located entirely within the City.

The Florin Gas Field currently contains over five bcf of natural gas. (Ref. Exh. B, Vol. 2 at B-2.) The presence of the Florin Gas Field has not prevented or impeded use of Danny Nunn Park.[66]

Two wells that produced gas from the Florin Gas Field in the 1980s were located in the park.[67] The wells in the park were properly abandoned after production ended, pursuant to DOGGR requirements. (Ref. Exh. B, Vol. 2 at D.6-2.)

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[63] SNGS-8 at 9; SNGS-16 at 13.

[64] On January 11, 2011, the ALJ took official notice of Sacramento County Zoning Code § 301-19 (Oil and Gas Well Locational Criteria). (TR 495:3-9.)

[65] Pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of Sacramento County Zoning Code § 101-02 (Application of Code to County).

[66] AGENA-22 at 7; AGENA-27 at 3; AGENA-28 at 3; AGENA-30 at 2.

[67] *See* DOGGR records for Well Number 3 and Well Number 7. On January 11, 2011, the ALJ took official notice of the DOGGR records for Well Number 3 and Well Number 7. TR 496:13-22.

There is no substantial evidence that the abandoned wells in the park have leaked in the past or will leak in the future. Even with increased pressure from injected gas, the possibility of failure of the seals of the abandoned and capped wells is remote and less than significant. (Ref. Exh. B, Vol. 2 at D.6-24.) In addition, the mitigation measures we adopt require a gas detection plan that includes test stations, monitoring wells, gas detection instruments, well probes, and aquifer sampling to monitor the storage field for any gas that may escape from abandoned wells or elsewhere, and, if leakage is detected, to immediately depressurize the reservoir and take other mitigation measures.

SNGS proposes to construct a pipeline between the wellhead and compressor, and an interconnection pipeline between the compressor site and SMUD Line 700, but will not construct any other pipelines. Concerns that the Proposed Project may impact the park and other nearby recreation areas, if additional pipes are laid to connect storage users to the Proposed Project, are speculative and beyond the scope of this proceeding.

Aside from temporary construction-related impacts (e.g., noise, traffic, dust), the Proposed Project will not interfere with use of the park or other recreation areas.

6.3. Historical and Aesthetic Values

The Proposed Project is consistent with the historical and aesthetic values of the area.

The Proposed Project will be located in an area that has historically been and is currently zoned for a mix of residential and industrial uses, and a small amount of land zoned "commercial" and "agricultural-open space." (Ref. Exh. B, Vol. 2 at D.8-14, D.8-15.) All above-ground facilities of the Proposed Project will be located in areas zoned for industrial uses, and will be contained in buildings

designed to blend in with surrounding industrial facilities or shielded from public view by decorative masonry walls. (Ref. Exh. B, Vol. 2 at D.8-8.)

Homes were built directly across the street from gas wells located in the park during the time that gas production was underway. DOGGR records show that (1) a natural gas well, designated by the DOGGR as Well Number 3, was placed into production within the borders of the park, on or about September 3, 1982, and was not abandoned until September 12, 1988; (2) a natural gas well, designated by DOGGR as Well Number 7, was placed into production within the park, on or about November 30, 1983, and was not abandoned until January 6, 1986.

The City of Sacramento subdivision map, recorded on or about April 19, 1984 for residential parcels located north of the park in the subdivision called South Country Estates Unit No. 2, and the City of Sacramento report of construction permit activity for homes built in the South Country Estates Unit No. 2 residential subdivision, show that construction and occupation of the homes built in the South Country Estates Unit No. 2 residential subdivision occurred in 1984 and 1985.[68] The land across Power Inn Road from residential housing is zoned for industrial and heavy commercial/warehouse land uses, and includes Depot Park, formerly the Sacramento Army Depot, established in

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[68] On January 11, 2011, the ALJ took official notice of the April 19, 1984 City of Sacramento subdivision map for South Country Estates Unit No. 2, and the City of Sacramento report of construction permit activity in 1984 and 1985 for homes built in the South Country Estates Unit No. 2 residential subdivision. (TR 496:13-22.) However, the record is not clear that official notice was taken of the latter. Therefore, pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of the City of Sacramento report of construction permit activity in 1984 and 1985 for homes built in the South Country Estates Unit No. 2 residential subdivision.

1945 to store and repair U.S. Army communications equipment. (Ref. Exh. B, Vol. 2, Figure D.8-3a.) Thus, the Proposed Project area is comprised of a mix of residential and industrial land uses that developed contemporaneously.

The City categorizes land uses broadly (e.g., residential, industrial, etc.) and does not categorize land uses based on whether land is used for gas extraction/production or for gas storage. (Sacramento City Code § 17.20.010.[69]) The Commission has previously found that gas storage operations that replace gas production activities are consistent with the historical values of an area. (D.06-03-012 at 29.) In short, the Proposed Project is consistent with the prior and current land uses of the area, and is consistent with the historical and aesthetic values of the area.

6.4. Influence on the Environment

In addition to its CEQA obligations, pursuant to § 1002, the Commission has a responsibility independent of CEQA to include, among other things, "influence on the environment" in our consideration of a request for a CPCN. (D.90-09-059, 37 CPUC 2d at 453.) Influence on the environment is a factor under § 1002 but is primarily considered in the EIR process, so that the parties would not duplicate their efforts on this Public Utilities Code requirement that overlaps with CEQA requirements.

The following sections discuss the environmental review process conducted for the Proposed Project, and consider the Proposed Project's influence on the environment.

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[69] Pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of Sacramento City Code, § 17.20.010 (Established Zones).

7. The Environmental Review Process

Following is a summary of the actions taken in connection with the environmental review of the Proposed Project, in accordance with GO 131-D and CEQA.

Pursuant to GO 131-D, SNGS included its PEA with the Application. The Energy Division and its consultants reviewed the PEA, and, in October 2007, determined that the Application required an EIR.[70] As a result, the Energy Division initiated an EIR scoping process. The scoping process for the EIR[71] included (1) publication of a Notice of Preparation (NOP) and Notice of Public Scoping Meetings, (2) public scoping meetings and meetings with agencies to solicit comments from affected public agencies and members of the public, and (3) preparation of a Scoping Report to summarize scoping comments.

On November 16, 2007, the Commission published the NOP for the EIR for a 30-day review period.[72] Public notification of the NOP for the Proposed Project and scoping meetings included a newspaper announcement[73] and the

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[70] Dudek, Impact Sciences, Condor Country Consulting, EDM Services, Inc., and Golden State Environmental were the consultants that assisted the Energy Division in the EIR's preparation.

[71] The term "EIR" is used generally to refer to the DEIR, the FEIR, and the Addendum to the FEIR. Specific reference is made to each document (DEIR, FEIR, or Addendum) when necessary.

[72] The NOP provided a general description of the Proposed Project and a summary of the main regulations and permit conditions applicable to its development and operation.

[73] Notice for the public scoping meeting was published in the Sacramento Bee on November 16, 2007.

mailing of the NOP and public notices. The distribution and contents of the NOP are detailed in Section A.5 of the EIR. (Ref. Exh. B at A-9 through A-12.)

The content of the EIR reflects input by government officials, agencies, non-governmental organizations, and concerned members of the public during the EIR scoping period following the Commission's publication of the NOP. Responses from these agencies and individuals helped to determine relevant environmental issues associated with the Proposed Project. Section A.5 of the EIR summarizes the activities occurring during the public review process.

On April 3, 2008, the Energy Division notified SNGS that the Application was deemed complete for purposes of CEQA compliance.[74] On April 8, 2009, the Energy Division released the DEIR and Notice of Availability. The Energy Division initially accepted written comments on the DEIR through May 25, 2009, but subsequently extended the comment period to June 22, 2009.[75]

Comment letters on the DEIR were received from 12 public agencies and officials; six community groups, non-profit organizations, and private organizations; nine individuals; and SNGS. Those comments and the Commission's responses to those comments are contained in Ref. Exh. B, Vol. 1.

On April 28, 2009, the Energy Division held a public meeting on the DEIR to (1) provide individuals an opportunity to learn about the DEIR and the status

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[74] On April 23, 2008, the Energy Division, its consultants, and the City's Planning Department staff held a follow up meeting at the City's Planning Division Offices to discuss the City's concerns with the Proposed Project pursuant to the City's scoping comments. The meeting participants also discussed the role of the City as a Responsible Agency for the Proposed Project, and tentatively determined that the City would use the Commission-prepared EIR for the City's permitting process.

[75] On May 4, 2009, the Energy Division issued a notice of availability extending the comment period to June 22, 2009.

of the Proposed Project, (2) make Energy Division staff available to answer questions prior to the close of the DEIR comment period, and (3) permit the public to comment on the DEIR in lieu of submitting written comments. The public meeting was held in the vicinity of the Proposed Project, concurrent with the April 28 PPH.[76]

On June 10, 2010, the Energy Division released the FEIR. On July 8, 2010, the DEIR and FEIR were received into the record as Reference Exhibits A and B, respectively.[77]

As noted above, the Energy Division prepared the Addendum in response to comments on the FEIR made in the parties' supplemental briefs and supplemental reply briefs. On July 25, 2011, the Addendum was admitted into the record as Ref. Exh. G.

8. The EIR

The EIR informs the Commission, and the public in general, of the environmental impacts of the Proposed Project and alternatives.[78] The EIR evaluates the environmental impacts that would be expected to result from the construction and operation of the Proposed Project, and provides recommended mitigation measures that, if adopted, would avoid or minimize the identified

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[76] During the April 28 PPH and the October 27 PPH, the Commission heard comments from the public on the Proposed Project, including comments on the DEIR. Comments on the DEIR that were made during the PPHs are included in the EIR. (Ref. Exh. B, Vol. 1, Section E.)

[77] Pursuant to the Third Amended Scoping Memo, parties were permitted in supplemental briefs to challenge the conclusions or recommendations in the EIR, the adequacy of the EIR, or the EIR's compliance with CEQA.

[78] The information in an EIR may constitute substantial evidence in the record to support the agency's action on the project if its decision is later challenged in court.

significant environmental impacts. The EIR also identifies alternatives to the Proposed Project that could avoid or minimize significant environmental impacts associated with the Proposed Project, including the "no project" alternative, evaluates the environmental impacts associated with these alternatives, and determines the environmentally superior alternative.

CEQA requires that, prior to approving a project or a project alternative, the lead agency certify that (1) the EIR was completed in compliance with CEQA; (2) the lead agency reviewed and considered the EIR prior to approving the project or a project alternative; and (3) the EIR reflects the lead agency's independent judgment.

8.1. Unavoidable Significant Impacts of Proposed Project

The EIR prepared for the Proposed Project identifies significant impacts in three categories that cannot be avoided or substantially lessened (referred to as "Class 1 impacts"). These categories are: (1) hazardous materials, public health and safety; (2) hydrology and water quality; and (3) noise.

The significant and unavoidable impacts are (1) the potential hazards involving the leakage of gas after re pressurization of the Florin Gas Field for gas storage, (2) potential impacts to groundwater quality resulting from gas field operation and maintenance, and (3) construction activities at the wellhead site that would temporarily increase local noise levels. All other significant impacts to environmental resources can be mitigated to a level that is less than significant if the SNGS's proposed measures and other mitigation measures recommended in the EIR are implemented.

In particular, with mitigation incorporated, approval of the Proposed Project will result in no or less than significant impacts in the areas of aesthetics,

air quality, biological resources, cultural resources, geology and soils, land use planning, population and housing, public services and utilities, transportation and traffic, and visual resources. Table ES 1 of Ref. Exh. B summarizes the impacts from and mitigation measures for the Proposed Project.

Development of the wellhead site is expected to take approximately three months to complete, and includes drilling of up to six wells for gas injection and withdrawal, water disposal, and one observation well. (Ref. Exh. B, Vol. 2 at D.9-8.) Even with mitigation measures in place, noise created during drilling operations will exceed the City of Sacramento's nighttime noise standards and, therefore, is considered a significant impact. (*Ibid.*) This is because well drilling will produce noise at the nearest receptor that exceeds standards, and must be conducted without interruption on a 24-hour, seven-day-a-week basis to preserve the integrity of the well bore. However, because the wells will each take approximately eight days to drill, the significant impacts from noise are temporary.

Except for temporary noise impacts expected to occur during construction of the Proposed Project, the other significant and unavoidable impacts will not necessarily occur as the result of the Proposed Project. However, if these potential impacts do occur, the consequences could be substantial.

In particular, there is a remote possibility that gas could migrate to the surface from around or through the cap rock, either through existing fractures or faults or other discontinuities in the cap rock. (Ref. Exh. B, Vol. 2 at D.6-25.) If gas migrates to the surface, it could contaminate the groundwater aquifer or

accumulate in structures and become an asphyxiant health hazard or explosive.[79] (Ref. Exh. B, Vol. 2 at D.6 23.)

Gas migration could occur as the result of (1) degradation of cap rock due to cyclic loading associated with the gas storage process; (2) failure of the cap rock due to hydraulic fractures; (3) damage to the cap rock due to historical reservoir production; (4) gas migration through preexisting faults due to gas injection pressure changes; (5) gas seepage through the cap rock; or (6) lateral spreading of gas along the edges of the reservoir. (Ref. Exh. B, Vol. 2 at D.6-25 to D.6-27.)

The Florin Gas Field reservoir is contained by a shale cap rock, 150 to 300 feet thick, that has held the gas originally contained within the Florin Gas Field without substantial leakage. (Ref. Exh. B, Vol. 2 at D.6-24.) The potential for gas migration through the cap rock is remote (taking several thousands of years to permeate the cap rock). (Ref. Exh. B, Vol. 2 at D.6-26.) It is not likely that the gas will migrate substantially through the cap rock during the lifetime of the Proposed Project. No pre-existing faults have been identified, but experts disagree on whether any faults are located within the Florin Gas Field. (Ref. Exh. B, Vol. 2 at D.5-8.)

The pressure within the gas field at the projected storage capacity may exceed pressures of the original gas field by almost eight percent, but would remain within the standard industry practice. (Ref. Exh. B at D.6-25.) Cyclic loading and unloading of the reservoir is not likely to degrade the cap rock.

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[79] Natural gas is comprised primarily of methane, and is colorless, odorless, and tasteless. Methane is not toxic, but is classified as a simple asphyxiate, possessing a slight inhalation hazard.

(*Ibid*.) However, these conclusions have not been objectively demonstrated through laboratory testing. In addition, we do not know if stored gas could seep from the edges of the reservoir through lateral spreading under pressures that exceed the original reservoir pressure.

Therefore, we adopt specific mitigation measures to further reduce the already low potential for gas migration, including laboratory tests to determine the permeability and strength of the cap rock. We also require the installation of monitoring wells equipped with instruments to detect gas and to record anomalous pressure changes in the deep groundwater aquifer immediately above the cap rock structure. (Mitigation Measures HAZ-2ai and HAZ-2aii.)

Although Mitigation Measure HAZ-2aii would mitigate any possible release of natural gas by requiring depressurization of the reservoir when monitoring equipment detects gas, it will take time to remediate the effects of any gas migration after gas is detected and the reservoir is depressurized. In addition, contamination of the aquifer could impact the water quality of a major potable aquifer and require a prolonged period of remediation. However, even with these mitigation measures the potential impact remains significant and unavoidable.

Although there is sufficient information to conclude that the leakage of gas into the overlying groundwater aquifer or to the ground surface is unlikely to occur, there is insufficient information to conclude categorically that stored gas migration to the overlying groundwater aquifer or ground surface would not occur. (Ref. Exh. B at D.6-27.) Even though the risk of gas leakage is very low, the consequences of such leakage in a populated area could be substantial. Therefore, while we believe that the adopted mitigation measures and other conditions we impose will ensure that the Proposed Project will be constructed

and operated in a way that protects the safety of workers, the public, and the environment, these impacts remain significant and unavoidable.

8.2. Alternatives to the Proposed Project

CEQA requires that an environmentally superior alternative be identified among the alternatives analyzed in the EIR. The environmentally superior alternative is the alternative found to have an overall environmental advantage compared to the other alternatives based on the impact analysis in the EIR.

8.2.1. No Project Alternative

The "no project" alternative (NPA) is environmentally superior to the Proposed Project because, if no project is constructed, all environmental impacts associated with the construction and operation of the Proposed Project would be eliminated. However, the NPA would not meet most of the objectives of the Proposed Project. Further, the NPA would not advance the state's policy to improve California's natural gas transmission and storage infrastructure.

8.2.2. Environmentally Superior Alternatives

Because the NPA is identified as environmentally superior to the Proposed Project, CEQA requires the EIR to also identify an environmentally superior alternative among the other alternatives. (CEQA Guidelines § 15126.6(e)(2).) The EIR identifies the Snodgrass Slough Gas Field as the environmentally superior alternative, and two other gas fields (Freeport and Thornton) as environmentally superior to the Florin Gas Field..

Eighteen alternatives in addition to the NPA were considered in the screening process. These include six alternative storage site locations within Sacramento County in proximity to SMUD's service area and various combinations of these alternative storage sites; alternative storage sites outside

the Sacramento area; seven project design alternatives as identified by SNGS for the Proposed Project; and three alternatives to natural gas storage.[80]

As a result of the alternatives screening process, in addition to the NPA, three alternative gas field locations (the Snodgrass Slough Gas Field, the Freeport Gas Field, and the Thornton Gas Field (collectively, the Alternative Gas Fields,) and three project design alternatives (i.e., alternative pipeline routes between the proposed wellhead site and proposed compressor station) as identified by SNGS for the Proposed Project were evaluated in the EIR. These alternatives were selected for fuller evaluation because they met most of the objectives of the Proposed Project, were potentially feasible, and would avoid or substantially lessen the significant effects of the Proposed Project.[81] Below, we separately discuss the three project design alternatives and the three gas field alternatives evaluated in the EIR.

As to the project design alternatives, the EIR finds that each of the three alternative pipeline routes between the proposed wellhead site and proposed compressor station have Class 1 impacts similar to those of the

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[80] Section C of Ref. Exh. B describes the methodology used to identify alternatives for further evaluation and the results of the alternatives screening process.

[81] The other alternatives considered in the screening process were eliminated because they failed to meet project objectives, were infeasible, and/or would not avoid or substantially lessen environmental impacts. Ref. Exh. B (Section E) provides a comparison of the Proposed Project and alternatives by environmental issue area based on the detailed analyses contained in Sections D.2 to D.13 of Ref. Exh. B. Table E-2 of Ref. Exh. B summarizes this comparison, noting the differences between the alternatives and identifying the alternative(s) on an issue-by-issue basis which would have the least environmental impact.

Proposed Project. Other impacts of the three pipeline alternatives are slightly greater or slightly less than those of the Proposed Project.

Pipeline Alternatives 1 and 2 are longer than the Proposed Project pipeline route, and, as a result, have slightly greater impacts to cultural resources, hydrology and water quality, noise, and public services and utilities. Impacts to air quality and visual resources are similar to those of the Proposed Project, but Pipeline Alternatives 1 and 2 have greater short-term construction-related impacts due to a longer construction period. Impacts to geology and soils, land use, agriculture, recreation, and population and housing are similar to those of the Proposed Project.

Impacts to transportation and traffic from the Pipeline Alternative 1 are less because the pipeline routes are located away from Power Inn Road. Impacts to biological resources are slightly less, as a portion of Pipeline Alternative 1 crosses an industrial yard. Pipeline Alternative 2 impacts to biological resources, geology and soils, land use, agriculture, recreation, population and housing, and transportation and traffic are similar to those of the Proposed Project.

Pipeline Alternative 3 is shorter than the Proposed Project pipeline route, and, as a result, has slightly fewer impacts to biological and cultural resources, hydrology and water quality, noise, and public services and utilities. Impacts to air quality and visual resources are similar to those of the Proposed Project but have fewer short-term impacts due to a slightly shorter construction period. Impacts to geology and soils, land use, agriculture, and recreation, population and housing, and transportation/traffic are similar to those of the Proposed Project.

The EIR does not find any of the alternative pipeline routes environmentally superior to the Proposed Project. The Proposed Project's Class 1 impacts cannot be avoided or substantially lessened by any of the three alternative pipeline routes evaluated in the EIR. Therefore, we do not adopt any of the project design alternatives.

As to the Alternative Gas Fields evaluated in the EIR, each has one or more Class 1 impacts. However, because of their less populated settings, the consequences of the Class 1 impacts identified for the Alternative Gas Fields are less than those of the Proposed Project. Therefore, the Alternative Gas Fields are environmentally superior to the Proposed Project.

In particular, the Alternative Gas Fields' impacts on hydrology and water quality are similar to the Proposed Project due to the possible migration of gas into the groundwater aquifer. However, the potential consequences resulting from migration of gas into the aquifer and the potential for adverse health effects, flash fires, or explosions resulting from migration of gas to the surface for the Alternative Gas Fields are less than that of the Proposed Project because the Alternative Gas Fields are located in less populated areas and fewer people would be at risk. Similarly, noise impacts would be less than significant because the Alternative Gas Fields are located in less populated areas.[82]

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[82] Table ES-2 of Ref. Exh. B is a summary comparing the environmental impacts that would potentially occur for the Proposed Project with the three alternative pipeline routes and the Alternative Gas Fields. Table ES-3 of Ref. Exh. B summarizes the unavoidable significant impacts for the Proposed Project and alternatives.

9. Economic Feasibility of Alternative Gas Fields

Pursuant to CEQA, we may not approve a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless we make written findings for each of those significant effects, including, among other things, whether there are specific economic, legal, social, technological, or other considerations which make infeasible the mitigation measures or project alternatives identified in the EIR. (CEQA Guidelines § 15091.) The following analyzes the economic feasibility of the Alternative Gas Fields, and explains why the Alternative Gas Fields are not economically feasible.

The record contains sufficient evidence to independently determine the economic feasibility and potential profitability of the Alternative Gas Fields without profit and loss projections for the Proposed Project.[83] The profitability of the Proposed Project is not relevant to determining the economic feasibility of the Alternative Gas Fields. However, we may require cost information for the Proposed Project to ensure the reasonableness of the cost estimates for the Alternative Gas Fields in order to determine their economic feasibility.

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[83] Potential storage revenues are shown in SNGS-36 at 5. The storage capacities in bcfs of the Alternative Gas Fields and the Proposed Project are shown in the Additional Evidence, Exhibit B. The maximum potential revenue from each of the Alternative Gas Fields (and the Proposed Project) can be determined by multiplying the annual potential storage revenue per bcf by the estimated bcf storage capacity for each gas field. The potential profitability of each of the Alternative Gas Fields can be determined by comparing the maximum potential revenue from each of the Alternative Gas Fields to the costs for each. Cost information for each of the Alternative Gas Fields is shown in Ref. Exhs. D, E, and F (based SNGS-38, Exhibit B, and Additional Evidence, Exhibit D, as modified by this decision and discussed below).

The estimated costs of financing development of the Alternative Gas Fields are reasonable. The financing costs are based on the loan amount at an eight percent interest rate. The financing costs differ because the estimated costs of developing the Proposed Project and the Alternative Gas Fields differ.

In addition, it is reasonable to base revenue estimates for the Alternative Gas Fields on rates for Firm Storage Service because the price charged for Firm Storage Service is higher than that for Preferred Interruptible Storage and Interruptible (As-Available) Storage.[84] We have estimated storage revenues by multiplying the full working storage capacity (in bcf) at each of the Alternative Gas Fields by the current market price per bcf for Firm Storage Service. (SNGS-38 at 2-3, 8, and 13.) This analysis reasonably estimates the maximum attainable revenue for each of the Alternative Gas Fields for their estimated working capacities.

The cost analysis of the Thornton Gas Field for a "partial build out" is consistent with the alternative described and recommended in the EIR, and is reasonable. The estimated costs for the partial build out of the Thornton Gas Field, with the revisions to engineering and permitting and construction contingency costs, discussed below, are reasonable.

The Thornton Gas Field has a working gas storage capacity of greater than 7.5 bcf and development of this gas field would involve constructing facilities similar to those required for the Proposed Project (including injection/withdrawal wells, compressor station, and connecting pipelines between the wells and compressor station), plus a seven-mile, 16-inch-diameter

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[84] Additional Evidence, Exhibit D (filed under seal).

interconnect pipeline extending through primarily rural areas from the gas field to SMUD's pipeline system.

The Thornton Gas Field originally produced 54 bcf of natural gas,[85] and is the largest of the Alternative Gas Fields analyzed in the EIR. To fully develop the storage capacity of this gas field would require, in addition to the facilities described in the EIR, the construction of an additional approximately 22-mile-long pipeline from the gas field to PG&E Lines 400/401, including up to six river crossings. (SNGS-36 at 5.)

This "full build out" scenario and the related potential environmental impacts were not considered in the EIR. Because the EIR only examines a partial build out of the Thornton Gas Field with a single, seven-mile pipeline connection to the SMUD pipeline, SNGS appropriately analyzed the Thornton Gas Field alternative as it was described and evaluated in the EIR.

As discussed below, we revise SNGS's estimate of engineering and permitting costs[86] and the construction contingency fund amount for each of the Alternative Gas Fields. As revised, the assumptions and methodology used to develop the cost estimates and financial projections for the Alternative Gas Fields are reasonable.

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[85] Additional Evidence, Exhibit B.

[86] Engineering/Permitting costs include costs for engineering and design activities, costs associated with ongoing and anticipated permitting activities (including Commission proceedings), legal costs, operating costs of SNGS (including general administrative and overhead costs), costs of community outreach activities, and an operating contingency allowance for unexpected conditions and events associated with these activities (operating contingency allowance).

9.1. Engineering/Permitting Costs

SNGS's analysis includes an estimate of $20 million, for the Proposed Project and for each of the Alternative Gas Fields, for engineering and permitting costs (Engineering/Permitting), such as engineering and design activities, costs associated with ongoing and anticipated permitting activities (including Commission proceedings), legal costs, operating costs of SNGS (including general administrative and overhead costs), costs of community outreach activities, and an operating contingency allowance for unexpected conditions and events associated with these activities.

We make two revisions to the Engineering/Permitting cost estimates to ensure they are reasonable. These revisions are discussed below and shown in Ref. Exh. D.[87]

First, we reduce the estimated costs for Commission proceedings and related activities for the Snodgrass Slough and Thornton Gas Fields by $0.46 million each to make those costs for each of the Alternative Gas Fields the same as estimated for the Proposed Project.[88] The Commission proceedings and related activities undertaken in connection with the Application have taken substantially more time and involved more hearings and other activities than other competitive gas storage applications. We do not expect any Commission proceedings involving the Alternative Gas Fields to be more costly or time consuming than this proceeding.

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[87] The June 13, 2011 ALJ ruling granted SNGS's request to file under seal confidential portions of Ref. Exh. D.

[88] SNGS estimates the cost of Commission proceedings involving the Freeport Gas Field to be the same as that estimated for the Proposed Project.

Second, we revise the operating contingency allowance for each of the Alternative Gas Fields so it is the same percentage of Engineering/Permitting costs as that for the Proposed Project. SNGS's estimate of the operating contingency allowance represents a higher percent of Engineering/Permitting Costs for the Snodgrass and Freeport Gas Fields, and a lower percent of Engineering/Permitting Costs for the Thornton Gas Field, than estimated for the Florin Gas Field. It is not reasonable for the ratio of operating contingency allowance to Engineering/Permitting costs for each of the Alternative Gas Fields to differ from that for the Proposed Project.

This revision reduces the operating contingency allowance for the Snodgrass Slough and Freeport Gas Fields by $0.3 million and $2.0 million, respectively, and increases the operating contingency allowance for the Thornton Gas Field by $0.5 million.

9.2. Construction Contingency Costs[89]

We apply the same methodology to the Alternative Gas Fields that is used to calculate the construction contingency costs for the Proposed Project to ensure the estimates are reasonable.[90] This revision results in a decrease of $2.1 million in construction contingency costs for the Snodgrass Slough Gas Field, a decrease

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[89] SNGS estimates contingency costs related to construction and development (at 10 percent of total facility and construction cost) as a separate line item from the operating contingency allowance included in Engineering/Permitting Costs.

[90] SNGS calculates the construction contingency for the Alternative Gas Fields as 10 percent of the sum of total facility and construction costs, total land cost, and Engineering/Permitting costs. In contrast, SNGS calculates the construction contingency for the Proposed Project at ten percent of total facility and construction costs, only.

of $2.1 million for the Freeport Gas Field, and a decrease of $2.2 million for the Thornton Gas Field.

9.3. Economic Infeasibility of Alternative Gas Fields

As revised, the assumptions and methodology used to develop the cost estimates and financial projections for the Alternative Gas Fields are reasonable. The revised cost estimates resulting from the revisions discussed above are $105.8 million, $85.1 million, and $188.1 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively. These revised cost estimates are used in the financial analysis contained in Ref. Exh. E and summarized in Ref. Exh. F.

The financial projections for the Alternative Gas Fields, based on the revised cost estimates discussed above, demonstrate that none of the Alternative Gas Fields is economically feasible. The costs of the Alternative Gas Fields, compared to their potential profitability, are so great that an owner of a gas storage facility at any of the Alternative Gas Fields could never recover its investment, and no reasonably prudent person would proceed with the construction or development of the Snodgrass Slough, Thornton, or Freeport Gas Fields.

None of the Alternative Gas Fields will generate positive cash flows or net income, and the equity in each of the Alternative Gas Fields will decrease every year. The financial projections show cumulatively increasing negative cash flows for each of the Alternative Gas Fields, and corresponding increasing operating debt, through the first ten years of operations.

Table 1 displays the estimated annual cash flows for each of the Alternative Gas Fields through the first ten years of operations[91] (from Ref. Exh. E). The annual cash flows after the first year of operation are -$14.9 million, -$13.5 million, and -$18.3 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively. The annual cash flows after 10 years of operation are -$41.2 million, -$39.7 million, and -$39.5 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively.

Table 1			
Annual Cash Flows (000's)	Snodgrass Slough	Freeport	Thornton
Years 1 - 3	(14,895)	(13,532)	(18,340)
Years 1 - 7	(24,609)	(23,002)	(27,022)
Years 1 - 12	(41,242)	(39,704)	(39,454)

Table 2 displays the estimated net income for each of the Alternative Gas Fields through the first 10 years of operations. Net income after the first year of operation is -$9.04 million, -$8.83 million, and -$7.89 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively. Net income after 10 years of operation is -$132.65 million, -$133.97 million, and -$93.96 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively.

Table 2			
Net Income (000's)	Snodgrass Slough	Freeport	Thornton
Years 1 - 3	(9,036)	(8,826)	(7,887)
Years 1 - 7	(53,034)	(52,614)	(42,254)
Years 1 - 12	(132,645)	(133,966)	(93,960)

[91] The analysis assumes a two-year project development and construction period, with operations beginning in year three. (SNGS-38 at 1.)

Table 3 displays the estimated equity balance for each of the Alternative Gas Fields through the first 10 years of operations. The equity balances after 10 years of operation are -$114.13 million, -$119.14 million, and -$60.72 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively.

Table 3			
Equity Balance (000's)	Snodgrass Slough	Freeport	Thornton
Years 1 - 3	9,481	5,997	25,354
Years 1 - 7	(34,517)	(37,791)	(9,013)
Years 1 - 12	(114,128)	(119,143)	(60,719)

The financial projections for the Snodgrass Slough Gas Field show that a gas storage facility at the Snodgrass Slough Gas Field would not produce a positive cash flow or net income, and equity in the Snodgrass Slough Gas Field will decrease every year. (Ref. Exh. E at 1–4.) Because the Snodgrass Slough Gas Field cannot produce a positive cash flow or net income, it is not capable of being constructed and operated in a successful manner within a reasonable amount of time. Compared to its potential profitability, the costs of constructing and operating the Snodgrass Slough Gas Field are sufficiently severe to render it impractical to proceed with its development. For these reasons, the Snodgrass Slough Gas Field alternative is economically infeasible.

The cost estimate for the Freeport Gas Field is only $8.2 million higher than the cost estimate for the Proposed Project. However, because the Freeport Gas Field's storage capacity is only approximately 2.0 bcf, a gas storage facility at the Freeport Gas Field cannot produce sufficient revenue to generate a positive cash flow or net income, and equity in the Freeport Gas Field will decrease every year. (Ref. Exh.E at 6–9.)

Because the Freeport Gas Field cannot produce a positive cash flow or net income, it is not capable of being constructed and operated in a successful manner within a reasonable amount of time. Compared to its potential profitability, the costs of constructing and operating the Freeport Gas Field are sufficiently severe to render it impractical to proceed with its development. For these reasons, the Freeport Gas Field alternative is economically infeasible.

The revised cost estimate for the Thornton Gas Field is $2.5 million lower than the SNGS estimate, but even at this lower cost a gas storage facility at the Thornton Gas Field would not produce a positive cash flow or net income, and equity in the Thornton Gas Field will decrease every year. (Ref. Exh.E at 11–14.)

Because the Thornton Gas Field cannot produce a positive cash flow or net income, it is not capable of being constructed and operated in a successful manner within a reasonable amount of time. Compared to its potential profitability, the costs of constructing and operating the Thornton Gas Field are sufficiently severe to render it impractical to proceed with its development. For these reasons, the Thornton Gas Field alternative is economically infeasible.

10. Adequacy of the EIR

The EIR is legally adequate. The following addresses parties' arguments concerning the adequacy of the EIR.

10.1. Consistency With Prior Commission EIRs

The EIR's conclusion that the Proposed Project will result in Class 1 impacts is reasonable and consistent with prior decisions addressing independent gas storage applications.

SNGS argues the assessment of the risk of gas migration is not based on substantial evidence, and is unprecedented and unwarranted.[92] According to SNGS, the risk of gas leakage is so remote as to be negligible. SNGS recommends that the Commission reject the EIR's findings concerning these Class 1 impacts.

As discussed above, although the potential for gas to migrate to the overlying groundwater aquifer or to the surface is very low, the consequences of such a gas release in a populated area could be very high. Therefore, it is reasonable to conclude that the potential impact of a gas release remains significant and unavoidable.

10.2. Significance of Noise Impacts

SNGS argues the EIR erroneously concludes that the construction of the Proposed Project will result in significant and unavoidable noise impacts. SNGS asserts that, although the FEIR states that the closest noise receptor will be approximately 200 feet from the wellhead site, the drilling rig (the loudest source of nighttime noise) will be approximately 450 feet from the closest noise receptor. As a result, according to SNGS, the noise level at distance of 400 feet will be 50 decibels using the A-weighted filter network (dBA), and, therefore, the EIR overstates the significance of this impact. SNGS raised this issue in comments on the DEIR, and contends that the EIR's response erroneously states that (1) the

[92] SNGS asserts no prior environmental analysis in connection with a proposed underground natural gas storage project considered by the Commission has determined that the potential for the migration of injected natural gas from a storage reservoir represented significant, unavoidable impacts, including environmental analyses identifying existing uses of overlying aquifers for ground water supplies.

drilling rig will be 300 feet from the closest noise receptor, and (2) other noise producing activities will occur throughout the wellhead site.

The Addendum revises Response D2-45 to state that a noise level of approximately 64 dBA will occur at a distance of 450 feet from the closest potential drill rig site to the closest residence (building), and this noise level will result in a significant noise impact during nighttime operation.

10.3. Project Objectives and Adequacy of Alternatives Analysis

AGENA argues the analysis of alternatives is inadequate because, according to AGENA, the EIR improperly relies on SNGS's narrow project objectives. As a result, according to AGENA, the EIR fails to consider a reasonable range of Alternatives.

The EIR properly relies on the project objectives as proposed by SNGS, pursuant to CEQA Guidelines § 15124(b). The EIR considers a range of reasonable alternatives that would feasibly attain most of the basic objectives of the Proposed Project but avoid or substantially lessen the significant effects of the Proposed Project, and evaluates the comparative merits of the alternatives, consistent with CEQA Guidelines § 15126.6(a).

10.4. Adequacy of Environmental Setting Description

The EIR adequately describes the physical environmental conditions in the vicinity of the Proposed Project for each area identified in the CEQA Guidelines § 21060.5 definition of "environment."

AGENA argues the EIR fails to provide information needed for a meaningful analysis of the NPA because the EIR does not discuss supply,

demand, and potential for disruption of natural gas supply when discussing the environmental setting in Sacramento County.

CEQA requires an EIR to include a description of "the physical environmental conditions in the vicinity of the project." (CEQA Guidelines § 15125(a).) CEQA defines "environment" to mean "the physical conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance." CEQA Guidelines § 21060.5. "Environment," as defined by CEQA, does not include "economic" conditions such as the demand for or supply of natural gas, or the potential for disruption of the supply of natural gas.[93] Therefore, we reject AGENA's argument that the EIR should have discussed natural gas supply issues.

10.5. Adequacy of the Alternatives Analysis

The EIR provides sufficient information about the major characteristics and significant environmental effects of each Alternative Gas Field to allow meaningful evaluation, analysis, and comparison with the Proposed Project. The significant effects of the Alternative Gas Fields are discussed, albeit in less detail than the significant effects of the Proposed Project.

AGENA argues a meaningful quantitative and comparative evaluation of the Alternative Gas Fields is not possible because the EIR does not provide comparative data on the geology of each Alternative Gas Field reservoir, including inferred and confirmed faults, accelerations or other seismic

[93] Merriam-Webster's Collegiate Dictionary (Tenth Edition, 2001) defines "economic" to mean "of, relating to, or based on the production, distribution, and consumption of goods and services."

parameters, and the number of abandoned wells at each alternative reservoir; the number of people living within a 0.5-mile buffer around each of the Alternative Gas Fields; and the residential population, employee population, and traffic counts in areas surrounding each of the Alternative Gas Fields.

It is not necessary to conduct analyses of all aspects of the Alternative Gas Fields at the same level of detail as was done for the Proposed Project because the EIR provides sufficient information to determine that the Alternative Gas Fields are environmentally superior to the Proposed Project, and are technically and legally feasible.

10.6. Adequacy of the "No Project" Analysis

The EIR's analysis of the NPA accurately discusses what reasonably would be expected to occur in the foreseeable future if the Proposed Project were not approved.

AGENA argues the EIR assumes without basis that (1) the NPA could result in significant impacts to utilities and service systems in the event of disruption of the PG&E natural gas pipelines 400/401; (2) SMUD and PG&E may be required to implement curtailment of non-essential energy use and may run out of natural gas at some locations; and 3) such curtailment would reduce the potential ability to meet the demand for natural-gas-generated electricity in the Sacramento area.

Contrary to AGENA's argument, there is substantial evidence that, in the event of a disruption of PG&E's gas transmission lines, PG&E may be required to implement curtailments and, as a result, it may not be possible to deliver to

SMUD gas that is stored in other gas storage facilities.[94] Because natural gas is used to generate approximately 30 percent of SMUD's peak electricity load, disruption or curtailment of natural gas to SMUD would adversely affect SMUD's ability to meet the demand for electricity in the Sacramento area. (SNGS-45 at 5.) Therefore, the EIR's analysis of the NPA reasonably describes what would be expected to occur in the foreseeable future if the Proposed Project were not approved.

10.7. Revisions to the System Safety and Risk of Upset Report

The System Safety and Risk of Upset Report, included as Appendix B to Ref. Exh. B, was revised in response to comments on the DEIR. AGENA argues the revised report must be re-circulated and made available for public review and comment because it contains significant new information, and because, according to AGENA, the EIR's revised report contradicts the DEIR's System Safety and Risk of Upset Report.

The EIR does not require recirculation as a result of revisions made to the System Safety and Risk of Upset Report included as Appendix B-1 to the FEIR because the EIR does not disclose significant new information[95] and because the

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[94] PG&E Gas Rule No. 14, Section A (General), Section B.2 (Allocation Due to Local Constraints), Section G (Diversion of Customer-Owned Gas), and Section H (Local Curtailment); SNGS-44 at 15:18-20; TR 390:8-391:20; and Agreement for Co-Ownership, Shared Use, and Operation of Certain Natural Gas Transmission Pipelines Between Pacific Gas & Electric and the Sacramento Municipal Utility District, Section 8.7.8 (Co-Ownership Agreement). The April 27, 2011 ALJ Ruling took official notice of the Co-Ownership Agreement.

[95] The revised report concludes that the analyzed impacts are less significant than originally estimated in the DEIR's report.

DEIR was adequately informative to permit meaningful public review and comment on the substantial adverse environmental effects of the Proposed Project.

10.8. Qualitative and Quantitative Aggregate Risk Analysis

AGENA argues the EIR fails to discuss and establish a significance threshold for aggregate risk of fatality when the DEIR states such threshold exists.

The EIR does not establish a significance threshold for aggregate risk of fatality, but this does not make the EIR inadequate. In response to comments on the DEIR, the EIR accurately states that no threshold for aggregate risk has been developed, and appropriately deletes discussion of the qualitative and quantitative aggregate risk analysis contained in the DEIR.

10.9. Alleged Failure to Analyze a Significant Impact Identified in System Safety and Risk of Upset Report

AGENA argues the EIR fails to analyze the significant individual risk at the well site discussed in the System Safety and Risk of Upset Report.

Contrary to AGENA's argument, the EIR adequately identifies and analyzes the individual risk at the well site discussed in the appendices and concludes that, with mitigation, the potential impact of individual risk at the well site is less than significant. In particular, the EIR states:

> EDM conducted an initial analysis of the potential for torch fires from the well head. Richard Gustafson of Atkins reviewed this analysis. These studies are provided in Appendix B. Gustafson's <u>individual risk of fatality was 8.3 × 10-8 per year, which is just slightly over de minimis</u> (*see* Appendix B-2 to Ref. Exh. B). The risk from the well heads would be to individuals in the north parking lot

> to the south. The design of the well head would contain most torch fires below the 10- foot level. Therefore, the impact is considered less than significant (Class II) with implementation of Mitigation Measure HAZ-2biii. (Ref. Exh. B at D.6-29. Emphasis added.)

10.10. Storage of Methyl Mercaptan at the Wellhead Site

AGENA argues the EIR is inadequate because it fails to discuss and analyze revisions to the EIR that allow storage of methyl mercaptan at the wellhead site.

However, the EIR as supplemented by the Addendum adequately discusses and analyzes the storage of methyl mercaptan at the wellhead site. Specifically, the Addendum states that the accidental release of methyl mercaptan at the wellhead may result in a significant impact, but the impact would be reduced to less than significant levels by limiting the amount of methyl mercaptan that may be stored at the site, and by requiring the methyl mercaptan to be stored and used in a specialized structure to reduce public exposure, pursuant to Mitigation Measure HAZ-1c*iii*. (Ref. Exh. G at 3.)

10.11. Potential Hazards Posed by Existing Abandoned Wells

The EIR adequately addresses comments concerning impacts related to the integrity of abandoned wells because the EIR specifies that DOGGR will require an examination of each plugged well during the well permitting process and will require remediation of any issues prior to storage of gas.

AGENA argues the EIR fails to adequately respond to comments regarding the potential hazards posed by existing abandoned wells. AGENA asserts DOGGR's well abandonment standards in place at the time of abandonment of existing wells were not developed to permit re-pressurization for gas storage. AGENA argues, even if measures are implemented to ensure abandoned wells meet DOGGR requirements, the abandoned wells continue to pose a significant risk. We disagree.

There is no substantial evidence that gas wells abandoned in accordance with DOGGR requirements pose a significant risk. The evidence on the rate of leakage of abandoned wells in oil fields is not relevant to leakage rates for abandoned wells in gas fields, does not identify the failure rate of abandoned wells in gas fields such as the Florin Gas Field, or state that the failure rate of abandoned wells in gas fields is similar to that of abandoned wells in oil fields.[96] The evidence discussing well leaks at abandoned oil and gas wells does not identify the percentage of leaking abandoned wells that are in gas fields as compared to abandoned wells that are in oil fields or oil/gas fields.[97]

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[96] Ref. Exh. B, Vol.1, Part 1, Comment D2-252 at 306 ("*Environmental Hazards Posed by the Los Angeles Basin Urban Oilfields: An Historical Perspective of Lessons Learned*" Section titled "Environmental Hazards of Oil Well Leaks").

[97] Ref. Exh. B, Vol.1, Part 1, Comment D2-253, (*An Appraisal of Underground Gas Storage Technologies and Incidents, for the Development of Risk Assessment Methodology*) at 115-116. Section 9.5.3 of the document discusses, among other things, old and abandoned wells as a major potential source of leakage, "particularly so in [California] oilfields, especially in the Los Angeles region."

10.12. Construction and Operation of Monitoring Wells

AGENA argues the EIR provides no support for the conclusion that construction and operation of monitoring wells will not result in any significant impacts. We disagree. The EIR adequately addresses the impacts of construction and operation of monitoring wells.[98] There is no evidence that the construction and operation of monitoring wells will result in any significant impacts.

10.13. Development of Additional Pipelines for Storage Customers

AGENA argues the EIR fails to consider the environmental impacts associated with the development of additional pipelines for storage customers because, according to AGENA, it is foreseeable that SNGS will construct additional pipelines to connect customers directly to the Proposed Project.

However, the potential environmental impacts associated with serving customers other than SMUD are not reasonably foreseeable, and should not be considered in the EIR, consistent with CEQA Guidelines § 15064(d). There are no requests at this time from potential customers other than SMUD for the Proposed Project's storage services. (SNGS-9 at 5.)

Because no potential customer other than SMUD has requested the services offered by the Proposed Project, no customer location(s) or potential pipeline routes to the location(s) can be determined at this time, and without such information identification and evaluation of potential environmental

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[98] Ref. Exh. B, Vol. 1, Part 2, Responses to B5-120, B5-140, B5-236, B5-273, and B5-397, respectively.

impacts would be purely speculative. In addition, SNGS may serve customers other than SMUD via displacement without constructing additional pipelines.[99] (TR 406:8-16.)

10.14. Chemical Makeup of Existing Gas in the Florin Gas Field

AGENA argues the EIR is inadequate because it does not discuss and analyze the chemical makeup of the existing gas within the Florin Gas Field. AGENA asserts that the best evidence of the likely composition of gas within the Florin Field is data from nearby gas fields, which, according to AGENA, demonstrates the presence of certain dangerous hydrocarbons.

However, according to the Addendum, a dry gas field is defined as a gas field that produces hydrocarbons containing less than 1.6 percent of propane, butane, and pentane. There is substantial evidence that the Florin Gas Field is a "dry" gas field that produced natural gas containing only 0.03 percent of propane, butane, and pentane. (Ref. Exh. G at 2, 5.)

10.15. Storage of Natural Gas Liquids at the Wellhead Site

AGENA argues the EIR fails to analyze the impacts associated with storage of natural gas liquids at the wellhead site. AGENA states that natural gas liquids frequently contain significant quantities of ethane, propane, butane, pentane, carbon dioxide, nitrogen, helium, and H_2S, and, as a result, could pose

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[99] Displacement transactions permit the lateral movement of gas through a transportation network. The configuration of many pipelines is such that it may not be apparent whether a given movement of gas is forward or backward from the point of receipt. It can be argued that all transportation service is performed by displacement as the physical delivery of the same molecules of gas is impossible.

potentially significant impacts that have not been sufficiently analyzed. AGENA argues information concerning the amount and rate of natural gas liquids and produced water withdrawn from the reservoir is needed to understand potential risks associated with these tanks, and to properly evaluate the likelihood and quantity of excess natural gas liquids and produced water that may need to be trucked to a disposal site.

However, the EIR adequately addresses the impacts associated with storage of natural gas liquids at the wellhead site. As discussed above, there is substantial evidence that the Florin Gas Field is a "dry" gas field.

10.16. Adequacy of Mitigation Plans

AGENA and the City argue the FEIR improperly defers the development of mitigation measures required to reduce the Proposed Project's health and safety impacts.

However, practical considerations prevent the development at this time of several plans in connection with adopted mitigation measures. In particular, other state and local agencies require the plans, are responsible for overseeing proposed activities addressed by the plans, and must participate in the development of those plans. The Applicant cannot begin developing plans that are within those agencies' purview until after the Applicant presents a Commission-approved project to those agencies.

The Addendum clarifies various mitigation measures to specify the performance standards to be met by each of the plans that must be developed. (Ref. Exh G at 8-20.) The adopted mitigation measures for these pending plans will ensure that, once developed, each of the plans will satisfy our specified performance criteria to mitigate identified impacts.

10.17. Cumulative Health and Safety Impacts

AGENA argues the EIR fails to provide a meaningful discussion of the Proposed Project's cumulative health and safety impacts. However, the EIR discusses and discloses any and all cumulative impacts in each resource area, along with any required mitigation. AGENA's arguments regarding future traffic and population are not tied to any specific project but are mere assertions of speculative impacts due to non-existing present projects and unknown and not reasonably foreseeable future projects, and as such do not show legal error.

10.18. Response to Comments Proposing Potentially Feasible Mitigation Measures

AGENA argues Greenberg's comments on the DEIR propose three mitigation measures to further reduce the health and safety impacts of the Proposed Project's pipeline segments, and that the EIR fails to respond to those comments. However, the EIR adequately responds to comments that allegedly propose potentially feasible mitigation measures to further reduce the impacts of the Proposed Project's pipeline segments.

The EIR determined that the potential health and safety impacts of the Project's pipeline segments are less than significant. Further mitigation of less-than-significant impacts is not required.

10.19. Geographic Scope of Health and Safety Impacts

AGENA argues the EIR fails to properly define the geographic scope of the Proposed Project's significant and unavoidable health and safety impacts, and that the EIR does not adequately respond to the comments of Robertson, Greenberg, and Shlemon. However, the EIR adequately responds to the

comments of Greenberg, Robertson, and Shlemon, and explains in sufficient detail the reasons why specific comments and suggestions were not accepted.

Robertson's comment (Comment B5-291) points to the Yaggy gas storage facility in Hutchinson, Kansas to argue the Proposed Project would pose a risk of fire, explosion, and/or groundwater contamination within "a several mile radius" from the Florin Reservoir.

The EIR adequately responds to Robertson by acknowledging that the FEIR considers the potential impacts associated with the storage of natural gas within the Florin Gas Field to be significant and unavoidable. The EIR's response to Comment B5-291 explains that Robertson's allegation relies on an example of a facility using a salt cavern for gas storage, and that salt caverns have different geologic characteristics than gas fields.

In particular, salt cavern storage facilities have a higher likelihood of failure and casualties than storage facilities using gas or oil fields for storage.[100] There is no evidence that the characteristics of the Florin Gas Field are similar to the Yaggy salt cavern storage facility.

Storage facilities using salt caverns account for 41 percent of storage facility incidents compared to three percent for storage facilities using gas/oil fields. Salt caverns account for 13.6 percent of storage facility incidents involving

[100] The storage field incidents identified in AGENA's Reply Brief at 15 (i.e., Branham, Texas; Moss Bluff, Texas; and Hutchinson, Kansas) all use salt caverns for storage. (Ref. Exh. B, Vol.1, Part 1, Comment D2-253 at 158-164.)

casualties compared to 0.63 percent for storage facilities using gas/oil fields. (*See* Ref. Exh. B, Vol.1, Part 1, Comment D2-253.[101])

The EIR's responses to Comments B5-304 through B5-308 explain in detail the reasons it disagrees with Shlemon's comments.

Greenberg's comment that lateral spreading of gas along the edges of the reservoir is "highly probable" is not supported by substantial evidence.[102]

10.20. Disclosure of Significant Disagreements among Experts

AGENA argues the EIR fails to properly disclose significant disagreements among experts concerning (1) the likelihood of natural gas escaping from the Florin Gas Field through potential faults, and (2) whether there is sufficient vertical permeability within the storage reservoir to withstand anticipated injection pressures. As to the latter point, Robertson asserts vertical permeability of the storage reservoir is less than 25 feet because, according to Robertson, the storage reservoir is comprised of two gas sands separated by a thin shale layer about 10 feet thick.

However, the EIR adequately discloses the main points of significant disagreement among experts concerning the risk of natural gas escaping from the Florin Gas Field through faults. In particular, the EIR states:

> No active faults have been mapped within the Proposed Project area and it is not crossed by any Alquist-Priolo Earthquake Fault Zone. It

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[101] An Appraisal of Underground Gas Storage Technologies and Incidents, for the Development of Risk Assessment Methodology, Vol. 2, p. 41, Table 2.

[102] Greenberg states, "...lateral spreading of gas along the edges of the reservoir is possible and perhaps even highly probable because neither the bottom or [sic] the sides of gas reservoir have been well defined." (Ref. Exh. B, Vol. 1, Part 1, Comment B5-312.)

should be noted that there is a disagreement among experts whether faulting occurs within the area.[103]

Also, the Addendum clarifies the text for Impact HAZ-2a to describe the disagreement concerning the vertical permeability of the storage reservoir. The Addendum states that the Ryder Scott gas injection computer model indicated there is vertical permeability through 250 feet of the storage reservoir and did not reveal the existence of shale barriers below the field's cap rock that would impede vertical gas flow, and notes Robertson's disagreement with this analysis. (Ref. Exh. G at 3-4.)

10.21. Injection Pressure Required to Displace Water

AGENA argues the EIR fails to address Robertson's assertion that gas would have to be injected into the Florin Gas Field at such a high pressure that it would fracture the cap rock and lead to a release of gas.

However, the EIR adequately addresses Robertson's erroneous assertion that the cap rock is unable to withstand the pressures at which gas would have to be injected into the Florin Gas Field to displace a 250-foot column of water. Robertson significantly errs in estimating that 15,600 pounds per square inch (psi) is required. Correction of Robertson's error shows that 108 psi is needed to displace a 250-foot column of water in the reservoir. Robertson makes other obvious errors that undercut his testimony.[104]

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[103] Ref. Exh. B, Vol. 2 at D.5-8. *See also*, responses to Comments A7-22, A10-21, B5-162, B5-294, B5-307, B5-506, B5-507, and D2-21.

[104] For example, Robertson erroneously states that "gas has a much higher viscosity than oil or water." (AGENA-21 at 5.) Viscosity describes a fluid's resistance to flow (the less viscous a fluid is, the greater its ease of movement). Under similar conditions

Footnote continued on next page

Because the evidence shows that the original pressure of the Florin Gas Field was approximately 1,670 psi,[105] an injection pressure of 108 psi will not pose a substantial risk of creating new fractures or opening any existing fractures that may be in the cap rock.[106]

10.22. Laboratory Testing of Cap Rock Core Samples

AGENA argues the EIR errs by not requiring laboratory testing, including strength testing of the cap rock core samples, prior to project construction and re-pressurization of the Florin Gas Field. However, the EIR requires, prior to allowing the storage of natural gas, the DOGGR to monitor and approve the laboratory testing of cores of the cap rock structure within the range of the projected gas storage pressures to determine the permeability, strength, and other properties of the cap rock. (Ref. Exh. B, Mitigation Measure Haz-2ai.)

(i.e., temperature, pressure), oil is more viscous than water, and water is more viscous than gas.

In addition, Robertson erroneously states that the Florin Gas Field "…produced 8.69 MMSCF [million standard cubic feet]" of gas. (AGENA-21 at 3.) The record shows that the Florin Gas Field produced more than 8.28 billion cubic feet (bcf) of natural gas. Similarly, Robertson erroneously states that "the [SNGS] proposal is to store about 8 MMSCF of gas which is similar to the volume of produced gas." (AGENA-21 at 8.) The record shows that "approximately 7.5 bcf" of working gas will be stored at the facility.

[105] SNGS-27, Exhibit B shows a Bottom Hole Pressure (3,895 feet below ground) in Unocal Florin #2 Well of 1668 psi as of November 1980. SNGS Additional Evidence submitted in response to September 10 Ruling, Exhibit B shows an "Original Pressure" of 1677 psi.

[106] AGENA characterizes Robertson's significant error as "typographical," and argues an injection pressure of 108 psi will pose a substantial risk of fracturing the cap rock.

10.23. Discussion of the Potable Water Aquifer

AGENA argues the EIR fails to disclose the amount of water currently extracted from the groundwater basin that may be impacted by the Proposed Project, the number of people that rely on this water supply, and the potential extent of the contamination in the event of an accident. However, the EIR discloses sufficient information to evaluate whether the Proposed Project may have a significant environmental impact on groundwater,[107] and concludes that the potential impacts are significant and unavoidable.

10.24. Existing Contaminated Groundwater and Remediation Efforts

AGENA argues the EIR fails to adequately discuss existing contaminated groundwater and associated remediation efforts. We disagree.

The EIR states that groundwater in the Proposed Project area has been contaminated with tricholorethylene and is currently undergoing groundwater pumping as a part of the groundwater remediation at the former Sacramento Army Depot. The EIR further states that an inadvertent release of drilling mud could potentially mix with contaminated groundwater associated with

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[107] The EIR states that the Proposed Project is located within the Sacramento River Hydrologic Region and the Sacramento Valley Groundwater Basin; that the Sacramento Valley Groundwater Basin underlies an area of approximately 5,000 square miles from Tehama County in the north to Solano and Sacramento counties in the south; that annual runoff in the Sacramento River Hydrologic Region averages about 22.4 million acre feet (maf), and that municipal, industrial, and agricultural supplies to the region are about 8 maf, with groundwater providing about 2.5 maf of that total. The EIR further discloses that the groundwater in the area of the Proposed Project has been contaminated with tricholorethylene and is currently undergoing ground water pumping as a portion of the remediation at the former Sacramento Army Depot. (Ref. Exh. B, Vol. 2 at D.7-1.)

groundwater remediation. The Addendum provides additional information concerning the proximity of the Proposed Project's facilities to remediation wells, and confirms that the Proposed Project will not disrupt or impact the groundwater remediation efforts. We find the EIR's treatment of these issues to be adequate for purposes of CEQA.[108]

10.25. Feasible Mitigation to Further Reduce Water Quality Impacts

AGENA argues the EIR fails to address what AGENA describes as AGENA's recommended mitigation measures to further reduce the Proposed Project's significant and unavoidable water quality impacts. In its comments on the DEIR, AGENA recommends, among other things, that (1) SNGS be required to post a bond to cover the cost of remediating any groundwater contamination, and (2) the Proposed Project be permanently shut down if groundwater contamination is discovered after the Proposed Project commences. However, we find that the EIR is not deficient with respect to either of these recommendations.

Requiring SNGS to post a bond in the event that the water basin becomes contaminated is not a mitigation measure because the requirement would not mitigate the impacts of groundwater contamination.[109]

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[108] When responding to comments, lead agencies need only respond to significant environmental issues and need not provide all information requested by reviewers, as long as a good faith effort at full disclosure is made in the EIR. (CEQA Guidelines § 15204(a).)

[109] Parties had an opportunity to address in evidentiary hearings in the CPCN portion of the proceeding any issues concerning liability insurance, surety bonds or performance bonds and similar indemnification requirements. (Scoping Memo at 23.)

Requiring the Proposed Project to permanently shut down in the event of groundwater contamination is disproportionate to the impact being mitigated, and would be unreasonable. The impact of gas contamination can be effectively mitigated by suspending storage operations and depressurizing the reservoir until the source of contamination is found and corrected, as required by Mitigation Measure H-8b.

10.26. Analysis of Potential for Cross-Contamination of Aquifers

AGENA argues (1) the EIR fails to meaningfully respond to comments concerning the potential toxicity of the drilling mud to be used at the Proposed Project, (2) the potential for drilling to cause cross-contamination of aquifers or contamination of aquifers by the drilling mud, and (3) the EIR fails to include enforceable mitigation measures to address such impacts.

To the contrary, we find the EIR adequately addresses the use of drilling mud and the potential for contaminating aquifers by the drilling mud. In response to comments on the DEIR, the EIR was revised to clarify that, regardless of any innate toxicity that drilling mud may have, the drilling mud could become contaminated if it comes into contact with contaminated groundwater, oils, or chemicals during drilling. (Ref. Exh. B, Vol. 2 at D.6-17.) The EIR states that drilling mud must meet the requirements of DOGGR and other agencies for non-toxicity. (Ref. Exh. B, Vol. 1, Part 2 at B5-85.)

The EIR contains enforceable mitigation measures to address the potential for drilling to cause cross-contamination of aquifers or contamination of aquifers by the drilling mud. In addition to recommending Mitigation Measure HAZ-1b to address the potential impacts from contaminated drilling mud, the EIR recommends Mitigation Measure H-8b to (1) require groundwater monitoring

wells at the wellhead site to monitor water quality in both the shallow and deeper aquifers, (2) establish a groundwater quality baseline prior to any drilling activities, and (3) if hydrocarbon levels above baseline are detected, to suspend gas storage activities and depressurize the reservoir until the source of the contamination is found and corrected.

The Addendum adds text to the discussion of Impact H-5 to make clear that the use of casings and sealing of the casings will prevent interaction with contaminated groundwater during drilling of gas wells. (Ref. Exh. G at 4.)

10.27. Compliance with City's Zoning Code

AGENA asserts the Proposed Project's wellhead site is a "fuel storage yard," as defined by Sacramento City Code § 17.16.010, and that Sacramento City Code § 17.24.050 prohibits fuel storage yards within 1,000 feet of residential properties. Based on this assertion, AGENA argues that the EIR fails to disclose an inconsistency between the Proposed Project and local land use policy, and that the EIR fails to consider this asserted inconsistency as a factor in determining whether the Proposed Project may cause a significant effect on the environment.

However, the Proposed Project, and the wellhead site, in particular, is not a "fuel storage yard," as defined by Sacramento City Code § 17.16.010.[110] "Fuel storage yard" means "portions of properties where flammable and combustible liquids and gases are received by tank vessels, pipe lines, tank cars or tank vehicles, and are stored above ground, blended in bulk, or compressed, for the

[110] The April 27, 2011 ALJ ruling took official notice of Sacramento City Codes § 17.16.010 and § 17.24.050.

purpose of distributing such liquids by tank vessels, pipelines, tank cars, tank vehicles, or containers." (Sacramento City Code § 17.16.010.)

Natural gas will not be stored above ground at the Proposed Project, and neither methyl mercaptan nor natural gas liquids will be "blended in bulk, or compressed, for the purpose of [distribution] by tank vessels, pipelines, tank cars, tank vehicles, or containers." The EIR adequately considers consistency between the Proposed Project and local land use policy as a factor in determining whether the Proposed Project may cause a significant effect on the environment.

10.28. Consistency with City's General Plan

AGENA argues the Proposed Project is prohibited by Land Use Policy 7.2.7 of the City of Sacramento's General Plan due to its proximity to residential and employment uses. We disagree.

The Proposed Project's wellhead site is a utility facility to be located in an area designated as "Employment Center (Low Rise)." The City of Sacramento 2030 General Plan allows quasi-public uses, including utility facilities, in areas designated as Employment Center Low Rise. City of Sacramento 2030 General Plan, Land Use Element at 2-100. Land Use Policy 7.2.7 of the City of Sacramento 2030 General Plan applies to "industrial uses," but not to quasi-public uses, such as utility facilities.[111]

10.29. Consistency with Employment Center Land Use Designation

AGENA argues the purpose of the Employment Center designation is to generate employment. According to AGENA, the Proposed Project is

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[111] The April 27, 2011 ALJ ruling took official notice of the Land Use Element of the City of Sacramento 2030 General Plan.

inconsistent with this purpose because only three employees are needed to operate and maintain the Proposed Project and no employees will regularly work at the wellhead site. We disagree.

The Proposed Project is consistent with the Sacramento Zoning Code Employment Center designation. The purpose of the employment center zone is "to provide a flexible zone for primarily employment generating uses in a pedestrian friendly setting with ample private and/or public open space. The employment center zone also provides the opportunity for a variety and mix of supporting uses, including support retail, residential and light industrial." (Sacramento City Code § 17.56.010.[112]) The Employment Center zone allows "industrial or manufacturing that occurs entirely within an enclosed building or an enclosed outdoor area with appropriately landscaped setbacks." (Sacramento 2030 General Plan at 2-100.)

Thus, the Proposed Project is an allowed use within the Employment Center zone. Moreover, the Proposed Project will generate employment during its construction and operation. (Ref. Exh. B at B-27.)

10.30. Consistency with City's Land Use Goal LU 7.1

AGENA argues the wellhead site does not comply with the minimum floor-to-area ratio (FAR) specified in the City of Sacramento 2030 General Plan Goal LU 7.1. However, we find that the Proposed Project is consistent with the City of Sacramento 2030 General Plan minimum FAR requirements because the

[112] Pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of Sacramento City Code, § 17.56.010 (Employment Center Zone, Purpose).

Proposed Project will normally conduct a substantial amount of its operations outdoors.

Resolution No. 2010-692, adopted by the Sacramento City Council on November 30, 2010, amended the Sacramento 2030 General Plan by adding Policy LU 1.1.13 to permit development at less than the required FAR.[113] In particular, Policy LU 1.1.13 states that, where a discretionary permit is required, a development with a FAR that is less than the required minimum may be deemed consistent with the General Plan if the use involves no building or by its nature normally conducts a substantial amount of its operations outdoors. (Sacramento City Council Resolution No. 2010-692 at 3.)

10.31. Analysis of the Impacts Associated with Abandonment

AGENA argues the EIR fails to adequately address the impacts associated with abandonment of the Proposed Project. According to AGENA, the abandonment process could result in significant construction-related impacts, such as the noise, traffic, and air quality impacts associated with the initial construction of the Proposed Project. However, we find that the EIR adequately addresses the environmental impacts associated with abandonment of the Proposed Project because lead agencies may limit discussion of effects that are not potentially significant to a brief explanation as to why those effects are not potentially significant.

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[113] Pursuant to Rule 13.9 and California Evidence Code § 452(b), we take official notice of Sacramento City Council Resolution No. 2010-692, adopted November 30, 2010, and Exhibit A attached thereto adding Policy LU 1.1.13 to the City of Sacramento 2030 General Plan.

The EIR concludes that abandonment of the Proposed Project will not result in any new significant impacts beyond those described for construction and operation of the Proposed Project.[114] The only environmentally significant noise impact associated with the initial construction of the Proposed Project is noise created during drilling operations. Because no wells will be drilled in connection with abandonment of the Proposed Project, there are no significant impacts associated with abandonment of the Proposed Project.

10.32. Consistency with the City's Water Quality Protection Goal

AGENA argues the EIR fails to adequately consider the Proposed Project's consistency with the City of Sacramento's Water Quality Protection Goal because the EIR considers only construction-related impacts but not operations-related impacts of the Proposed Project. However, we find that the EIR adequately addresses the Proposed Project's consistency with the City of Sacramento 2030 General Plan, Environmental Resources Goal 1.1 (Water Quality Protection Goal). The Addendum adds text to the "Consistency Determination" discussion on Table D-8.5 to clarify that construction and operation of the Proposed Project is consistent with the City's Water Quality Protection Goal. Ref. Exh. G at 5-6.

10.33. Consistency With the City's Policy on High Impact Uses

AGENA argues the Proposed Project is a high-impact use that will place an environmental burden on the local community, and that the EIR fails to

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[114] The EIR states that the abandonment process will include (1) cleaning and abandonment of pipelines in place, (2) depressurization of the reservoir, (3) removal of surface structures, and 4) plugging and abandonment of the wells pursuant to DOGGR regulations. (Ref. Exh. B, Vol. 2, Response to Comment B5-17.)

adequately respond to the concern that the Proposed Project is inconsistent with the City of Sacramento's policy to avoid concentrating high-impact uses in minority neighborhoods. We disagree.

The EIR adequately addresses the Proposed Project's consistency with the City of Sacramento's policy to avoid concentrating high-impact uses in minority neighborhoods. The EIR states that the Proposed Project's aboveground facilities will be located on vacant land that is not located in a residential neighborhood, and the Proposed Project will not displace existing uses.

Because the adjacent residential neighborhood coexisted with the Florin Gas Field when it was an operating gas field, the Proposed Project is a compatible land use that will not result in land use changes and will not disproportionally degrade minority or low income communities. The Proposed Project will not generate disproportionately large environmental impacts such as pollution, noise, or traffic, and therefore, is not a "high-impact use," as defined by the City of Sacramento 2030 General Plan,[115] and implementation of the Proposed Project will not constitute a concentration of similar uses or high-impact uses and facilities.

10.34. Alleged Failure to include a Stable and Finite Project Description

AGENA argues the EIR fails to include a stable and finite project description because, according to AGENA, the EIR (1) was expanded to allow the storage of methyl mercaptan at the wellhead site, (2) discloses that the tanks described as "H_2O tanks" in the DEIR will store natural gas liquids, and

[115] The April 27, 2011 ALJ ruling took official notice of the City of Sacramento 2030 General Plan, Appendix E (Glossary).

(3) discloses that the pipeline to be constructed by the Proposed Project is located within a High Consequence Area. We disagree.

Responses to comments may take the form of a revision to the DEIR. The text revisions such as those above made in response to comments on the DEIR do not change the project description.

10.35. Availability of Studies and Reports Prepared for the EIR During the Public Comment Period

AGENA argues the Commission failed to make studies and reports prepared for the EIR available to the public during the public comment period. We disagree.

The majority of technical information relied upon in preparing the EIR was incorporated directly into the text of the EIR. Other technical reports and data were attached to the EIR as appendices. Additional general background and reference materials were listed at the end of each resource area discussion with sufficient citations to aid the public in locating generally available public information.

10.36. Alleged Failure to Proceed in a Manner Required by Law

AGENA argues the Commission failed to proceed in a manner required by law[116] because, according to AGENA, on September 28, 2010, the Energy

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[116] AGENA asserts that Public Resources Code § 21177(a) requires a lead agency to permit interested parties to submit evidence of CEQA noncompliance at any time prior to the close of the public hearings on the project. To the contrary, Public Resources Code § 21177(a) does not apply to lead agencies but rather to parties. It provides that "No action or proceeding may be brought pursuant to Section 21167 unless the alleged grounds for noncompliance with this division were presented to the public agency

Footnote continued on next page

Division informed AGENA it may not submit additional comments and evidence on the EIR. AGENA points to ambiguous informal communications with staff to support its argument.[117] AGENA's argument lacks merit.

Formal guidance was provided to the public through the notices issued in connection with the environmental review of the Proposed Project. In particular, the May 4, 2009 Notice of Availability of the DEIR required written comments on the DEIR to be postmarked and received no later than June 22, 2009. Rejecting additional comments and evidence on the EIR after that date was appropriate.

Formal guidance to parties in the scoping memos issued in this proceeding provided an opportunity to make arguments concerning any alleged errors in or adequacy of the EIR in supplemental briefs.[118] AGENA and other parties have taken this opportunity, and this section of this decision addresses parties' arguments concerning alleged errors in and adequacy of the EIR.

11. Mitigation Monitoring, Compliance and Reporting Program

The Commission adopts the Mitigation Monitoring, Compliance, and Reporting Plan (MMCRP), included as Section G of Ref. Exh. B. The MMCRP

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orally or in writing by any person during the public comment period provided by this division or prior to the close of the public hearing on the project before the issuance of the notice of determination." (Public Resources Code § 21177(a).)

[117] February 7, 2011 Declaration of Colin Bailey (Bailey Declaration), Attachment A. *See* Ref. Exh. C for the complete email string leading to and including the communication in Attachment A to the Bailey Declaration that is omitted from the Attachment A to the Bailey Declaration.

[118] Parties must address issues related to the EIR and environmental issues through the Commission CEQA process. (Scoping Memo at 21-22.) Parties may address in briefs any challenges they may have to the conclusions or recommendations in the EIR, or challenges to the adequacy of the EIR or the EIR's compliance with CEQA. (Amended Scoping Memo at 5.)

describes the mitigation measures, specifically details how each mitigation measure will be implemented, and includes information on the timing of implementation and monitoring requirements. The Commission also uses the MMCRP as a guide and record of monitoring the utility's compliance with its provisions. SNGS has agreed to and must comply with each measure and provision of the MMCRP.

The Energy Division must supervise and oversee the construction of the Proposed Project insofar as it relates to monitoring and enforcement of the mitigation measures described in the EIR. The Energy Division may designate outside staff to perform on-site monitoring tasks, with all associated costs to be paid by SNGS. Upon review of SNGS's compliance with the MMRCP, the Energy Division will provide SNGS with Notices to Proceed with Construction during various phases of the project as applicable under the MMCRP.

The Commission project manager (Energy Division, Environmental Projects Unit) shall have the authority to issue a Stop Work Order on the entire project, or portions thereof, for the purpose of ensuring compliance with the mitigation measures described in the EIR. Construction may not resume without a Notice to Proceed issued by the Energy Division.

12. Certification of the EIR and CEQA Findings

The Commission hereby certifies the Sacramento Natural Gas Storage Project EIR, State Clearinghouse No. 2007112089[119], with a revision to the first bulleted item listed on page 15 of the Addendum, as follows (deleted text is shown in strikethrough and new text is underlined):

[119] The EIR consists of the DEIR, the FEIR, and the Addendum, as herein modified.

> Identification of ~~emergency agencies,~~ the equipment~~,~~ and resources ~~within a 100-mile radius~~ of responders to large scale events in the project area (including but not limited to City of Sacramento, Sacramento Metropolitan Fire Department, Sacramento Police Department, Sacramento Sheriff's Department, Consumes Community Services District Fire Department, West Sacramento Fire Department, and Elk Grove Police Department). This analysis shall include an inventory of existing fire equipment, police, and fire/rescue assets.

This revision to the Addendum is consistent with the City of Sacramento's recommendations for the Service Gap Analysis required by HAZ-2ai.[120]

CEQA Guidelines § 15120 through § 15132 require the EIR to contain specific information. The various elements of the EIR satisfy these CEQA requirements.

Volume 1 of the EIR contains the comments and recommendations received on the DEIR, individual responses to these comments, and a list of persons, organizations, and public agencies commenting on the DEIR. Volume 2 of the EIR consists of the DEIR, revised in response to comments and other information received. The Addendum clarifies the EIR, but does not identify any new significant environmental effects or make any revisions that increase the severity of previously identified significant effects.

In accordance with CEQA Guidelines § 15090, the Commission, as lead agency for the Proposed Project, certifies that:

(1) The EIR has been completed in compliance with CEQA;

(2) The EIR was presented to the Commission, and the Commission has received, reviewed, and considered the

[120] Comment A10-20 of the City of Sacramento on the DEIR.

information contained in the EIR and hearing documents prior to approving the Proposed Project; and

(3) The EIR reflects the Commission's independent judgment and analysis.

We find that the EIR is a comprehensive, detailed, and complete document that discusses clearly the advantages and disadvantages of the environmentally superior alternatives, the Proposed Project, and other alternatives.

We find that the EIR is a competent and comprehensive informational tool, as CEQA requires it to be. The quality of the information in the EIR is such that we are confident of its accuracy. We have considered the information in the EIR in approving the Proposed Project.

Accordingly, we certify and adopt the EIR it in its entirety, and incorporate it by reference in this decision.

The Commission may not approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless we make one or more specific findings with respect to each significant effect, and those findings must be supported by substantial evidence in the record. In compliance with these requirements, Attachment A (CEQA Findings of Fact) sets forth one or more findings with respect to each significant effect identified in the EIR.

Attachment A and the CEQA findings set forth therein are incorporated as part of this decision, and we adopt the CEQA findings of fact included in Attachment A as if fully set forth herein.

13. Recent Legislation Addressing Natural Gas

Several legislative bills addressing natural gas pipeline safety and affecting the Commission's regulation of gas utilities were enacted into law while the Application was pending. This recently-enacted legislation emphasizes the need for increased and more effective safety procedures in the design, construction, installation, operation, and maintenance of natural gas transmission and distribution facilities.

The recently-enacted legislation includes Assembly Bill (AB) 56 (Stats. 2011, Ch.519); Senate Bill (SB) 44 (Stats. 2011, Ch.520); SB 216 (Stats. 2011, Ch.521); SB 705 (Stats. 2011, Ch.522); and SB 879 (Stats. 2011, Ch.523)[121] and applies in part or in whole to SNGS and/or the Proposed Project. Pursuant to this legislation, as discussed below, SNGS must undertake certain actions, including submitting reports and other documents to the Energy Division via advice letter filing. The Energy Division must coordinate with the Consumer Protection Safety Division (CPSD), as appropriate, its review of the advice letter filings required by this decision in response to §§ 950, 955, 956, 956.5, 957, 958, 958.5, 959, 961, 963, and 969.

13.1 AB 56, SB 216 and SB 879

AB 56 was signed by the Governor on October 7, 2011, and adds §§ 956.5, 957,[122] 958, 958.5, 959, and 969[123] to the Pub. Util. Code.

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[121] The February 17, 2012 ALJ ruling took official notice of AB 56 and SB 44, SB 216, SB 705, and SB 879.

[122] SB 216 also adds § 957, and was signed by the Governor on October 7, 2011.

[123] Section 7 of AB 56 provides that Section 6 of AB 56 (adding § 969) will not become operative if AB 56 and SB 879 are both enacted and become effective on or before January 1, 2012. SB 879 was signed by the Governor on October 7, 2011, and adds § 969

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Section 956.5 requires owners and operators of intrastate transmission and distribution lines, at least once each calendar year, to meet with each local fire department having fire suppression responsibilities in the area where those lines are located to discuss and review contingency plans for emergencies involving the intrastate transmission and distribution lines within the jurisdiction of the local fire department. This provision applies to SNGS because SNGS will own and operate an intrastate transmission line.[124]

Thus, pursuant to § 956.5, SNGS is required, at a minimum, to meet with the Sacramento Fire Department to discuss and review contingency plans for emergencies involving the Proposed Project's pipeline connecting the compressor station to SMUD Line 700.[125] However, the Florin Gas Field, wellhead facility, and compressor station portions of the Proposed Project also

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and amends § 2107. SB 879 requires the Commission, in any ratemaking proceeding in which the Commission authorizes a gas corporation to recover expenses for the gas corporation's transmission pipeline integrity management program established pursuant to Subpart O (commencing with Section 192.901) of Part 192 of Title 49 of the United States Code or related capital expenditures for the maintenance and repair of transmission pipelines, to require a gas corporation to establish a balancing account for the recovery of expenses related to the gas corporation's transmission pipeline integrity management program or related capital expenditures for the maintenance and repair of transmission pipelines; any unspent monies must be returned to ratepayers with interest. SB 879 also increases the maximum amount of the penalty provisions set forth in § 2107 to $50,000 for each offense.

[124] A transmission line is a pipeline, other than a gathering line, that: (1) Transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not down-stream from a distribution center; (2) operates at a hoop stress of 20 percent or more of specified minimum yield strength; or (3) transports gas within a storage field. (§ 192.3 of Title 49 of the Code of Federal Regulations.)

[125] All of the Proposed Project's surface facilities will be located within the City of Sacramento. FEIR at B-1.

require contingency plans for emergencies. Therefore, SNGS must, at least once each calendar year, meet with each local fire department having fire suppression responsibilities in the Proposed Project area (e.g., the City of Sacramento and the County of Sacramento fire departments) to discuss and review contingency plans for emergencies involving the Proposed Project.

Prior to the start of operation of the Proposed Project and annually thereafter, SNGS must submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, confirming that SNGS has met with each local fire department having fire suppression responsibilities in the Proposed Project area to discuss and review contingency plans for emergencies involving the Proposed Project. SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division

Among the mitigation measures we adopt for the Proposed Project include the Applicant's Proposed Measure (APM) No. 9 that requires SNGS to prepare an Emergency Response Plan/Emergency Action Plan for the Proposed Project for use in response to a pipeline-related emergency (e.g., gas leak, earthquake, accidental release of hazardous materials or waste, fire, and/or pipeline or facility damage), including measures for fire prevention. SNGS should use input from its annual meetings with local fire departments to update the Emergency Response Plan/Emergency Action Plan as appropriate. Such updates shall strengthen or maintain the Emergency Response Plan/Emergency Action Plan, but in no case weaken or lessen the coverage provided by this plan.

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 956.5.

Pursuant to § 957(a)(1), the Commission must require the installation of automatic shutoff or remote controlled sectionalized block valves on intrastate

transmission lines that are located in a high consequence area or that traverse an active seismic earthquake fault, if the Commission determines those valves are necessary for the protection of the public, unless the Commission determines that it is prohibited from doing so by Section 60104(c) of Title 49 of the U. S. Code. This provision applies to the Proposed Project's pipelines because the pipelines are intrastate transmission lines located in a high consequence area.

The mitigation measures we adopt require the wells to have fire and gas detectors and three emergency shutdown (ESD) valves: a subsurface down-hole ESD, an ESD located at the wellhead, and an ESD located at the pipeline interface that will automatically close if a high or low pressure alarm is set off, a fire alarm at the wellhead is detected, or potentially dangerous level of natural gas is detected. (Mitigation Measure HAZ-2bii.) In addition, an ESD will be installed in the pipeline connecting the wellhead to the compressor station (pipeline Segment 1), and the pipeline will be monitored following procedures outlined in the emergency plan prepared in accordance with § 192.615 of Title 49 of the Code of Federal Regulations. (FEIR at B-19, B-28.)

Mitigation measure HAZ-2bii requires block valves at each end of each pipeline segment to be closed during periods where there is no flowing gas. However, this measure does not explicitly state that the block valves at each end of each pipeline segment must be remote controlled or automatically close during abnormal conditions or in an emergency. Therefore, in addition to the emergency shutdown valve that must be installed in pipeline Segment 1, SNGS must, prior to the start of operation of the Proposed Project, install one or more remotely operated or automatic block valves on pipeline Segment 2 connecting the compressor station to SMUD Line 700 to isolate the pipeline in the event of a potentially dangerous condition.

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 957(a)(1).

Section 957(a)(2) requires owners and operators of a Commission-regulated intrastate transmission line to provide the Commission with a valve location plan, along with any recommendations for valve locations, and permits the Commission to make modifications to the valve location plan or provide for variations from any location requirements adopted by the Commission pursuant to § 957 that it deems necessary or appropriate and consistent with protection of the public. This provision applies to SNGS because SNGS will own and operate a Commission-regulated intrastate transmission line as a part of the Proposed Project.

Therefore, prior to the start of construction of the Proposed Project, SNGS must submit a valve location plan, along with any recommendations for valve locations, to the Energy Division as a Tier 2 Advice Letter, pursuant to GO 96-B, Energy Industry Rule 5.2. SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division. CPSD must prepare a resolution if it recommends that the Commission modify the valve location plan or provide for variations from any location requirements the Commission may adopt pursuant to § 957 deemed necessary or appropriate and consistent with protection of the public. In addition, prior to the start of operation of the Proposed Project, SNGS must submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, confirming the installation of remotely operated emergency shut down valves at the locations specified in the valve location plan. SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division.

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 957(a)(2).

Section 957(c) requires the Commission, in consultation with the U.S. Department of Transportation (DOT) Pipeline and Hazardous Materials Safety Administration (PHMSA), to adopt and enforce compatible safety standards for Commission-regulated gas pipeline facilities that the Commission determines should be adopted to implement the requirements of § 957.[126] The mitigation measures adopted for the Proposed Project require SNGS to comply with existing U.S. DOT PHMSA safety standards.

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 957(a)(3).

Section 958(a) requires each gas corporation to prepare and submit to the Commission a proposed comprehensive pressure testing implementation plan (Pressure Testing Plan) for all intrastate transmission lines to either pressure test those lines or to replace all segments of intrastate transmission lines that were not pressure tested or that lack sufficient details related to performance of pressure testing. The Pressure Testing Plan must provide for testing or replacing all intrastate transmission lines as soon as practicable, and must set forth criteria on which pipeline segments were identified for replacement instead of pressure testing.

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[126] Section 957(b), requiring the Commission to authorize recovery in rates for all reasonably incurred costs incurred for implementation of the requirements of § 957, does not apply here because the Commission does not conduct general rate case proceedings, approve rates, or authorize revenue requirements for independent gas storage providers.

Section 958(b) requires the Pressure Testing Plan to include (1) a timeline for completion that is as soon as practicable, (2) interim safety enhancement measures, including increased patrols and leak surveys, pressure reductions, prioritization of pressure testing for critical pipelines that must run at or near maximum allowable operating pressure values that result in hoop stress levels at or above 30 percent of specified minimum yield stress, and (3) any other measure that the Commission determines will enhance public safety during the implementation period. Engineering-based assumptions may be used to determine maximum allowable operating pressure in the absence of complete records, but only as an interim measure until such time as all the lines have been tested or replaced, in order to allow the gas system to continue to operate.

At the completion of the implementation period, § 958(c) requires all California natural gas intrastate transmission line segments to (1) have been pressure tested, (2) have traceable, verifiable, and complete records readily available and where warranted, (3) be capable of accommodating in-line inspection devices.

Section 958 applies to the SNGS because SNGS is a gas corporation, pursuant to § 222.

The Proposed Project's pipeline segments and ancillary facilities will be designed, constructed, operated, and maintained in accordance with § 192 of Title 49 of the Code of Federal Regulations.[127] (FEIR, Appendix B-2 at B-2.) In particular, pipeline sections will be welded, and 100% of the circumferential

[127] Although the Proposed Project's pipeline facilities will be constructed within Class 1, 2, and 3 locations, the pipeline facilities are conservatively designed for a Class 4 location. (Appendix B-2, System Safety and Risk of Upset at B-5.)

welds will be radiographically inspected to ensure structural integrity and to comply with applicable DOT regulations and American Petroleum Institute (API) Standard 1104 specifications. (Mitigation Measure HAZ-2bv.) After construction and prior to placing the pipelines in service, the completed pipeline segments will be hydrostatically tested by filling each segment with water and pressurizing it for several hours to a rate that exceeds the operating pressure of the pipeline and monitored for leaks, in accordance with industry standards.

In addition, prior to the issuance of a construction permit for the Proposed Project, SNGS must submit to the Commission an operation and maintenance (O&M) manual, prepared in accordance with § 192.605 of Title 49 of the Code of Federal Regulations, that addresses internal and external maintenance inspections of the completed facility, including but not limited to details of integrity testing methods to be applied, corrosion monitoring and testing of the cathodic protection system, leak monitoring, and a preventative mitigation measure analysis for the use of automatic shutdown valves per DOT Part 192.935(c) requirements. (Mitigation Measure HAZ-2bvi.) SNGS must also submit to the Commission and the DOT an integrity management program for pipelines in HCAs (high consequence areas), prepared in accordance with § 192 of Title 49 of the Code of Federal Regulations, Subpart O. (Mitigation Measure HAZ-2bix.)

In addition to these requirements, SNGS must, prior to the issuance of a construction permit for the Proposed Project, prepare and submit to the Energy Division as a Tier 2 Advice Letter, pursuant to GO 96-B, Energy Industry Rule 5.2, a proposed Pressure Testing Plan for the Proposed Project that addresses the items identified in § 958(b). SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division. In addition, the

proposed Pressure Testing Plan must provide for the retention for the useful life of the Proposed Project all pressure test data. This requirement for a Pressure Testing Plan is in addition to the requirements for SNGS to submit an O&M manual for the Proposed Project and an integrity management program for HCA portions of the Proposed Project's pipeline.

Prior to the start of operations, SNGS must submit the verified test results to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2. SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division.

Pursuant to the mitigation measures adopted for the Proposed Project, if the maximum allowable operating pressure creates a circumferential stress greater than 40% of the specified minimum yield strength, SNGS must conduct an in-line inspection of the pipeline at regular intervals, in accordance with SNGS's integrity management program in order to identify anomalies caused by internal and external corrosion and other causes of metal loss. Thus, the Proposed Project's pipelines must be capable of accommodating in-line inspection devices.

Therefore, the requirement for a Pressure Testing Plan will ensure that the Proposed Project's pipelines will have been pressure tested prior to operation, and that traceable, verifiable, and complete records will be available, as required by § 958(c).

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 958.

Section 958.5(a) requires gas corporations, twice a year, or as determined by the Commission, to file with CPSD a gas transmission and storage safety report. CPSD must review the reports to monitor each gas corporation's storage

and pipeline-related activities to assess whether the projects that have been identified as high risk are being carried out, and to track whether the gas corporation is spending its allocated funds on these storage and pipeline-related safety, reliability, and integrity activities that have received approval from the Commission.[128]

Section 958.5(b) requires the gas transmission and storage safety report to include a thorough description and explanation of the strategic planning and decision making approach used to determine and rank the gas storage projects, intrastate transmission line safety, integrity, and reliability, operation and maintenance activities, and inspections of its intrastate transmission lines. If there has been no change in the gas corporation's approach for determining and ranking which projects and activities are prioritized since the previous gas transmission and storage safety report, the subsequent report may reference the immediately preceding report.

Section 958.5 applies to the SNGS because SNGS is a gas corporation, pursuant to § 222. Therefore, SNGS should be required to periodically file with CPSD a gas transmission and storage safety report, as discussed below.

The Commission does not conduct rate cases or authorize revenue requirements for independent gas storage providers such as SNGS.[129] As a

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[128] Section 958.5(c) requires CPSD to bring to the Commission's immediate attention, if CPSD determines that there is a deficiency in a gas corporation's prioritization or administration of the storage or pipeline capital projects or operation and maintenance activities.

[129] AB 56 states that a gas corporation would be required to demonstrate to the satisfaction of the Commission in its general rate case proceeding that the requested revenue requirements will be sufficient to enable the gas corporation to fund those projects and activities necessary to maintain safe and reliable service and to meet

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result, the Commission does not approve or allocate funds for independent gas storage providers related to storage and pipeline-related safety, reliability, and integrity activities. Therefore, CPSD would not track whether SNGS is spending funds on these activities.

Because SNGS will own and operate only a single gas storage project (the Proposed Project), the gas transmission and storage safety report to be filed by SNGS need not describe or explain the strategic planning and decision making approach used to determine and rank gas storage projects. However, SNGS must describe and explain the strategic planning and decision making approach used to determine and rank the safety, integrity, and reliability, operation and maintenance activities, and inspections of the Proposed Project pipelines and other facilities.

SNGS should be required to file with CPSD a gas transmission and storage safety report only once per year because the Proposed Project is a new project that does not require ranking or prioritizing with other existing projects that have been identified as high risk and that require more frequent reviews to assess progress in implementing safety, integrity, and reliability, operation and maintenance activities, and inspections.

Therefore, SNGS must, prior to the start of operation of the Proposed Project and annually thereafter, submit to CPSD a gas transmission and storage safety report, as described in this decision.

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 958.5.

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federal and state safety requirements applicable to its gas plant, in a cost-effective manner.

13.2 SB 44

On October 7, 2011, SB 44, known as the Natural Gas Pipeline Safety Act of 2011, became law, adding Chapter 4.5 and §§ 950, 955, and 956 to the Public Utilities Code. The Natural Gas Pipeline Safety Act of 2011 (2011 Natural Gas Pipeline Safety Act) among other things, addresses emergency shut-down and pressure reduction procedures, emergency response communication procedures, and requires the Commission to establish emergency response standards in consultation with various agencies and the first responder community.

The 2011 Natural Gas Pipeline Safety Act requires the Commission to open a proceeding or to expand the scope of an existing proceeding, not later than July 1, 2012, to establish emergency response standards that are compatible with U.S. DOT PHMSA regulations[130] concerning emergency plans to ensure that intrastate transmission and distribution lines have emergency response plans that adequately prepare them for a natural disaster or malfunction in order to minimize injury to human life or property. In doing so, the Commission must consult with the California Emergency Management Agency, the State Fire Marshal, and members of California's first responder community including, but not limited to, members of the California Fire Chiefs Association.

The emergency response standards to be established by the Commission must require owners and operators of intrastate transmission and distribution lines to implement U.S. DOT PHMSA-compatible emergency response plans that require emergency shutdown and pressure reduction whenever necessary and appropriate to minimize hazards to life or property, and notice by the owner or

[130] See, § 192.615 of Title 49 of the Code of Federal Regulations.

operator to appropriate first responders of emergency shutdown and pressure reduction.[131]

Owners or operators of intrastate transmission and distribution lines must establish and maintain liaison with appropriate fire, police, and other public officials to (1) learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency, including, but not limited to, the role of the incident commander in an emergency; (2) acquaint the officials with the owner's or operator's ability in responding to a gas pipeline emergency; (3) identify the types of gas pipeline emergencies of which the owner or operator notifies the officials; (4) plan how the owner or operator and officials can engage in mutual assistance to minimize hazards to life or property; and (5) identify and update information on individual personnel responsible for the liaison with the appropriate first responder organizations.

In addition, owners and operators of intrastate transmission lines must provide the State Fire Marshal and the chief fire official of the applicable city, county, city and county, or fire protection district with instructions on how to access and utilize the National Pipeline Mapping System developed by the U.S. DOT PHMSA, utilizing data submitted pursuant to § 60132 of Title 49 of the United States Code, to improve local response capabilities for pipeline emergencies.

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[131] The 2011 Natural Gas Pipeline Safety Act provides that an incident commander may direct coordination between first responders and owners or operators during an emergency response effort to ensure timely and ongoing communication on decisions for emergency shutdown and pressure reduction.

The 2011 Natural Gas Pipeline Safety Act applies to, among other things, intrastate transmission lines that the Commission has certified to the FERC as being subject to the regulatory jurisdiction of the Commission over rates and service, pursuant to § 717(c) of Title 15 of the U.S. Code.[132] The 2011 Natural Gas Pipeline Safety Act applies to the pipelines at the Proposed Project.[133]

The Emergency Response Plan/Emergency Action Plan required by this decision applies to all pipelines and other facilities at the Proposed Project, and will be consistent with the 2011 Natural Gas Pipeline Safety Act. SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with the 2011 Natural Gas Pipeline Safety Act.

As noted above, SNGS must prepare an Emergency Response Plan/Emergency Action Plan for the Proposed Project for use in response to a pipeline-related emergency, and measures for fire prevention. The Emergency Response Plan/Emergency Action Plan must be designed in accordance with state and federal regulations, including § 192 of Title 49 of the Code of Federal Regulations, Health and Safety Code (Chapter 6.95), and Titles 19, 22, and 27 of the California Code of Regulations. (Mitigation Measure APM No. 9.) Thus, we already require the Emergency Response Plan/Emergency Action Plan to be designed in accordance with § 192 of Title 49 of the Code of Federal Regulations.

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[132] For purposes of the 2011 Natural Gas Pipeline Safety Act, § 950(a)(2), defines a transmission pipeline to include a pipeline other than a gathering line that (a) transports gas from a gathering line or storage facility to a distribution center, storage facility, or large volume customer that is not downstream from a distribution center, (b) operates at a hoop stress of 20 percent or more of specified minimum yield strength, or (c) transports gas within a storage field.

[133] As discussed elsewhere in this decision, SNGS is a competitive independent gas storage provider authorized to charge market based rates within a rate zone.

The FEIR states that SNGS will prepare an emergency plan pursuant to §192.615 of Title 49 of the Code of Federal Regulations and that the Proposed Project's pipelines will be monitored in accordance with that plan. (FEIR at B-28.) However, to ensure consistency with § 956(c), we explicitly require the Emergency Response Plan/Emergency Action Plan for the Proposed Project be compatible with the U.S. DOT PHMSA regulations concerning emergency plans contained in § 192.615 of Title 49 of the Code of Federal Regulations, including but not limited to providing for emergency shut-down and pressure reduction whenever necessary and appropriate to minimize hazards to life or property, and notification to appropriate first responders of emergency shutdown and pressure reduction.

To ensure compliance with § 956(c)(1), in addition to the requirements of APM No. 9, the Emergency Response Plan/Emergency Action Plan must provide that an incident commander may direct coordination between first responders and owners or operators during an emergency response effort to ensure timely and ongoing communication on decisions for emergency shutdown and pressure reduction.

To ensure compliance with §§ 956(c)(2) and 956(c)(3), SNGS must establish and maintain liaison with appropriate fire, police, and other public officials to (1) learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency, including, but not limited to, the role of the incident commander in an emergency; (2) acquaint the officials with SNGS's ability in responding to a gas pipeline emergency; (3) identify the types of gas pipeline emergencies of which SNGS notifies the officials; (4) plan how SNGS and officials can engage in mutual assistance to minimize hazards to life or property; and (5) identify and update SNGS information on individual

personnel responsible for the liaison with the appropriate first responder organizations.[134] Prior to the start of operation of the Proposed Project, SNGS must submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, describing its actions to comply with this requirement. SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division.

In addition, SNGS must provide the State Fire Marshal and the chief fire official of the City of Sacramento and the chief fire official of the County of Sacramento with instructions on how to access and utilize the National Pipeline Mapping System developed by the DOT PHMSA, utilizing data submitted pursuant to § 60132 of Title 49 of the Code of Federal Regulations, to improve local response capabilities for pipeline emergencies. Prior to the start of operation of the Proposed Project, SNGS must submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, describing its actions to comply with this requirement. SNGS must provide a copy of this filing to CPSD when it is filed with the Energy Division.

SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with § 956.

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[134] In addition to the requirements of SB 44, SNGS must also prepare a service gap analysis by a well control specialist prior to the start of construction to identify and recommend additional fire and explosions protection, evaluate equipment and training for first responders, establish a funding mechanism to cover costs relative to training and equipment for departments and for any infrastructure costs, and retain the services of a company recognized as proficient in emergency response to control incidents that may be beyond the technical proficiency of the fire department. (*See* Mitigation Measure HAZ-2bi.)

13.3 SB 705

SB 705 was signed by the Governor on October 7, 2011, and adds §§ 961 and 963 to the Pub. Util. Code. Among other things, SB 705 requires each gas corporation to develop and implement a plan for the safe and reliable operation of its gas pipeline facilities and requires the Commission to accept, modify, or reject the plan by year-end 2012, and requires sufficient flexibility for gas corporations to respond to safety requirements. SB 705 applies to SNGS because SNGS is a gas corporation, pursuant to § 222.

As noted above, the Commission opened R.11-02-019 to consider new pipeline safety regulations as a result of the September 9, 2010 rupture of PG&E's gas transmission pipeline in San Bruno. R.11-02-019 states that, if A.07-04-013 is granted, SNGS would be subject to the orders issued in that proceeding.

D.12-04-010 amends R.11-02-019 to address the requirements of §§ 961 and 963. SNGS is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with §§ 961 and 963.

14. Liability Insurance, Bonds, and Other Indemnifications

SNGS must obtain and maintain a general liability insurance policy with a minimum policy limit of $4 million and minimum umbrella coverage of $100 million per occurrence. In addition, SNGS must continue to provide protections in its storage lease agreements by maintaining liability insurance with limits of at least $10 million per occurrence and to indemnify lessors from any and all claims, demands, losses, damages, and other costs and actions in connection with the Proposed Project.

We have previously required some but not all applicants for authority to construct and operate independent underground natural gas storage facilities, as a condition of issuance of a CPCN, to obtain and maintain a general liability insurance policy, and, in one case, to provide surety or performance bonds to cover the costs of meeting the applicant's obligations.

In D.00-05-048, as modified by D.00-08-024, we required Lodi, before construction began until one year following the termination of operations, to maintain a general liability policy of $1 million and an umbrella policy in the amount of $50 million per occurrence. At the request of some parties to A.98-11-012, the Commission also required Lodi to provide a surety or performance bond in the amount of $20 million, to remain in effect until one year following the termination of project operations, to cover the costs of meeting Lodi's obligations under the CPCN granted by D.00-05-048, as modified by D.00-08-024, including but not limited to costs for pipeline reburial in the event of soil subsidence, and restoration costs in the event of project abandonment or bankruptcy.[135]

We granted authority in D.09-10-035 to construct and operate the Gill Ranch gas storage facility, and determined that a general liability insurance policy with coverage of at least a $50 million minimum per occurrence and $50 million annual aggregate was adequate. The Commission did not impose any additional insurance requirements on Gill Ranch Storage, LLC, (GRS) or PG&E because the settlement agreement approved by D.09-10-035 requires GRS and PG&E to promptly submit to the Commission copies of any revisions or

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[135] This requirement was modified by D.04-05-034.

amendments to the Operator Agreement between GRS and PG&E, including changes that would modify the indemnification requirements. Thus, to the extent that the Commission has previously imposed insurance requirements on independent storage providers, the required insurance coverage is similar to that proposed by SNGS. However, none of the independent underground natural gas storage facilities that we have previously granted authority to construct and operate were located in a populated urban area in proximity to hundreds of homes and many commercial and industrial enterprises.

SNGS obtained quotations from an experienced petroleum industry insurance broker for general liability coverage with a $2 million policy limit for an annual premium of approximately $50,000, and $50 million in umbrella coverage at an additional annual premium of approximately $130,000. (SNGS-11 at 3-4 and Exhibit B.) In addition, SNGS's storage lease agreements with property owners (lessors) require SNGS to maintain liability insurance with limits of at least $10 million per occurrence and to indemnify lessors from any and all claims, demands, losses, damages, and other costs and actions in connection with the Proposed Project. (SNGS-8, Exhibit I at 3.)

SNGS's proposed general liability insurance coverage is not sufficient for the Proposed Project, considering the level of insurance coverage the Commission requires other independent storage providers with facilities in rural areas to maintain, even when considering the additional protections provided in SNGS's storage lease agreements. An incident in a populated urban area would likely result in more costly losses than an incident of a similar magnitude occurring in the rural settings where other gas storage facilities are located.

In addition, SNGS must obtain a pollution insurance policy in the amount of $25 million to cover the cost of remediating any groundwater contamination

caused by the Proposed Project, and a surety bond in the amount of $5 million to cover the cost of decommissioning the Proposed Project.

In its comments on the DEIR, AGENA recommends that SNGS be required to post a bond to cover the cost of remediating any groundwater contamination that may be caused by the Proposed Project. Requiring financial assurance to address the low risk of groundwater contamination described in the FEIR is appropriate. However, it is more reasonable to require this assurance to be provided in the form of pollution insurance coverage rather than through a surety bond. As discussed below, it is also reasonable to require a surety bond that is limited to providing financial assurance for the decommissioning of the Proposed Project.

As discussed above, the EIR finds that the potential for gas to migrate to the overlying groundwater aquifer or to the surface is very low. However, the EIR is not able conclude with absolute certainty that stored gas will not migrate to the overlying groundwater aquifer or ground surface. Therefore, although unlikely, there is a small possibility that gas could migrate from the storage field. If this should occur, the consequences of such a gas release in a populated area could be significant.

There is no record concerning the amount of a bond that would be needed to cover the cost of remediating any groundwater contamination that may be caused by the Proposed Project. The Commission will require SNGS to obtain and maintain pollution insurance coverage in the amount of $25 million to provide reasonable assurance that SNGS will have the financial capacity to respond in the unlikely event that groundwater contamination results from the Proposed Project.

In addition, the Proposed Project will eventually be abandoned. A surety bond should be required to ensure funds are available to properly decommission the Proposed Project in the event of bankruptcy or other events that might affect SNGS's financial ability to properly decommission the Proposed Project.[136]

Therefore, SNGS must obtain a surety bond in the amount of $5.0 million to ensure funds are available to properly decommission the Proposed Project in the event of bankruptcy or other events that might affect SNGS's financial ability to properly decommission the Proposed Project.[137] The surety bond must remain in effect until the Proposed Project facilities have been decommissioned in accordance with all applicable requirements for that decommissioning.

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[136] SNGS states that it is familiar with the nature, amount and availability of performance and other bonds typically required for projects such as the Proposed Project, and that SNGS is ready, willing, and able to provide all such bonds as may be required by the Commission, DOGGR, and other agencies. SNGS-11 at 4.

[137] In support of D.04-05-034, in which the Commission reduced the amount of the required surety bond for the Lodi Gas Storage (LGS) project to $10 million, LGS estimated that its decommissioning costs would be "in the neighborhood of $8 million," and that a bond in the amount of $10 million would be more than adequate to cover those costs and the costs associated with the possible need to rebury pipeline as a result of subsidence of the Delta soils covering the pipeline (a circumstance not relevant to the Proposed Project). (D.04-05-034 at 5, n. 3) In its comments on Commissioner Simon's draft Alternate Decision issued in this proceeding, SNGS estimated that the costs of decommissioning the Proposed Project will be substantially less than $5 million and pointed out that the higher estimate of decommissioning costs provided by LGS is readily explained by the much greater extent of its natural gas storage project facilities. The project description of the LGS facilities includes 10 or 11 wells for gas injection and withdrawal (as compared to the maximum of six wells for gas injection and withdrawal in the Proposed Project), approximately 33 miles of field and transmission gas pipelines (as compared to the less than 2.5 miles of pipeline for the Proposed Project), and two PG&E interconnect and meter stations (as compared to the one new interconnect for the Proposed Project.

AGENA argues the Application is defective and must be denied because it does not address the amount of liability insurance that should be required for the Proposed Project, as specified in the Scoping Memo. AGENA relies on D.88-02-028 for support.

AGENA's reliance on D.88-02-028 is misplaced. D.88-02-028 upheld the Executive Director's rejection of A.87-10-016 because the application was incomplete in that it failed to include certain information required by statute.[138] The Application does not suffer from the deficiencies that prompted the Executive Director to reject A.87-10-016.[139]

15. Interconnection Issues

The interconnection arrangements stipulated to by SNGS and PG&E[140] are reasonable because they are consistent with the Gas Storage Service Rules adopted by the Gas Storage Decision. (*See* D.93-02-013, Appendix B .) The SNGS/PG&E Stipulation and the terms set forth therein are incorporated as part

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[138] A.87-10-016 failed to provide, among other things, a clear description of the proposed project, even though completeness of the application at the beginning of the proceeding was critical because of the time constraints imposed by the Permit Streamlining Act and the Commission's obligations under § 1102 and § 1705. (D.88-02-028, Findings of Fact 4 and 10.)

[139] The Rules require applications, generally, and applications to construct or extend facilities, in particular, to contain certain information. They do not require applications to address the amount of liability insurance that may be required. (*See* Rules 2.1 and 3.1.) The Scoping Memo was issued after the Application was filed and amended. Thus, the Applicant could not know at the time it filed or amended the Application that this proceeding would consider issues subsequently identified in the Scoping Memo concerning liability insurance, surety bonds or performance bonds, and similar indemnifications.

[140] On January 9, 2009, SNGS and PG&E filed a stipulation resolving all issues PG&E raises in its protest to the Application (SNGS/PG&E Stipulation).

of this decision, and we adopt the SNGS/PG&E Stipulation as if fully set forth herein. The SNGS/PG&E Stipulation is included with this decision as Attachment B.

The SNGS/PG&E Stipulation provides for arrangements between SNGS and PG&E that are similar to those established in previous agreements between PG&E and other independent storage providers.[141] The SNGS/PG&E Stipulation specifies that additional interconnections to SNGS will be made pursuant to PG&E tariffs and the Independent Storage Provider Interconnections Settlement Agreement, approved by D.06-09-039 in R.04-01-025.

The SNGS/PG&E Stipulation addresses cost responsibility for (1) modifications to PG&E's computer system and modeling program for the purpose of customer nominations and other business transactions, and (2) upgrades to the Winters Meter Station to accommodate the additional gas volumes and for metering accuracy and reliability.[142]

In addition, the SNGS/PG&E Stipulation requires SNGS and PG&E to execute an operating and balancing agreement establishing the terms and conditions for nominations and gas flow to or from SNGS at the Winters Meter Station, and a Balancing Agreement between SNGS and SMUD to account for and resolve any imbalances between the SNGS facility and the SMUD pipeline.

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[141] *See* D.97-06-091, Appendix B re: Wild Goose and D.00-05-048, Attachment E re: Lodi.

[142] Section II.B of the SNGS/PG&E Stipulation specifies that the Winters Meter Station will be upgraded in accordance with the design details specified in the letter agreement dated November 3, 2008, executed by SNGS, SMUD, and PG&E. Pursuant to the January 12, 2009 ALJ ruling, SNGS and PG&E submitted a copy of the November 3, 2008, letter agreement specifying design details applicable to upgrades to the Winters Meter Station.

Finally, the SNGS/PG&E Stipulation addresses additional interconnections to the Proposed Project, and addresses gas nominations to/from SNGS and accounting and auditing procedures.

16. Project Authorization and Statement of Overriding Considerations

For the reasons discussed in Section 4 above and summarized below, the Proposed Project is necessary to promote the safety, health, comfort, and convenience of the public. In granting the Application, the Commission recognizes that significant and unavoidable impacts will result from implementation of the Proposed Project.

Pursuant to Public Resources Code § 21080 and CEQA Guidelines § 15091(a), we may not approve or carry out a project for which an EIR has been certified which identifies one or more significant effects on the environment that would occur if the project is approved or carried out unless we make one or more of the following findings with respect to each significant effect:

(i) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment;

(ii) Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other agency; or

(iii) Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the environmental impact report.

In compliance with CEQA, we have made the required findings with respect to each significant effect identified in the EIR. These findings are set forth in the CEQA Findings of Fact attached to this decision as Attachment A,

and are incorporated as part of this decision. We adopt the CEQA Findings of Fact included in Attachment A as if fully set forth herein. In addition, the findings required pursuant to CEQA Guidelines § 15091(a)(iii) above with respect to overriding considerations are provided below.

CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. CEQA Guidelines § 15093. If the specific economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

Having (i) adopted all feasible mitigation measures, (ii) rejected as infeasible other alternatives to the Proposed Project, (iii) recognized all significant, unavoidable impacts, and (iv) balanced the benefits of the Proposed Project against the Proposed Project's significant and unavoidable impacts, the Commission hereby finds that specific economic, legal, social, technological and other benefits, detailed below, outweigh and override the significant unavoidable environmental impacts.

The Proposed Project will contribute to energy system reliability, and support the transition to cleaner renewable energy sources. In particular, the Proposed Project will provide a locally available supply of natural gas, thereby avoiding or mitigating the potential adverse impacts of capacity reductions or disruptions on PG&E's transmission system, allow for more effective integration

of renewable generation, and eliminate the risk that critical gas supplies will be diverted during high demand conditions.[143]

The Proposed Project is needed at the proposed location to improve reliability of natural gas and electric service in the Sacramento area. Because the Proposed Project will be directly connected to SMUD's power plants via SMUD Line 700, natural gas stored at the Proposed Project can be delivered over a route separate from PG&E's regional pipeline system, thereby improving the physical reliability of gas supply in the event of natural disaster, extreme weather, supply-affecting accidents or incidents, increased demand, or other supply interruptions.

Without the Proposed Project, supplies of natural gas needed to generate electricity must be transported to SMUD's power plants or pipelines via PG&E's gas transmission system, and, as a result, are vulnerable to curtailment, diversion, or other disruptions on the PG&E transmission system. If natural gas supplies were disrupted, SMUD would be required to purchase electricity from distant sources but would not likely be able to obtain enough replacement electricity to meet Sacramento's power needs. If gas deliveries to SMUD's power plants are disrupted, SMUD would have insufficient power to meet customer load and would have to implement curtailments.

California's reliance on out-of-state natural gas leaves the state vulnerable to supply disruptions and price volatility. The Proposed Project will help fulfill California's need for additional gas storage in the state.

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[143] Section 4 above sets forth in detail the reasons for finding these substantial benefits.

In addition, pressure testing and pipeline replacement that has been ordered in the wake of the San Bruno pipeline explosion will take several years, and these efforts may result in pressure and capacity reductions and occasional outages. The Proposed Project will help to reduce the impact of these activities on SMUD.

Because renewable generation technologies such as wind power may not be available to when power is needed, the more flexible natural gas-fired generation is needed to provide load following and backup services for renewable generation in order to ensure reliable service during peak demand periods. Locally-stored supplies of natural gas that will be available as a result of the Proposed Project will help ensure that natural gas-fired generation is available when needed.

The Proposed Project's unavoidable significant environmental impacts are acceptable in light of these substantial benefits. Each benefit set forth above constitutes an overriding consideration warranting approval of the Proposed Project, independent of the other benefits, despite each and every significant unavoidable impact.

The conditions we impose on the CPCN, including compliance with the MMCRP we adopt as part of our approval of the Proposed Project, will ensure that the Proposed Project can be constructed and operated in a way that protects the safety of workers and the general public. The design, construction, and operation of the Proposed Project will be subject to a comprehensive array of safety regulations at both the federal and state level, including the Commission's GO 112-E.

Numerous mitigation measures are incorporated into the Proposed Project, among other things, to protect public health and safety from potential hazards involving the leakage of gas and potential impacts to hydrology.[144] First, we require an independent, third party design review of SNGS's construction drawings, supporting calculations, and specifications, and will monitor construction to ensure compliance with all applicable laws, ordinances, regulations, standards, and mitigation measures, including a review of the pipeline control and leak detection system.

To ensure that gas can be safely stored in the reservoir and prior to the storage of natural gas, laboratory tests of cores will be conducted to determine the cap rock strength properties and assess cap rock integrity when pressurized to store natural gas.[145] These tests will also provide data to assess the effects of the cycling of gas pressure, and will determine the permeability, strength, and other properties of the cap rock. The tests will be monitored and approved by the DOGGR prior to allowing the storage of natural gas.

In addition, we require development of a gas detection plan at key points within the area over the Florin Gas Field that must be approved by the Commission and the City before construction begins. The plan will include the installation of monitoring wells equipped with instrumentation to monitor and record aquifer pressure, temperature, and other parameters. [146]

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[144] Mitigation measures to address other environmental areas, including temporary unavoidable noise impacts, are not discussed here.

[145] SNGS may also conduct bore-hole tests of the cap rock structure, if recommended after review by qualified industry experts.

[146] Groundwater monitoring wells will be placed in the shallow and deeper aquifers, and a groundwater quality baseline will be established prior to any drilling activities.

Footnote continued on next page

The gas detection plan will provide for establishing baseline conditions, periodic measurements in order to detect any leakage of stored gas into zones above the cap rock, and appropriate measures to respond to any leakage that is detected. In the event that natural gas is found to be leaking from the reservoir, the pressure in the reservoir will be reduced to lessen and eliminate the potential for leakage.

We also require development of a service gap analysis by a well control specialist to (1) identify and recommend additional fire and explosions protection including but not limited to infrastructure improvements; (2) evaluate equipment and training for first responders; and (3) establish a funding mechanism to cover costs relative to training and equipment for departments and for any infrastructure costs. In addition, SNGS must retain the services of a company recognized as proficient in emergency response to control incidents that may be beyond the technical proficiency of the fire department.

SNGS must prepare other plans that must be approved before construction or operations begin, including, among others, a bore plan and frac-out contingency plan, and an injection plan.[147] The bore plan and frac-out contingency plan will reduce the potential for a frac-out to occur and minimize any negative effects of a frac-out, and will include specific measures for

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In the event that hydrocarbon levels above baseline are detected, gas storage activities must be suspended and the reservoir depressurized until the source of contamination is found and corrected. The number, location, depth, screened interval, and instrumentation of the deep aquifer monitoring wells will be selected jointly by qualified petroleum industry and groundwater experts.

[147] A "frac-out" occurs when drilling mud reaches the earth's surface through cracks in bedrock or highly permeable soil horizons in the substrate's profile, and is often visible as a plume in a waterbody or on land in the vicinity of the drill.

monitoring frac-out, containing drilling mud, and notifying agency personnel. The injection plan will include, among other things, well drilling and abandonment plans, and the monitoring system to ensure that injected gas is confined to the intended zone.

All of the proposed pipeline segments and ancillary facilities will be designed, constructed, operated, and maintained in accordance with federal pipeline regulations and performance standards. In general, the federal regulations establish stricter safety requirements for pipelines in more heavily populated areas, and all pipe segments in the Proposed Project have been conservatively designed to meet the Class 4 (most heavily populated) location requirements.

The following mitigation measures are incorporated into the pipeline portion of the Proposed Project to minimize, detect, and control unintentional gas releases:[148]

(a) SNGS must use pipe manufactured in the year 2000 or later.

(b) The minimum depth of cover for each of the pipeline segments will be at least six-feet (72 inches) below grade. This design feature exceeds even the more rigorous federal safety requirements for pipelines in heavily populated areas, and will provide increased protection from third-party damage.[149]

(c) SNGS must subscribe to the USA North underground service alert "one-call" system that provides a toll-free number for contractors and

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[148] The EIR states that third party damage and external corrosion are the most common causes of unintentional pipeline releases (21 percent and 14 percent of unintentional releases, respectively).

[149] Federal regulations require pipelines to have a minimum cover of 36 inches in normal soil and 24 inches in consolidated rock. (§ 192 of Title 49 of the Code of Federal Regulations.)

others to use before they begin excavations, so third party intrusions can be avoided.[150]

(d) A six-inch wide brightly colored polyethylene marker tape marked with an appropriate warning (e.g., Warning – High Pressure Natural Gas Pipeline) will be installed approximately 18-inches below the ground surface, above the center of each pipeline segment.

(e) SNGS must install line marker posts such that the pipeline is readily identifiable, and install warning signs at each side of road, railroad, and waterway crossings, and at fence lines across open or agricultural property, crossings of other lines (e.g., irrigation, oil, gas, telephone, utilities) where practical, and where the line is above ground in areas accessible to the public.[151]

(f) SNGS must have a right-of-way patrol program, conducted at least twice each calendar year for road crossings and once each calendar year in other locations, to monitor for indications of leaks, nearby construction activity, and any other factors that could affect safety and operation.[152]

(g) 100% of the circumferential welds will be inspected using radiographic techniques.

(h) SNGS must prepare and submit to the Commission an Integrity Management Program for High Consequence Area portions of the pipeline in accordance with Subpart O of § 192 of Title 49 of the Code of Federal Regulations.

(i) Multiple line-of-sight gas detectors coupled to below wellhead and process perimeter shutdown valves.

(j) Pipeline leak detectors based on metered flow differences between the wellhead and compressor systems.

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[150] Participation in a one-call system is required as part of an operator's damage prevention program, pursuant to § 192.614 of Title 49 of the Code of Federal Regulations.

[151] This is required by federal regulation (§ 192.707 of Title 49 of the Code of Federal Regulations).

[152] This is required pursuant to § 192.705 of Title 49 of the Code of Federal Regulations.

(k) SNGS must conduct a leakage survey at least once each calendar year.

(l) SNGS must conduct an in-line inspection of the pipeline if the Maximum Allowable Operating Pressure creates a circumferential stress greater than 40% of the Specified Minimum Yield Strength. The in-line inspection tool must be able to identify pipe anomalies caused by internal and external corrosion and other causes of metal loss. The inspections must be performed at regular intervals, in accordance with SNGS's Integrity Management Program.

(m) A sectionalizing valve will be installed on the pipe segment between the well site and the compressor station.

(n) A control system and associated equipment will be installed to facilitate rapid closure of important safety valves, including those in the well site and on the pipe segment between the well site and the compressor station.

(o) The block valves at each end of each pipe segment will be closed to "shut-in" the facilities during periods when there is no gas flowing. The pipe segments will be pressurized during non-operational periods, but will be isolated from natural gas sources, and the pressure within each line segment will be monitored.

(p) Remotely operated ESD valves will be installed at both ends of each pipe segment, and these valves will automatically close and isolate the pipelines in the event of a potentially dangerous condition such as over-pressure, leak, or fire.

(q) The natural gas will be odorized.

(r) A software-based leak detection system will be used to alert the operator of potential leaks on the 16-inch diameter pipe segments.

(s) In addition to 16 mils of fusion bonded external coating, pipe that will be installed using the horizontal directional drilling method will have an outer Powercrete® coating.

(t) An automatically actuated intermediate block valve will be installed between the compressor station and the well site that will close within 20 seconds of a rupture to reduce the impacts from torch fires.

(u) SNGS must develop and implement a written continuing public education program that follows the guidance provided in the API's

Recommended Practice 1162 Public Awareness Programs for Pipeline Operators as their public education procedure.[153]

(v) SNGS must prepare and submit to the Commission an O&M manual that addresses internal and external maintenance inspections of the completed facility, including but not limited to details of integrity testing methods to be applied, corrosion monitoring and testing of the cathodic protection system, and leak monitoring.[154] The O&M manual must include a preventative mitigation measure analysis for the use of automatic shutdown valves per Federal DOT Part 192.935(c) requirements, and must incorporate all of SNGS's proposed mitigation.

The following mitigation measures are incorporated into the compressor station site:

(a) The compressor station will be secured by two levels of security. The perimeter of Depot Park is secured with a security fence and gate, with a 24-hour site security staff. In addition, the compressor station site will be enclosed by an eight-foot high steel security fence with barbed wire, with gates maintained in a closed and locked default status, actuated with key cards.

(b) The Station Control Center located at the compressor station site will be manned 24 hours per day.

(c) Emergency backup power will be provided by a 75 kilowatt natural gas generator.

(d) Motion detectors will be installed on posts along the perimeter security fence. Motion detected within the facility will result in an alarm and trigger the activation of security lighting during periods of darkness.

(e) Body mass sensitive intrusion alarms will be installed.

(f) A security lighting system will be installed within the compressor station site. The system will be manually operated, but will have

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[153] This is required pursuant to § 192.616 of Title 49 of the Code of Federal Regulations.

[154] The O&M Manual must be prepared in accordance with § 192.605 of Title 49 of the Code of Federal Regulations.

automatic activation in the event of an emergency alarm for fire, smoke, or intrusion.

(g) All buildings on the site will be equipped with fire and smoke detectors. In addition, the compressor building will be equipped with heat and flash detectors. All sensors will be integrated into the control system with audible and visual alarms.

The following mitigation measures are incorporated into the well site portion of the project:

(a) The well site will be enclosed by a 10-foot high masonry wall, with a security gate actuated by key card entry.

(b) The wells will be installed with fire and gas detectors and will be under continual audio/video surveillance from the continually manned compressor station. They will also be installed with three ESD valves: a subsurface down-hole ESD, an ESD located at the well head, and an ESD located at the pipeline interface. In the event of either a high or low pressure alarm, a fire alarm at the wellhead, or potentially dangerous level of natural gas is detected, these ESD valves will automatically close in order to limit the supply of natural gas to the fire or leak.

(c) A third party peer review will be conducted by a well control specialist, under the supervision of the Sacramento City Fire Department.

(d) A back-up power system will be installed to provide electrical power in an emergency or power outage.

(e) A security lighting system will be installed that will have automatic activation in the event of an intrusion.

(f) Motion detectors will be installed along the top, inside perimeter of the masonry wall. Motion detected within the facility will result in an alarm and trigger the activation of security lighting during periods of darkness.

(g) Body mass sensitive intrusion alarms will be installed.

(h) Security cameras will be installed along the inside top of the masonry wall. Visual signals will be relayed to the Control Center 24 hours per day.

(i) All alarms at the well site will be monitored 24 hours per day at the Control Center.

Thus, we require numerous measures to mitigate the unavoidable significant environmental impacts of the Proposed Project to ensure that it will be constructed and operated safely. Pursuant to GO 112-E, at least 30 days prior to the start of construction of its pipeline, SNGS must file a report with the Commission's Consumer Protection and Safety Division, Utilities Safety and Reliability Branch (USRB) containing the information specified in GO 112-E, Section 125.1. Pursuant to GO 112-E, Section 125.2, SNGS must also file with USRB, as soon as practicable but not more than 30 days after detection of an incident, a report of any failures that occur during the strength testing of pipeline to be operated at hoop stresses of 20 percent or more of the specified minimum yield strength of the pipe used.

In addition, SNGS may be subject to any applicable rules that issue from R.11-02-019 addressing safety regulations for gas transmission and distribution.

17. Designation as a Public Utility

Sections 216(a) and 222 state, in relevant part:

> **§ 216(a).** "Public utility" includes every…gas corporation…where the service is performed for, or the commodity is delivered to, the public or any portion thereof.
>
> **§ 222.** "Gas corporation" includes every corporation or person owning, controlling, operating, or managing any gas plant for compensation within this state, except where gas is made or produced on and distributed by the maker or producer through private property alone solely for his own use or the use of his tenants and not for sale to others.

As a result of our granting the Application, SNGS is a public utility gas corporation as defined by § 216(a) and § 222. As such, SNGS is subject to the Commission's jurisdiction, control, and regulation, and has all the rights and obligations of a public utility. However, SNGS must comply with § 625 before it can exercise the power of eminent domain.[155]

18. Waiver of the Cost Cap Requirement

We waive the cost cap requirement of § 1005.5 for SNGS.

Section 1005.5 requires the Commission to specify a maximum cost deemed to be reasonable and prudent for projects whose estimated costs are over $50 million (cost cap). The purpose of § 1005.5 is to limit cost recovery from ratepayers under a cost-of-service rate-of-return ratemaking approach.

The Commission has not previously applied the cost cap requirement in connection with independent gas storage facilities.[156] Because SNGS's rates will be market-based, ratepayers are not financing the Proposed Project and we do not have concerns regarding cross-subsidization by ratepayers.

19. Market Based Rates

SNGS is authorized to charge market based rates within a rate zone, and may file tariffs with a rate window. SNGS need not file any cost justification with its tariffs. SNGS must file its initial tariffs using the Tier 1 advice letter

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[155] A public utility that offers competitive services may not condemn any property for the purpose of competing with another entity unless the Commission finds that such an action would serve the public interest based on a hearing for which the owner of the property to be condemned has been noticed and the public has an opportunity to participate. (Pub. Util. Code § 625(a)(1)(A).)

[156] *See, for example,* D.00-05-048, D.02-07-036, D.09-10-035, and D.10-10-001.

process at least 30 days before commencing service. The initial tariff and all future tariff revisions may be filed without cost support.

SNGS does not currently have market power in the gas storage market because it is a new entrant in the California gas storage market and has only one customer at this time. As a new entrant, it is not likely that SNGS could drive an incumbent investor-owned utility or another gas storage provider from the gas storage market.

SNGS will be the smallest gas storage provider in California, with approximately 3.4 percent of the state's total storage working inventory and approximately 7.7 percent of northern California's total storage working inventory. In addition, there are other services competing with underground storage, including pipeline capacity and utility gas balancing services. Thus, SNGS lacks the market power and physical capacity to drive its competitors from the storage market.

SNGS will not have captive customers and will bear the entire financial risk of the Proposed Project. Ratepayers are not at risk if demand for the Proposed Project's gas storage services does not materialize. Therefore, SNGS should be authorized to charge market based rates within a rate zone, consistent with the Commission's prior decisions approving independent natural gas storage facilities.

It is not necessary to place a high regulatory burden on SNGS as a new entrant because ratepayers will not bear the risk for the Proposed Project, and SNGS's shareholders are solely at risk if demand for SNGS's gas storage services does not materialize. As with other independent gas storage providers, it is not necessary for SNGS to file cost data with the Commission to show that its tariff

rates do not fall below its short-run marginal costs. Therefore, Rule 3.1(f) is waived with respect to the provision therein for SNGS to provide cost data.

20. Request for Exemption from Requirements of § 818/§ 851

We grant SNGS's requests for exemption from the requirements of § 818 and § 851 only with respect to its construction and permanent debt financing of the Proposed Project, including the conveyance of security interests therein in support of such financing. SNGS is subject to the requirements of § 818 and § 851 with respect to any other sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, including, but not limited to, a sale of the Proposed Project to a new owner.

The Application requests that SNGS be exempt from the requirements of § 818 and § 851 with respect to its construction and permanent debt financing of the Proposed Project, including the conveyance of security interests therein in support of such financing. DRA does not oppose SNGS's requests, but recommends that SNGS not be exempt from the requirements of § 851 beyond its activities in connection with the financing of the Proposed Project.

SNGS and DRA have stipulated that only the construction and permanent debt financing of the Proposed Project should be exempt from the requirements of § 818 and § 851. (SNGS-34.) The stipulation between DRA and SNGS is reasonable.

SNGS will not have captive customers to finance the Proposed Project and SNGS shareholders will bear the financial risk of the Proposed Project. Market competition will serve to constrain the costs that SNGS can incur for capital and still compete effectively. Therefore, the Commission's supervision of SNGS's financing arrangements is not necessary to protect SNGS customers or the public interest.

21. Request for Exemption from the Competitive Bidding Rule

SNGS is exempt from the requirements of the Competitive Bidding Rule because SNGS does not have a bond rating. The Competitive Bidding Rule, among other things, provides that the competitive bidding requirement is applicable only to utilities with bond ratings of "A" or higher. (Resolution F-616.)

22. Reports and Disclosures

SNGS must annually report to the Commission's Energy Division and DRA, pursuant to § 583, commencing on December 31of the calendar year that the Proposed Project begins storage operations, (1) the capacity of the SNGS Facility (total inventory, injection and withdrawal rights); (2) average monthly inventory in storage, injections, and withdrawals; (3) daily operating records; (4) annual firm capacity under contract; (5) annual interruptible capacity sold; and (6) a report describing all safety-related incidents.

SNGS proposes to make available to the Commission for inspection on a confidential basis in accordance with the provisions of Rule 3.1(k)(1), § 583 and GO 66-C, copies of summaries of all contracts for gas storage services. In addition, as requested by DRA, SNGS agrees to annually report to the Commission and DRA, pursuant to § 583, information detailing SNGS's storage operations.[157]

The information detailing SNGS's storage operations that DRA requests be reported is similar to the information the Commission has required from other

[157] DRA May 5, 2008 Prehearing Conference Statement at 2-3; SNGS May 5, 2008 Prehearing Conference Statement at 1-2.

independent storage providers,[158] should lessen concerns about the potential exercise of market power. It is reasonable for SNGS to annually report this information to the Commission and DRA.

Additional reports are required, pursuant to recently enacted legislation. These reports are discussed in Section 13, above.

23. Request for Confidential Treatment

We grant, in part, SNGS's request for confidential treatment of its financial information for a period of two years from the effective date of this decision.[159] The financial information for which protection is granted is:

(i) Sheet 1 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Consolidated Balance Sheet at March 31, 2007";

(ii) Sheet 2 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Consolidated Statement of Income for the Period from January 1 to March 31, 2007";

(iii) Sheet 3 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Notes to the Consolidated Financial Statements at March 31, 2007"; and

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[158] *See* D.08-02-035, D.09-10-035, D.10-10-001.

[159] On April 9, 2007, SNGS filed a motion for leave to file confidential materials under seal (Motion for Protective Order). SNGS requests that the financial, budget, contract and appraisal information filed as Attachment B (Exhibit 5) to the Motion for Protective Order be filed under seal and accorded confidential treatment as provided by GO 66-C.

(iv) Sheet 4 of Attachment B to the Motion for Protective Order, titled "Sacramento Natural Gas Storage, LLC Project Financing [sic] Plan Summary."

We deny SNGS's request for confidential treatment of the remainder of the documents contained in Attachment B to the Motion for Protective Order. SNGS has already publicly disclosed the document titled, "Florin Gas Field Storage Rights Rental Report Sacramento County, California for California Natural Gas Storage, LLC" (Rental Report), and Exhibits 1 through 9 attached thereto, and, as a result, has waived any right to confidential protection of this information.[160]

We have granted requests for protection of the confidential materials in the past. We normally grant such requests for a period of two years, and will do so here. During that period the information must not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the assigned Commissioner, the assigned ALJ, or the ALJ then designated as Law and Motion Judge.

If SNGS believes that further protection of the information kept under seal is needed, it may file a motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission rules may then provide. This motion must be filed no later than one month before the expiration date.

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[160] *See* SNGS-14 (Exhibit A to Direct Testimony of Harold W. Bertholf, dated September 5, 2008). SNGS-14 is an updated version (dated June 1, 2007) of the document that SNGS seeks to protect (dated January 1, 2007), and, except for minor revisions, contains the same information. Except for minor differences, Exhibits 1 through 9 attached to the Rental Report are included in SNGS-14. In addition, Exhibit 1 attached to the Rental Report is a publicly available map of California Natural Gas Pipelines and Storage Facilities, and Exhibit 2 attached to the Rental Report is a publicly available street map of a portion of the City of Sacramento.

24. Comments on the Alternate Proposed Decision

The alternate proposed decision of Commissioner Timothy Alan Simon in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on March 29, 2012 by AGENA, City and SNGS and reply comments were filed on April 3, 2012 by AGENA and SNGS. The comments have been considered and appropriate changes have been made.

25. Assignment of Proceeding

Timothy Alan Simon is the assigned Commissioner and Richard Smith is the assigned ALJ in this proceeding.

Findings of Fact

1. SNGS filed Application 07-04-013 for a certificate of public convenience and necessity to construct and operate the Proposed Project, including ancillary pipelines and other components required to provide natural gas storage services at market-based rates.

2. Notice of the Application appeared in the Commission's April 16, 2007 Daily Calendar.

3. The Proposed Project includes (1) an underground natural gas storage reservoir; (2) a wellhead site; (3) a control center and compressor station site; (4) a buried 16-inch interconnection pipeline between the wellhead and compressor site (approximately 1.4 miles long); and (5) a 16-inch buried interconnection pipeline between the compressor site and SMUD Line 700 (approximately 0.8 mile long), which will provide, via leased capacity, an interconnection with PG&E's Line 400/401.

4. The Proposed Project will utilize a depleted natural gas reservoir (the Florin Gas Field) located partly within the City of Sacramento and partly within an adjacent unincorporated area of the County of Sacramento.

5. Approximately two-thirds of the surface area overlying the Florin Gas Field contains residential parcels (717 parcels); approximately one-quarter of the overlying surface area contains commercial or industrial parcels (43 parcels); and the remainder of the overlying surface area is owned by the City (11 parcels).

6. All surface facilities and equipment will be located within the City limits.

7. SMUD cannot operate reliably without any natural gas.

8. All of the natural gas SMUD uses is from out of state.

9. SMUD Line 700 connects SMUD's gas-fired power plants to PG&E Lines 400/401.

10. Supplies of natural gas from existing storage facilities must be transported to SMUD Line 700 via PG&E's gas transmission system.

11. The Proposed Project will be directly connected to SMUD's power plants via SMUD Line 700, and natural gas stored at the Proposed Project can be delivered to the power plants over a route separate from PG&E's regional pipeline system.

12. SMUD's gas-fired power plants are on the east side of the Sacramento River and the Deep Water Ship Channel and the SMUD Line 700 interconnection with PG&E Lines 400/401 is on the west side of these waterways. SMUD Line 700 must cross under the Sacramento River and the Deep Water Ship Channel to deliver gas from PG&E Lines 400/401 to SMUD's gas-fired power plants.

13. If SMUD Line 700 is damaged at the Sacramento River or the Deep Water Ship Channel crossings, SMUD's power plants could not operate until repairs are made or a replacement pipe segment is installed.

14. The Proposed Project will be directly connected to SMUD Line 700 on the east side of the Sacramento River and the Deep Water Ship Channel.

15. Gas stored at the Proposed Project can be delivered to SMUD's power plants if SMUD Line 700 is damaged at the Sacramento River or the Deep Water Ship Channel underwater crossings.

16. PG&E Gas Rule No. 14 contains procedures for allocating pipeline capacity in the event of constraints on the PG&E transmission and distribution system, and applies to gas entering, leaving, or transported on PG&E's system.

17. Pursuant to PG&E Gas Rule No. 14, PG&E may reduce, interrupt, or allocate natural gas transportation, storage or supply services for operational reasons or to comply with regulatory requirements in the event of projected or actual supply or capacity shortages.

18. PG&E Gas Rule No. 14 applies only to gas that is placed on or delivered through PG&E's system.

19. In the event of a disruption of PG&E's gas transmission lines, PG&E may be required to implement curtailments and, as a result, it may not be possible to deliver to SMUD gas stored at other storage facilities.

20. Gas Rule No. 14 does not authorize PG&E to take gas from a private storage facility or from SMUD Line 700.

21. Gas stored at the Proposed Project and delivered directly to SMUD's power plants through SMUD Line 700 without the use of the PG&E gas transmission system is not subject to diversion or curtailment by PG&E.

22. Other existing gas storage facilities do not protect gas deliveries to SMUD from curtailment, diversion, or disruptions on the PG&E transmission system.

23. If gas deliveries to SMUD's power plants via PG&E's transmission system are disrupted, all of SMUD's power plants will be out of service.

24. Although it is an infrequent occurrence, diversion of natural gas supplies to SMUD is possible.

25. A major disruption of service on PG&E's gas transmission system from natural or man-made causes is possible.

26. A large locally-stored natural gas supply could forestall a significant disruption of gas and electric service to the Sacramento area.

27. If natural gas supplies were disrupted, SMUD would be required to purchase electricity from distant sources but would not likely be able to obtain enough replacement electricity to reliably meet peak demand.

28. If gas deliveries to SMUD's power plants are disrupted, SMUD would have insufficient power to meet customer load and would have to implement curtailments.

29. SMUD and SNGS have entered into a 20-year agreement for gas storage services to be provided by the Proposed Project.

30. SMUD will need to operate its gas-fired power generating system for at least the 20-year term of the storage agreement between SMUD and SNGS.

31. The 2007, 2009, and 2011 IEPRs provide current assessments of natural gas supply and demand, forecasts of system reliability and the need for resource additions, and pronounce energy policies.

32. The energy assessments and policy recommendations contained in the IEPRs recognize the continuing need for increased natural gas storage capacity in the state.

33. Natural gas is used to generate more than 46 percent of California's electricity, and natural gas has become an increasingly important source of energy since more of the state's power plants rely on it.

34. California's natural gas storage capability is instrumental in helping to guard against interruptions and severe weather changes, ensuring adequate supplies and contributing to price stability.

35. The pipeline pressure testing or replacement that has been ordered in the wake of the San Bruno pipeline explosion will take several years, and customers may experience reduced system pressures and capacity as well as occasional outages as a result.

36. SNGS has the financial resources to construct and operate the Proposed Project.

37. SNGS has the technical expertise to construct and operate a gas storage facility.

38. A majority of property owners in the Proposed Project area have entered into storage leases with SNGS and many property owners have also written letters in support of the Proposed Project.

39. Supervisors Yee and Nottoli oppose the Proposed Project, and other elected representatives take no position either in favor of or in opposition to the Proposed Project.

40. New residential communities are being developed in close proximity to underground natural gas storage facilities.

41. Based on construction costs of $58 million, the Proposed Project will provide approximately $78 million in one-time economic benefits to the City and approximately $97.4 million in one-time economic benefits to the Sacramento region.

42. Total annual revenues for the Proposed Project are estimated to be $17 million for the first year of operation.

43. Based on annual revenues of $17 million, the Proposed Project will provide approximately $25 million to the City and approximately $26 million to the Sacramento region in annual economic benefits.

44. SNGS's storage lease agreements with property owners (lessors) require SNGS to maintain liability insurance with limits of at least $10 million and to indemnify lessors from any and all claims, demands, losses, damages, and other costs and actions in connection with the Proposed Project.

45. Insurance carrier rating manuals do not identify the presence of or proximity to an underground natural gas storage facility as a factor in determining the availability or cost of homeowners insurance.

46. SNGS will expand its security service patrols to include Danny Nunn Park and the George Sims Community Center.

47. SNGS will work with the Power Inn Alliance to unify and coordinate SNGS's security patrol with other community security patrol services.

48. Maintenance and improvements of Danny Nunn Park will enhance neighborhood recreational and park areas.

49. SNGS will contribute 0.25 percent of the Proposed Project's annual gross revenues (estimated to range from $25,000 to $44,000 or more per year) to the community foundation to support community projects and activities. SNGS will also contribute to other local charitable and non-profit organizations, including the local soccer league, the St. Johns Shelter for Women and Children, and the Power Inn Alliance.

50. The closest above-ground facility to any park or recreational area is the proposed wellhead site located across Power Inn Road within view of Danny Nunn Park on a parcel zoned for industrial use.

51. SNGS will erect a decorative masonry wall on the south and west sides of the wellhead site to shield the wellhead site from public view.

52. A natural gas well, designated by the DOGGR as Well Number 3, was placed into production within the borders of Danny Nunn Park, on or about September 3, 1982, and was not abandoned until September 12, 1988.

53. A natural gas well, designated by DOGGR as Well Number 7, was placed into production within Danny Nunn Park, on or about November 30, 1983, and was not abandoned until January 6, 1986.

54. The two wells in Danny Nunn Park were properly abandoned after production ended, pursuant to DOGGR requirements.

55. The Florin Gas Field currently contains over five bcf of natural gas.

56. The Proposed Project will be located in an area that has historically been and is currently zoned for a mix of residential and industrial uses, with a small amount of land zoned commercial and agricultural-open space.

57. All above-ground facilities will be located in areas zoned for industrial use, and will be contained in buildings designed to blend in with surrounding industrial facilities or shielded from public view by decorative masonry walls.

58. Homes were built directly across the street from gas wells located in Danny Nunn Park during the time that gas production was underway.

59. The City of Sacramento subdivision map, recorded on or about April 19, 1984, for residential parcels located north of Danny Nunn Park in the subdivision called South Country Estates Unit No. 2, and the City of Sacramento report of construction permit activity for homes built in the South Country Estates Unit No. 2 residential subdivision, show that construction and occupation of the homes built in the South Country Estates Unit No. 2 residential subdivision occurred in 1984 and 1985.

60. The Energy Division determined that the Application requires an EIR, and initiated an EIR scoping process in October 2007.

61. On April 8, 2009, the Energy Division released the DEIR and Notice of Availability and initially accepted written comments on the DEIR through May 25, 2009, but subsequently extended the comment period to June 22, 2009.

62. On June 10, 2010, the Energy Division released the FEIR.

63. The Energy Division prepared an addendum to the FEIR (Addendum) in response to comments on the FEIR made in the parties' supplemental briefs and supplemental reply briefs.

64. The EIR consists of the DEIR, the FEIR, and the Addendum, as modified by this decision.

65. The EIR was presented to the Commission, and the Commission received, reviewed, and considered the information contained in the EIR and hearing documents prior to approving the Proposed Project.

66. The EIR is a comprehensive, detailed, and complete document that discusses clearly the advantages and disadvantages of the environmentally superior alternatives, the Proposed Project, and other alternatives.

67. The EIR identifies significant impacts in three categories that cannot be avoided or substantially lessened. These categories are: (1) hazardous materials, public health and safety; (2) hydrology and water quality; and (3) noise.

68. The impacts identified in the EIR as significant and unavoidable are (1) the potential impact from gas leaking from the gas reservoir after re-pressurization of the Florin Gas Field for gas storage, (2) potential impacts to groundwater quality resulting from gas field operation and maintenance, and (3) construction activities at the wellhead site that would temporarily increase local noise levels.

69. There is a remote possibility that gas could migrate to the surface from around or through the cap rock, either through existing fractures or faults or other discontinuities in the cap rock.

70. If gas migrates to the surface, it could contaminate the groundwater aquifer or accumulate in structures and become an asphyxiant health hazard or explosive.

71. An incident at a gas storage facility in a populated urban area would likely result in more costly losses than an incident of the same magnitude occurring in the rural settings where other gas storage facilities are located.

72. Although Mitigation Measure HAZ-2aii would mitigate for any possible release of natural gas by requiring depressurization of the reservoir when monitoring equipment detects gas, it will take time to remediate the effects of any gas migration after gas is detected and the reservoir is depressurized.

73. Contamination of the aquifer could impact the water quality of a major potable aquifer and require a prolonged period of remediation.

74. The EIR determined that, with mitigation incorporated, approval of the Proposed Project will result in less than significant impacts in the areas of air quality, biological resources, cultural resources, geology and soils, land use planning, population and housing, public services and utilities, transportation and traffic, and visual resources.

75. In addition to the "no project" alternative, three alternative gas field locations (the Snodgrass Slough Gas Field, the Freeport Gas Field, and the Thornton Gas Field; collectively, the Alternative Gas Fields) and three alternative pipeline routes between the proposed wellhead site and proposed compressor station as identified by SNGS for the Proposed Project were fully evaluated in the EIR.

76. The Class 1 impacts identified in the EIR for the Proposed Project cannot be avoided or substantially lessened by any of the three alternative pipeline routes evaluated in the EIR.

77. Each of the Alternative Gas Fields has one or more Class 1 impacts.

78. The potential consequences of the Class 1 impacts identified for the Alternative Gas Fields are less than those of the Proposed Project because the Alternative Gas Fields are located in less populated areas and fewer people would be at risk.

79. The EIR recommends the Snodgrass Slough Gas Field as the environmentally superior alternative.

80. The annual cash flows after the first year of operation are -$14.9 million, -$13.5 million, and -$18.3 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively, and the annual cash flows after ten years of operation are -$41.2 million, -$39.7 million, and -$39.5 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively.

81. Net income after the first year of operation is -$9.04 million, -$8.83 million, and -$7.89 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively, and net income after ten years of operation is -$132.65 million, -$133.97 million, and -$93.96 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively.

82. The equity balances after ten years of operation are -$114.13 million, -$119.14 million, and -$60.72 million for the Snodgrass Slough, Freeport, and Thornton Gas Fields, respectively.

83. There are no requests at this time from potential customers other than SMUD for the Proposed Project's storage services.

84. A "dry" gas field is a gas field with natural gas containing not more than 1.6 percent of produced hydrocarbons (ethane, propane, butane, and pentanes).

85. The Florin Gas Field is a "dry" gas field that produced natural gas containing 0.03 percent of produced hydrocarbons.

86. Salt caverns have different geologic characteristics than gas fields, and salt cavern storage facilities have a higher likelihood of failure and casualties than storage facilities using gas or oil fields for storage.

87. Natural gas will not be stored above ground at the Proposed Project, and neither methyl mercaptan nor natural gas liquids will be blended in bulk, or compressed, for the purpose of distribution by tank vessels, pipelines, tank cars, tank vehicles, or containers.

88. AB 56 was signed by the Governor on October 7, 2011, and adds §§ 956.5, 957, 958, 958.5, 959, and 969 to the Pub. Util. Code.

89. SB 216 was signed by the Governor on October 7, 2011, and adds § 957 to the Pub. Util. Code.

90. SB 705 was signed by the Governor on October 7, 2011, and adds §§ 961 and 963 to the Pub. Util. Code.

91. SB 879 was signed by the Governor on October 7, 2011, and adds § 969 to the Pub. Util. Code.

92. On October 7, 2011, SB 44, known as the Natural Gas Pipeline Safety Act of 2011, became law, adding Chapter 4.5 and §§ 950, 955, and 956 to the Pub. Util. Code.

93. Applicant's Proposed Measure No. 9 requires SNGS to prepare an Emergency Response Plan/Emergency Action Plan for the Proposed Project for use in response to a pipeline-related emergency and designed in accordance with § 192 of Title 49 of the Code of Federal Regulations.

94. D.12-04-010 amends R.11-02-019 to address the requirements of §§ 961 and 963.

95. SNGS is a new entrant in the California gas storage market and has only one customer at this time.

96. SNGS will not have captive customers and will bear the entire financial risk of the Proposed Project.

97. SNGS will be the smallest gas storage provider in California, with approximately 3.4 percent of the state's total storage working inventory and approximately 7.7 percent of northern California's total storage working inventory.

98. There are other services competing with underground storage, including pipeline capacity and utility gas balancing services.

99. SNGS will not have captive customers to finance the Proposed Project and SNGS shareholders will bear the financial risk of the Proposed Project.

Conclusions of Law

1. Pursuant to the Commission's gas storage policy, the only showing of need required under § 1001 regarding demand for a competitive gas storage facility is a showing that the utility and customers agree to expanded storage service.

2. The 20-year gas storage agreement between SMUD and SNGS satisfies the showing of need required by the Commission's gas storage policy.

3. Although SNGS has made a sufficient showing of need pursuant to the Commission's gas storage policy to satisfy the Commission's requirements with regard to demand for competitive gas storage services, a fuller showing of need for the Proposed Project is necessary for the purpose of determining if there are overriding considerations that justify approval of the Proposed Project despite its adverse environmental effects.

4. The Proposed Project is consistent with the state's energy policies and approval of the Proposed Project advances those policies.

5. Public Resources Code § 25302(f) applies to this proceeding.

6. The 2007, 2009, and 2011 IEPRs assessments of natural gas supply and demand, forecasts of system reliability, and recommendations for natural gas supply and storage infrastructure are relevant to the need for the Proposed Project.

7. The Commission agrees with the 2007, 2009, and 2011 IEPRs' assessment of the need for additional natural gas storage in the state, and finds no reasonable basis for objecting to the IEPRs' analyses and conclusions.

8. There is a need for additional gas storage in the state.

9. State policy requires California's natural gas transmission and storage infrastructure to be improved to ensure sufficient capacity and alternative supply routes to overcome any disruption in the system.

10. Ensuring an ongoing supply of natural gas to SMUD and the Sacramento area by enhancing the reliability of the natural gas supply infrastructure serving hundreds of thousands of Californians in the Sacramento area advances state energy policy and is in the public interest.

11. The Proposed Project will help SMUD maintain a reliable and adequate supply of natural gas because it will provide an emergency back up supply of natural gas in the event deliveries to SMUD's power plants via PG&E's transmission system are curtailed or disrupted.

12. Other gas storage facilities will not provide the same level of reliability that a nearby storage facility directly connected to SMUD Line 700 provides because gas from these facilities would be vulnerable to diversions, curtailments, or disruptions that may occur on PG&E's transmission system.

13. The Proposed Project is a more reliable storage option for SMUD because gas stored at the Proposed Project would not be subject to curtailment or diversion by PG&E.

14. Locally-stored supplies of natural gas will help ensure that natural gas-fired generation is available when needed to support renewable generation technologies.

15. The Proposed Project will provide a locally available supply of natural gas close to SMUD's power plants that avoids the risk of transmission system constraints and mitigates the adverse impacts of capacity reductions or disruptions on PG&E's transmission system, and allows for more effective integration of renewable generation.

16. Even infrequently occurring disruptions of natural gas supplies may result in serious consequences to SMUD and its approximately 600,000 customers.

17. California's reliance on imported natural gas leaves the state vulnerable to price shocks and supply disruptions, and this dependence on natural gas requires the state to have reliable and cost-effective sources of supply and sufficient infrastructure to deliver that supply.

18. Natural gas is critical to California's energy system, and California's natural gas infrastructure system is a vital resource critical to the state's ability to provide a stable and reliable supply of gas.

19. The Proposed Project will contribute to improving the state's natural gas storage infrastructure, improve the state's ability to provide a stable and reliable supply of gas, and enhance the reliability of the state's energy infrastructure to help to mitigate the impact of supply disruptions or severe weather changes and the state's vulnerability to price shocks.

20. The Commission should give considerable weight to the views of the local community when assessing whether the Proposed Project is compatible with community values as set forth in § 1002.

21. The number of signed leases is an indicator of community support for the Proposed Project.

22. The Commission should consider the views of the elected representatives of the area when assessing the views of the local community regarding the consistency of the Proposed Project with community values because they are speaking on behalf of their constituents.

23. Because most of the community supports the Proposed Project and believes it will provide positive benefits to the community, approval of the Proposed Project will not constitute an environmental injustice and should not create the perception that an environmental injustice has been committed.

24. The Fountain Study is adequate and reasonable, and the version of IMPLAN used in the Fountain Study produces accurate estimates.

25. The Proposed Project will not have negative economic effects on the local community and Sacramento region.

26. Residential real estate developers would not construct new home projects near underground natural gas storage facilities if these locations had a negative effect on developers' ability to sell newly constructed homes.

27. The presence of the Proposed Project will not have a negative effect on local real estate property values.

28. Construction and operation of the Proposed Project will provide economic benefits to the local community and to the Sacramento area.

29. SNGS is not subject to the provisions of GO 156 at this time because the Proposed Project is not expected to generate gross annual revenues exceeding $25,000,000.

30. Consistent with GO 156 and to the extent not in conflict with the Project Stabilization Agreement, SNGS should be encouraged to actively recruit minorities, women, and disabled veterans for subcontracting work on the Proposed Project covered by the Project Stabilization Agreement.

31. SNGS should be encouraged to commit itself to diversity, consistent with GO 156, by reaching out to and employing local minority workers and subcontractors performing work that is not covered by the Project Stabilization Agreement.

32. Insurance carrier rating manuals are required by law to identify every factor or variable that affects the cost of homeowner insurance.

33. The Proposed Project will not adversely affect the cost or availability of homeowners insurance.

34. The Proposed Project will enhance overall community security by providing security service patrols for Danny Nunn Park and the George Sims Community Center.

35. Improved neighborhood security and increased financial support for community projects are consistent with community values, and enhance neighborhood recreational and park areas.

36. SNGS should establish a community foundation that will benefit the entire neighborhood including renters and those living outside the Proposed Project area, with the mission, organization and operation as described in SNGS-8 at Exhibit J, and should annually contribute not less that 0.25 percent of the Proposed Project's annual gross revenues to the community foundation.

37. Section 101-02 of the Sacramento County Zoning Code does not apply to the proposed wellhead site because the wellhead site will be located entirely within the City.

38. The presence of the Florin Gas Field has not prevented or impeded use of Danny Nunn Park.

39. Aside from possible temporary construction-related impacts, the Proposed Project will not interfere with use of the Danny Nunn Park or other parks or recreational areas.

40. The Proposed Project is consistent with recreational and park areas because no above-ground facilities will be located in any park or recreational area, and because the Proposed Project will not interfere with the continued use of parks or recreational areas or displace any existing land uses.

41. All above-ground facilities of the Proposed Project area are located in areas zoned for industrial uses, including the compressor station that will be located at Depot Park.

42. The Proposed Project area is comprised of a mix of residential and industrial land uses that developed contemporaneously. The Proposed Project is consistent with the prior and current land uses of the area, and with the historical and aesthetic values of the area.

43. It is reasonable to conclude that the potential impact of a gas release remains significant and unavoidable because the consequences of such a gas release in a populated area could be very high.

44. The CEQA findings set forth with respect to each significant effect identified in the EIR, contained in Attachment A to this decision, should be incorporated and adopted as part of this decision.

45. The EIR finds that the "no project" alternative (NPA) is environmentally superior to the Proposed Project because, if no project is constructed, all environmental impacts associated with the construction and operation of the Proposed Project would be eliminated.

46. The NPA would not satisfy SMUD's need for an emergency supply of fuel to power its gas-fired power plants.

47. The Alternative Gas Fields are environmentally superior to the Proposed Project.

48. The economic feasibility and potential profitability of the Alternative Gas Fields can be independently determined from information in the record without profit and loss projections for the Proposed Project.

49. SNGS's estimate of engineering and permitting costs (Engineering/Permitting) and the construction contingency fund amount (Construction Contingency) for each of the Alternative Gas Fields should be revised.

50. The estimated costs for Commission proceedings and related activities for the Snodgrass Slough and Thornton Gas Fields should be revised to make those costs for each of the Alternative Gas Fields the same as estimated for the Proposed Project.

51. The Operating Contingency Allowance for each of the Alternative Gas Fields should be the same percentage of Engineering/Permitting costs as that for the Proposed Project.

52. The same methodology used to calculate the Construction Contingency costs for the Proposed Project should be applied to the Alternative Gas Fields.

53. As revised, the assumptions and methodology used to develop the cost estimates and financial projections for the Alternative Gas Fields are reasonable.

54. The profitability of the Proposed Project is not relevant to determining the economic feasibility of the Alternative Gas Fields.

55. Potential revenues from Preferred Interruptible Storage and As-Available Storage should be excluded from revenue estimates for the Alternative Gas Fields.

56. SNGS's analysis reasonably estimates the maximum attainable revenue for each of the Alternative Gas Fields for their estimated working capacities.

57. The cost analysis of the Thornton Gas Field is for a "partial build out," and is consistent with the alternative described and recommended in the EIR.

58. The estimated costs for the partial build out of the Thornton Gas Field, with revisions to Engineering/Permitting and Construction Contingency costs, are reasonable.

59. SNGS appropriately analyzed the Thornton Gas Field alternative as it was described and evaluated in the EIR.

60. The Alternative Gas Fields (Snodgrass Slough, Freeport, and Thornton Gas Fields) are economically infeasible because they cannot produce a positive cash flow or net income, and are not capable of being constructed and operated in a successful manner within a reasonable amount of time. Compared to their potential profitability, the costs of constructing and operating the Alternative Gas Fields are sufficiently severe to render it impractical to proceed with their development.

61. The costs of the Alternative Gas Fields, compared to their potential profitability, are so great that an owner of a gas storage facility at any of the Alternative Gas Fields could never recover its investment, and no reasonably prudent person would proceed with the construction or development of the Snodgrass Slough, Thornton, or Freeport Gas Fields.

62. The Addendum clarifies the EIR but does not identify any new significant environmental effects or make any revisions that increase in the severity of previously identified significant effects.

63. The EIR properly relies on the project objectives as proposed by SNGS, pursuant to CEQA Guidelines § 15124(b).

64. The EIR adequately describes the physical environmental conditions in the vicinity of the Proposed Project for each area identified in the CEQA Guidelines § 21060.5 definition of "environment."

65. The EIR provides sufficient information about the major characteristics and significant environmental effects of each Alternative Gas Field to allow meaningful evaluation, analysis, and comparison with the Proposed Project.

66. It is not necessary to conduct analyses of all aspects of the Alternative Gas Fields at the same level of detail as was done for the Proposed Project because the EIR provides sufficient information to determine that the Alternative Gas Fields are environmentally superior to the Proposed Project, and are technically and legally feasible.

67. The EIR's analysis of the "no project" alternative accurately discusses what would be reasonably expected to occur in the foreseeable future if the Proposed Project were not approved.

68. The EIR does not require recirculation as a result of revisions made to the System Safety and Risk of Upset Report because the EIR does not disclose significant new information, and because the DEIR was adequately informative to permit meaningful public review and comment on the substantial adverse environmental effects of the Proposed Project.

69. The EIR appropriately identifies and analyzes the individual risk at the well site discussed in the appendices.

70. The EIR adequately discusses and analyzes the storage of methyl mercaptan at the wellhead site.

71. The EIR adequately addresses comments concerning impacts related to the integrity of abandoned wells because the EIR specifies that DOGGR will require an examination of each plugged well during the well permitting process and will require remediation of any issues prior to storage of gas.

72. The evidence on the rate of leakage of abandoned wells in oil fields is not relevant to leakage rates for abandoned wells in gas fields, does not identify the failure rate of abandoned wells in gas fields such as the Florin Gas Field, or show that the failure rate of abandoned wells in gas fields is similar to that of abandoned wells in oil fields.

73. The EIR adequately addresses the impacts of construction and operation of monitoring wells.

74. The potential environmental impacts associated with serving customers other than SMUD are not reasonably foreseeable, and should not be considered in the EIR.

75. Because no potential customer other than SMUD has requested the services offered by the Proposed Project, no customer location(s) or potential pipeline routes to the location(s) can be determined at this time, and without such information identification and evaluation of potential environmental impacts would be purely speculative.

76. The EIR adequately addresses the impacts associated with storage of natural gas liquids at the wellhead site.

77. Practical considerations prevent the development at this time of several plans in connection with adopted mitigation measures because the development of those plans cannot begin until after Commission authorization of the

Proposed Project. The adopted mitigation measures for these pending plans will ensure that, once developed, each of the plans will satisfy our specified performance criteria to mitigate identified impacts.

78. The EIR adequately responds to comments that allegedly propose potentially feasible mitigation measures to further reduce the impacts of the Proposed Project's pipeline segments.

79. Further mitigation of less-than-significant impacts is not required.

80. The EIR adequately responds to the comments of Greenberg, Robertson, and Shlemon, and explains in sufficient detail the reasons why specific comments and suggestions were not accepted.

81. The EIR as revised by the Addendum adequately discloses the main points of significant disagreement among experts concerning the risk of natural gas escaping from the Florin Gas Field through faults.

82. The EIR adequately addresses Robertson's erroneous assertion that the cap rock is unable to withstand the pressures at which gas would have to be injected into the Florin Gas Field to displace a 250-foot column of water.

83. Robertson significantly errs in estimating that 15,600 psi is needed to displace a 250-foot column of water in the reservoir, and Robertson makes other obvious errors that undercut his testimony. Correction of Robertson's error shows that 108 psi is needed to displace a 250-foot column of water in the reservoir.

84. Because the original pressure of the Florin Gas Field was approximately 1,670 psi, an injection pressure of 108 psi will not pose a substantial risk of creating new or opening any existing fractures that may be in the cap rock.

85. The EIR discloses sufficient information to evaluate whether the Proposed Project may have a significant environmental impact on groundwater.

86. The EIR adequately discusses existing contaminated groundwater and associated remediation efforts.

87. The Proposed Project will not disrupt or impact the groundwater remediation efforts at the former Sacramento Army Depot.

88. The recommendation that SNGS be required to post a bond in the event that the water basin becomes contaminated is not a mitigation measure because such a requirement would not mitigate the impacts of groundwater contamination.

89. Requiring the Proposed Project to permanently shut down in the event of groundwater contamination is disproportionate to the impact being mitigated and is unreasonable because the impact of gas contamination can be effectively mitigated by suspending storage operations and depressurizing the reservoir until the source of contamination is found and corrected.

90. The EIR adequately addresses the use of drilling mud and the potential for contaminating aquifers by the drilling mud.

91. The EIR contains enforceable mitigation measures to address the potential for drilling to cause cross-contamination of aquifers or contamination of aquifers by the drilling mud.

92. The Proposed Project, and the wellhead site, in particular, is not a "fuel storage yard," as defined by Sacramento City Code § 17.24.050.

93. The EIR adequately considers consistency between the Proposed Project and local land use policy as a factor in determining whether the Proposed Project may cause a significant effect on the environment.

94. The Proposed Project's wellhead site is a utility facility to be located in an area designated as "Employment Center (Low Rise)."

95. The City of Sacramento 2030 General Plan allows quasi-public uses, including utility facilities, in areas designated as Employment Center Low Rise.

96. Land Use Policy 7.2.7 of the City of Sacramento 2030 General Plan applies to industrial uses but not to quasi-public uses, such as utility facilities.

97. The Proposed Project is consistent with the Sacramento Zoning Code Employment Center designation.

98. The EIR adequately addresses the environmental impacts associated with abandonment of the Proposed Project because lead agencies may limit discussion of effects that are not potentially significant to a brief explanation as to why those effects are not potentially significant.

99. Because no wells will be drilled in connection with abandonment of the Proposed Project, there are no significant noise impacts associated with abandonment of the Proposed Project.

100. The City of Sacramento 2030 General Plan Policy LU 1.1.13 provides that, where a discretionary permit is required, a development with a FAR at less than the required minimum may be deemed consistent with the General Plan if the use involves no building or by its nature normally conducts a substantial amount of its operations outdoors.

101. The Proposed Project is consistent with the City of Sacramento 2030 General Plan minimum FAR requirements because the Proposed Project will normally conduct a substantial amount of its operations outdoors.

102. The EIR adequately addresses the Proposed Project's consistency with the City of Sacramento 2030 General Plan, Environmental Resources Goal 1.1 (Water Quality Protection Goal).

103. The EIR adequately addresses the Proposed Project's consistency with the City of Sacramento's policy to avoid concentrating high-impact uses in minority neighborhoods.

104. Because the adjacent residential neighborhood coexisted with the Florin Gas Field when it was an operating gas field, the Proposed Project is a compatible land use that will not result in land use changes and will not disproportionally degrade minority or low-income communities.

105. The Proposed Project will not generate disproportionately large environmental impacts such as pollution, noise, or traffic, and therefore, is not a "high-impact use," as defined by the City of Sacramento 2030 General Plan, and implementation of the Proposed Project will not constitute a concentration of similar uses or high-impact uses and facilities.

106. Official notice should be taken of:

(i) PG&E Gas Rule No. 1- Definitions (Schedule Cal. P.U.C. Sheet No. 21978-G, (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_1.pdf);

(ii) PG&E Gas Rule No. 14 - Capacity Allocation and Constraint of Natural Gas Service (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_14.pdf);

(iii) The 2007 Integrated Energy Policy Report (CEC-100-2007-008-CMF);

(iv) Sacramento County Zoning Code, § 101-02 (Application of Code to County);

(v) Sacramento City Council Resolution No. 2010-692, adopted November 30, 2010, and Exhibit A attached thereto adding Policy LU 1.1.13 to the City of Sacramento 2030 General Plan;

(vi) Sacramento City Code § 17.20.010 (Established Zones) and § 17.56.010 (Employment Center Zone, Purpose); and

(vii) The City of Sacramento report of construction permit activity in 1984 and 1985 for homes built in the South Country Estates Unit No. 2 residential subdivision.

107. The text revisions to the EIR made in response to comments on the DEIR do not change the project description.

108. Parties had an opportunity to submit comments and to make arguments concerning alleged errors contained in and the adequacy of the EIR, and the EIR's compliance with CEQA.

109. The EIR has been completed in compliance with CEQA.

110. The EIR reflects the Commission's independent judgment and analysis.

111. The quality of the information in the EIR is such that the Commission is confident of its accuracy, and the Commission has considered the information in the EIR in approving the Proposed Project as described in this decision.

112. Section 956.5 requires owners and operators of intrastate transmission and distribution lines, at least once each calendar year, to meet with each local fire department having fire suppression responsibilities in the area where those lines are located to discuss and review contingency plans for emergencies involving the intrastate transmission and distribution lines within the jurisdiction of the local fire department.

113. Section 956.5 applies to SNGS because SNGS will own and operate an intrastate transmission line.

114. SNGS should be required to meet with each local fire department having fire suppression responsibilities in the Proposed Project area at least once each calendar year to discuss and review contingency plans for emergencies involving the Proposed Project.

115. SNGS should use input from its annual meetings with local fire departments to update the Emergency Response Plan/Emergency Action Plan as

appropriate. However, such updates must strengthen or maintain the Emergency Response Plan/Emergency Action Plan, and in no case weaken or lessen the coverage provided by this plan.

116. SNGS should be required to submit a report to the Energy Division, as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, prior to the start of operation of the Proposed Project and annually thereafter, confirming that it has met with each local fire department having fire suppression responsibilities in the Proposed Project area to discuss and review contingency plans for emergencies involving the Proposed Project. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division.

117. Pursuant to § 957(a)(1), the Commission must require the installation of automatic shutoff or remote controlled sectionalized block valves on intrastate transmission lines that are located in a high consequence area or that traverse an active seismic earthquake fault, if the Commission determines those valves are necessary for the protection of the public, unless the Commission determines that it is prohibited from doing so by Section 60104(c) of Title 49 of the U.S. Code.

118. Section 957(a)(1) applies to the Proposed Project's pipelines because the pipelines are intrastate transmission lines located in an high consequence area.

119. Pursuant to § 957(a)(1), in addition to the emergency shutdown valve that must be installed in pipeline Segment 1 pursuant to adopted mitigation measures, SNGS should be required to install one or more remotely operated or automatic shutoff block valves on pipeline Segment 2 connecting the compressor station to SMUD Line 700 to isolate the pipeline in the event of a potentially dangerous condition.

120. Section 957(a)(2) requires owners and operators of a Commission-regulated intrastate transmission line to provide the Commission

with a valve location plan, along with any recommendations for valve locations, and permits the Commission to make modifications to the valve location plan or provide for variations from any location requirements adopted by the Commission pursuant to § 957 that it deems necessary or appropriate and consistent with protection of the public.

121. Section 957(a)(2) applies to SNGS because SNGS will own and operate a Commission-regulated intrastate transmission line.

122. Prior to the start of construction of the Proposed Project, SNGS should be required to provide the Energy Division with a valve location plan, as a Tier 2 Advice Letter, pursuant to GO 96-B, Energy Industry Rule 5.2, along with any recommendations for valve locations. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division. The Energy Division should be required to prepare a resolution if it recommends that the Commission modify the valve location plan or provide for variations from any location requirements the Commission may adopt pursuant to § 957 deemed necessary or appropriate and consistent with protection of the public.

123. Prior to the start of operation of the Proposed Project, SNGS should be required to submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, confirming the installation of remotely operated emergency shut down valves at the locations specified in the valve location plan or as modified by the Commission. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division.

124. Section 957(c) requires the Commission, in consultation with the U.S. DOT PHMSA, to adopt and enforce compatible safety standards for Commission-regulated gas pipeline facilities that the Commission determines should be adopted to implement the requirements of § 957.

125. Section 958 requires all California natural gas intrastate transmission line segments to have been pressure tested; have traceable, verifiable, and complete records readily available; and, where warranted, be capable of accommodating in-line inspection devices.

126. Section 958 applies to the SNGS because SNGS is a gas corporation, pursuant to § 222.

127. Prior to the start of operations, SNGS should be required to pressure test all of the pipelines installed at the Proposed Project.

128. SNGS should be required to, prior to the issuance of a construction permit for the Proposed Project, prepare and submit to the Energy Division as a Tier 2 Advice Letter, pursuant to GO 96-B, Energy Industry Rule 5.2, a proposed Pressure Testing Plan for the Proposed Project that addresses the items identified in § 958(b), and the proposed Pressure Testing Plan should be required to provide for the retention of pressure test data for the useful life of the Proposed Project. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division.

129. Prior to the start of operations, SNGS should be required to submit the verified pressure test results to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division.

130. The Pressure Testing Plan required by this decision should ensure that the Proposed Project's pipelines will have been pressure tested prior to operation, and that traceable, verifiable, and complete records will be available, as required by § 958(c).

131. Section 958.5 applies to the SNGS because SNGS is a gas corporation, pursuant to § 222.

132. SNGS should be required to file with CPSD a gas transmission and storage safety report only once per year because the Proposed Project is a new project that does not require ranking or prioritizing with other existing projects that have been identified as high risk and that require more frequent reviews to assess progress in implementing safety, integrity, and reliability, operation and maintenance activities, and inspections.

133. SNGS's gas transmission and storage safety report should describe and explain the strategic planning and decision making approach used to determine and rank the safety, integrity, and reliability, operation and maintenance activities, and inspections of the Proposed Project pipelines and other facilities.

134. The 2011 Natural Gas Pipeline Safety Act requires the Commission to open a proceeding or to expand the scope of an existing proceeding, not later than July 1, 2012, to establish emergency response standards that are compatible with the U.S. DOT PHMSA regulations concerning emergency plans to ensure that intrastate transmission and distribution lines have emergency response plans that adequately prepare them for a natural disaster or malfunction in order to minimize injury to human life or property. In doing so, the Commission must consult with the California Emergency Management Agency, the State Fire Marshal, and members of California's first responder community including, but not limited to, members of the California Fire Chiefs Association.

135. The 2011 Natural Gas Pipeline Safety Act applies to the pipelines at the Proposed Project.

136. To ensure consistency with § 956(c), the Emergency Response Plan/Emergency Action Plan for the Proposed Project should be compatible with the U.S. DOT PHMSA regulations concerning emergency plans contained in § 192.615 of Title 49 of the Code of Federal Regulations, including but not limited

to providing for emergency shut-down and pressure reduction whenever necessary and appropriate to minimize hazards to life or property, and notification to appropriate first responders of emergency shutdown and pressure reduction.

137. In addition to the requirements of APM No. 9, the Emergency Response Plan/Emergency Action Plan should provide that an incident commander may direct coordination between first responders and owners or operators during an emergency response effort to ensure timely and ongoing communication on decisions for emergency shutdown and pressure reduction.

138. To ensure consistency with §§ 956(c)(2) and 956(c)(3), SNGS should be required to establish and maintain liaison with appropriate fire, police, and other public officials to (1) learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency, including, but not limited to, the role of the incident commander in an emergency; (2) acquaint the officials with SNGS's ability in responding to a gas pipeline emergency; (3) identify the types of gas pipeline emergencies of which SNGS notifies the officials; (4) plan how the SNGS and officials can engage in mutual assistance to minimize hazards to life or property; and (5) identify and update SNGS information on individual personnel responsible for the liaison with the appropriate first responder organizations. In addition, SNGS should be required to submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, prior to the start of operation of the Proposed Project, describing its actions to comply with this requirement. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division.

139. SNGS should be required to provide the State Fire Marshal and the chief fire official of the City of Sacramento and the chief fire official of the County of Sacramento with instructions on how to access and utilize the National Pipeline Mapping System developed by the U.S. DOT PHMSA, utilizing data submitted pursuant to § 60132 of Title 49 of the Code of Federal Regulations, to improve local response capabilities for pipeline emergencies. Prior to the start of operation of the Proposed Project, SNGS should be required to submit a report to the Energy Division as an information-only filing, pursuant to GO 96-B, Energy Industry Rule 2, describing its actions to comply with this requirement. SNGS should be required to provide a copy of this filing to CPSD when it is filed with the Energy Division.

140. The Emergency Response Plan/Emergency Action Plan for the Proposed Project should be compatible with the U.S. DOT PHMSA regulations concerning emergency plans contained in § 192.615 of Title 49 of the Code of Federal Regulations, including but not limited to providing for emergency shut-down and pressure reduction whenever necessary and appropriate to minimize hazards to life or property, and notification to appropriate first responders of emergency shutdown and pressure reduction.

141. Among other things, § 961 requires each gas corporation to develop and implement a plan for the safe and reliable operation of its gas pipeline facilities and requires the Commission to accept, modify, or reject the plan by year-end 2012, and requires sufficient flexibility for gas corporations to respond to safety requirements.

142. Among other things, § 963 provides that it is the policy of the state that the Commission and each gas corporation place safety of the public and gas corporation employees as the top priority, and that the Commission must take all

reasonable and appropriate actions necessary to carry out the safety priority policy consistent with the principle of just and reasonable cost-based rates.

143. Sections 961 and 963 apply to SNGS because SNGS is a gas corporation, pursuant to § 222.

144. SNGS should be put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with §§ 950, 955, 956, 956.5, 957, 958, 958.5, 959, 961, 963, and 969.

145. The Energy Division should coordinate with the Consumer Protection Safety Division its review of the advice letter filings required by this decision in response to §§ 950, 955, 956, 956.5, 957, 958, 958.5, 959, 961, 963, and 969, as appropriate.

146. SNGS's proposed general liability insurance coverage is not sufficient for the Proposed Project, considering the level of insurance coverage the Commission requires other independent storage providers with facilities in rural areas to maintain, even when considering the additional protections provided in SNGS's storage lease agreements.

147. SNGS should be required to obtain and maintain a general liability insurance policy with a minimum policy limit of $4.0 million and minimum umbrella coverage of $100.0 million per occurrence.

148. There is no record concerning the amount of a bond that would be needed to cover the cost of remediating any groundwater contamination that may be caused by the Proposed Project.

149. SNGS should be required to post a surety bond in the amount of $5.0 million to ensure funds are available to properly decommission the Proposed Project in the event of bankruptcy or other events that might affect SNGS's financial ability to properly decommission the Proposed Project.

150. SNGS should be required to maintain pollution insurance coverage in the amount of $25 million to provide reasonable assurance that SNGS will have the financial capacity to address the low risk that groundwater contamination will result from the Proposed Project.

151. As long as SNGS's storage lease agreements indemnify property owners signing those agreements and an accident occurs at the SNGS Facility, the cost of property owners' homeowners insurance would not be affected.

152. SNGS should be required to continue to provide protections in its storage lease agreements by maintaining liability insurance with limits of at least $10.0 million per occurrence and to indemnify lessors from any and all claims, demands, losses, damages, and other costs and actions in connection with the Proposed Project.

153. The interconnection arrangements contained in the January 8, 2009 SNGS/PG&E Stipulation, included as Attachment B, and the terms set forth therein are consistent with the Gas Storage Service Rules adopted by the Gas Storage Decision, and are reasonable.

154. The following benefits outweigh and override the significant unavoidable environmental impacts of the Proposed Project:

(i) The Proposed Project is needed at the proposed location to improve reliability of natural gas and electric service in the Sacramento area. Because the Proposed Project will be directly connected to SMUD's power plants via SMUD Line 700, natural gas stored at the Proposed Project can be delivered over a route separate from PG&E's regional pipeline system in the event of natural disaster, extreme weather, supply-affecting accidents or incidents, increased demand, or other supply interruptions.

(ii) Without the Proposed Project, supplies of natural gas needed to generate electricity must be transported to SMUD's power plants or pipelines via PG&E's gas transmission system, and, as

a result, are vulnerable to curtailment, diversion, or other disruptions on the PG&E transmission system. If natural gas supplies were disrupted, SMUD would be required to purchase electricity from distant sources but would not likely be able to obtain enough replacement electricity to meet Sacramento's power needs.

(iii) The Proposed Project will help fulfill California's need for additional gas storage in the state.

(iv) The Proposed Project will help to reduce the impact of pressure and capacity reductions and outages affecting SMUD as a result of pressure testing and pipeline replacement that has been ordered in the wake of the San Bruno pipeline explosion.

(v) The Proposed Project will contribute to energy system reliability, help to mitigate energy price volatility, and support the transition to cleaner renewable energy sources. The Proposed Project will provide a locally available supply of natural gas that will avoid or mitigate the potential adverse impacts of capacity reductions or disruptions on PG&E's transmission system, allow for more effective integration of renewable generation, and eliminate the risk that critical gas supplies will be diverted during high demand conditions.

155. The Proposed Project's unavoidable significant environmental impacts are acceptable in light of its substantial benefits. Each benefit set forth constitutes an overriding consideration warranting approval of the Proposed Project, independent of the other benefits, despite each and every significant unavoidable impact.

156. SNGS should be granted a CPCN to construct and operate the Proposed Project because public convenience and necessity require the construction of the Proposed Project.

157. The conditions we impose on the CPCN, including compliance with the MMCRP we adopt as part of our approval of the Proposed Project, will ensure

that the Proposed Project can be constructed and operated in a way that protects the safety of workers and the general public.

158. The Energy Division should supervise and oversee the construction of the Proposed Project insofar as it relates to monitoring and enforcement of the mitigation measures described in the EIR, and the Energy Division should be permitted to designate outside staff to perform on-site monitoring tasks with all associated costs to be paid by SNGS.

159. Pursuant to GO 112-E, SNGS should be required to file a report with the Commission's Consumer Protection and Safety Division, USRB at least 30 days prior to the start of construction of its pipeline containing the information specified in GO 112-E, Section 125.1.

160. Pursuant to GO 112-E, Section 125.2, SNGS should be required to file with USRB, as soon as practicable but not more than 30 days after detection of an incident, a report of any failures that occur during the strength testing of pipeline to be operated at hoop stresses of 20 percent or more of the specified minimum yield strength of the pipe used.

161. SNGS is a public utility gas corporation as defined by § 216(a) and § 222. As such, SNGS is subject to the Commission's jurisdiction, control, and regulation, and has all the rights and obligations of a public utility.

162. SNGS should be required to comply with § 625 before it can exercise the power of eminent domain.

163. As a new entrant, SNGS lacks the market power and physical capacity to drive an incumbent investor owned utility or another gas storage provider from the gas storage market.

164. Ratepayers are not at risk if demand for the Proposed Project's gas storage services does not materialize.

165. It is not necessary to place a high regulatory burden on SNGS as a new entrant because ratepayers will not bear the risk for the Proposed Project and SNGS's shareholders are solely at risk if demand for SNGS's gas storage services does not materialize.

166. Rule 3.1(f) should be waived with respect the provision therein for Sacramento Natural Gas Storage, LLC, to provide cost data.

167. SNGS should be authorized to charge market based rates within a rate zone, consistent with the Commission's prior decisions approving independent natural gas storage facilities, and should be permitted file tariffs with a rate window.

168. SNGS should be required to file its initial tariffs using the Tier 1 advice letter process at least 30 days before commencing service, and should not be required to file any cost justification with its initial tariff or future tariff revisions.

169. SNGS's requests for exemption from the requirements of § 818 and § 851 should be granted only with respect to its construction and permanent debt financing of the Proposed Project, including the conveyance of security interests therein in support of such financing. SNGS should be subject to the requirements of § 818 and § 851 with respect to any other sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, including, but not limited to, a sale of the Proposed Project to a new owner.

170. Market competition will serve to constrain the costs that SNGS can incur for capital and still compete effectively, and, therefore, the Commission's supervision of SNGS's financing arrangements is not necessary to protect SNGS customers or the public interest.

171. The Competitive Bidding Rule, among other things, provides that the competitive bidding requirement is applicable only to utilities with bond ratings of "A" or higher. (Resolution F-616.)

172. SNGS is exempt from the requirements of the Competitive Bidding Rule because SNGS does not have a bond rating.

173. The information detailing SNGS's storage operations that DRA requests be reported is similar to the information the Commission has required from other independent storage providers and should lessen concerns about the potential exercise of market power.

174. SNGS should be required to annually report to the Commission's Energy Division and DRA, pursuant to § 583, commencing on December 31 of the calendar year that the Proposed Project begins storage operations, (1) the capacity of the SNGS Facility (total inventory, injection and withdrawal rights); (2) average monthly inventory in storage, injections, and withdrawals; (3) daily operating records; (4) annual firm capacity under contract; (5) annual interruptible capacity sold; and (6) a report describing all safety-related incidents.

175. Sacramento Natural Gas Storage, LLC, should be required to have in place, prior to commencing construction of the Proposed Project, all of the necessary permits, easement rights, and any other legal authority.

176. SNGS's request for confidential treatment of its financial information should be granted, for a period of two years from the effective date of this decision: (i) Sheet 1 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Consolidated Balance Sheet at March 31, 2007"; (ii) Sheet 2 of Attachment B to the Motion for Protective Order,

titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Consolidated Statement of Income for the Period from January 1 to March 31, 2007"; (iii) Sheet 3 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Notes to the Consolidated Financial Statements at March 31, 2007"; and (iv) Sheet 4 of Attachment B to the Motion for Protective Order, titled "Sacramento Natural Gas Storage, LLC Project Financng [sic] Plan Summary".

177. SNGS's request for confidential treatment of the document titled, "Florin Gas Field Storage Rights Rental Report Sacramento County, California for California Natural Gas Storage, LLC" (Rental Report), and Exhibits 1 through 9 attached thereto, contained in Attachment B to the Motion for Protective Order should be denied because SNGS has already publicly disclosed this information, and, as a result, has waived any right to confidential protection of this information.

178. A.07-04-013 should be closed.

179. The following Order should be effective immediately so the construction of the Proposed Project can begin, subject to the terms of the MMRCP and the other requirements specified in this decision.

O R D E R

IT IS ORDERED that:

1. Sacramento Natural Gas Storage, LLC, is granted a Certificate of Public Convenience and Necessity (CPCN) to construct and operate the Sacramento Natural Gas Storage Facility including (1) an underground natural gas storage

reservoir; (2) a wellhead site; (3) a control center and compressor station site; (4) a buried 16-inch interconnection pipeline (approximately 5,600 feet long) between the wellhead and compressor site; and (5) a 16-inch buried interconnection pipeline (approximately 3,500 feet long) between the compressor site and Sacramento Municipal Utility District Line 700, which will provide, via leased capacity, an interconnection with the Pacific Gas & Electric Company's Line 400/401. The CPCN is subject to the requirements contained in the following Ordering Paragraphs 8 through 32.

2. Sacramento Natural Gas Storage, LLC (SNGS), is assigned utility identification number U916G, which SNGS must include in the caption of all future filings at the Commission.

3. The Commission takes official notice of the following:

   (i) Pacific Gas & Electric Company (PG&E) Gas Rule No. 1-Definitions (Schedule Cal. P.U.C. Sheet No. 21978-G, (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_1.pdf);

   (ii) PG&E Gas Rule No. 14 - Capacity Allocation and Constraint of Natural Gas Service, (http://www.pge.com/tariffs/tm2/pdf/GAS_RULES_14.pdf);

   (iii) The 2007 Integrated Energy Policy Report (IEPR) (CEC-100-2007-008-CMF 2007 IEPR);

   (iv) The 2011 Integrated Energy Policy Report, (CEC-100-2011-001-CMF)

   (v) Sacramento County Zoning Code, § 101-02 (Application of Code to County);

   (vi) Sacramento City Code § 17.20.010 (Established Zones) and § 17.56.010 (Employment Center Zone, Purpose);

   (vii) Sacramento City Council Resolution No. 2010-692, adopted November 30, 2010, and Exhibit A attached thereto adding Policy LU 1.1.13 to the City of Sacramento 2030 General Plan; and

(viii) The City of Sacramento report of construction permit activity in 1984 and 1985 for homes built in the South Country Estates Unit No. 2 residential subdivision.

4. Attachment A to this decision (California Environmental Quality Act (CEQA) Findings of Fact) and the CEQA findings set forth therein are adopted as findings of fact and incorporated as part of this decision, as if fully set forth herein.

5. The Commission adopts the Mitigation Monitoring, Compliance, and Reporting Plan, included as Section G of the Final Environmental Impact Report, as part of its approval of the Proposed Project.

6. The Commission's Energy Division shall supervise and oversee the construction of the Sacramento Natural Gas Storage Facility (Project) insofar as it relates to monitoring and enforcement of the mitigation measures described in the Environmental Impact Report (EIR). The Energy Division may designate outside staff to perform on-site monitoring tasks, with all associated costs to be paid by Sacramento Natural Gas Storage, LLC (SNGS). Upon review of SNG's compliance with the Mitigation Monitoring, Compliance, and Reporting Plan (MMRCP), the Energy Division will provide SNGS with Notices to Proceed with Construction during various phases of the Project as applicable under the MMRCP. The Commission project manager (Energy Division, Environmental Projects Unit) shall have the authority to issue a Stop Work Order on the entire Project, or portions thereof, for the purpose of ensuring compliance with the mitigation measures described in the EIR. Construction may not resume without a Notice to Proceed issued by the Energy Division.

7. The Commission hereby certifies and adopts the Sacramento Natural Gas Storage Project Final Environmental Impact Report, State Clearinghouse No. 2007112089, as supplemented by the Addendum (EIR), as revised by this

decision, and incorporates it by reference in this decision. In accordance with California Environmental Quality Act (CEQA) Guidelines § 15090, the Commission, as lead agency for the Proposed Project, certifies that:

(i) The EIR has been completed in compliance with CEQA;

(ii) The EIR was presented to the Commission, and the Commission has received, reviewed, and considered the information contained in the EIR and hearing documents prior to approving the Proposed Project; and

(iii) The EIR reflects the Commission's independent judgment and analysis.

8. The Certificate of Public Convenience and Necessity to construct and operate the Sacramento Natural Gas Storage Facility is subject to the mitigation measures set forth in the Final Environmental Impact Report, including the Mitigation Monitoring, Compliance, and Reporting Plan (MMCRP). Sacramento Natural Gas Storage, LLC, has agreed to and must comply with each measure and provision of the MMCRP.

9. Sacramento Natural Gas Storage, LLC, must, at least once each calendar year, meet with each local fire department having fire suppression responsibilities in the Sacramento Natural Gas Storage Facility (Project) area to discuss and review contingency plans for emergencies involving the Project.

10. Sacramento Natural Gas Storage, LLC (SNGS), must, prior to the start of operation of the Sacramento Natural Gas Storage Facility (Project) and annually thereafter, submit a report to the Energy Division as an information-only filing, pursuant to General Order 96-B, Energy Industry Rule 2, confirming that it has met with each local fire department having fire suppression responsibilities in the Project area to discuss and review contingency plans for emergencies

involving the Project. SNGS must provide a copy of this filing to the Consumer Protection and Safety Division when it is filed with the Energy Division.

11. In addition to the emergency shutdown valve that must be installed in pipeline Segment 1, Sacramento Natural Gas Storage, LLC must, prior to the start of operation of the Sacramento Natural Gas Storage Facility, install one or more remotely operated or automatic shutoff block valves on pipeline Segment 2 connecting the compressor station to Sacramento Municipal Utility District Line 700 to isolate the pipeline in the event of a potentially dangerous condition.

12. Prior to the start of construction of the Sacramento Natural Gas Storage Facility, Sacramento Natural Gas Storage, LLC (SNGS), must submit to the Energy Division as a Tier 2 Advice Letter, pursuant to General Order 96-B, Energy Industry Rule 5.2, a valve location plan, along with any recommendations for valve locations. SNGS must provide a copy of this filing to the Consumer Protection and Safety Division when it is filed with the Energy Division. The Consumer Protection and Safety Division must prepare a resolution if it recommends that the Commission modify the valve location plan or provide for variations from any location requirements the Commission may adopt pursuant to Public Utilities Code § 957 deemed necessary or appropriate and consistent with protection of the public.

13. Prior to the start of operation of the Sacramento Natural Gas Storage Facility, Sacramento Natural Gas Storage, LLC (SNGS), must submit a report to the Energy Division as an information-only filing, pursuant to General Order 96-B, Energy Industry Rule 2, confirming the installation of remotely operated emergency shut down valves at the locations specified in the valve location plan or as modified by the Commission. SNGS must provide a copy of this filing to

the Consumer Protection and Safety Division when it is filed with the Energy Division.

14. Sacramento Natural Gas Storage, LLC (SNGS), must, prior to the issuance of a construction permit for the Sacramento Natural Gas Storage Facility (Project), prepare and submit to the Energy Division as a Tier 2 Advice Letter, pursuant to General Order 96-B, Energy Industry Rule 5.2, a proposed comprehensive pressure testing implementation plan (Pressure Testing Plan) for the Project that addresses the items identified in Public Utilities Code § 958(b). SNGS must provide a copy of this filing to the Consumer Protection and Safety Division when it is filed with the Energy Division. In addition, the proposed Pressure Testing Plan must provide for the retention of pressure test data for the useful life of the Project.

15. Prior to the start of operations, Sacramento Natural Gas Storage, LLC, must pressure test all of the pipelines to be installed at the Sacramento Natural Gas Storage Facility and submit the verified test results to the Energy Division as an information-only filing, pursuant to General Order 96-B, Energy Industry Rule 2.

16. Sacramento Natural Gas Storage, LLC, (SNGS) must, prior to the start of operation of the Sacramento Natural Gas Storage Facility (Project) and annually thereafter, submit to the Consumer Protection Safety Division a gas transmission and storage safety report, as described in this decision. SNGS's gas transmission and storage safety report must describe and explain the strategic planning and decision making approach used to determine and rank the safety, integrity, and reliability, operation and maintenance activities, and inspections of the Project pipelines and other facilities.

17. In addition to the requirements of Sacramento Natural Gas Storage, LLC's Proposed Measure No. 9, the Emergency Response Plan/Emergency Action Plan must provide that an incident commander may direct coordination between first responders and owners or operators during an emergency response effort to ensure timely and ongoing communication on decisions for emergency shutdown and pressure reduction.

18. The Emergency Response Plan/Emergency Action Plan for the Sacramento Natural Gas Storage Facility must be compatible with the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration's regulations concerning emergency plans contained in § 192.615 of Title 49 of the Code of Federal Regulations, including but not limited to providing for emergency shut-down and pressure reduction whenever necessary and appropriate to minimize hazards to life or property, and notification to appropriate first responders of emergency shutdown and pressure reduction.

19. Sacramento Natural Gas Storage, LLC (SNGS), must establish and maintain liaison with appropriate fire, police, and other public officials to (1) learn the responsibility and resources of each government organization that may respond to a gas pipeline emergency, including, but not limited to, the role of the incident commander in an emergency; (2) acquaint the officials with SNGS's ability in responding to a gas pipeline emergency; (3) identify the types of gas pipeline emergencies of which SNGS notifies the officials; (4) plan how the SNGS and officials can engage in mutual assistance to minimize hazards to life or property; and (5) identify and update SNGS information on individual personnel responsible for the liaison with the appropriate first responder organizations.

20. Prior to the start of operation of the Sacramento Natural Gas Storage Facility, Sacramento Natural Gas Storage, LLC (SNGS), must submit a report to the Energy Division as an information-only filing, pursuant to General Order 96-B, Energy Industry Rule 2, describing its actions to comply with this requirement. SNGS must provide a copy of this filing to the Consumer Protection and Safety Division when it is filed with the Energy Division.

21. Sacramento Natural Gas Storage, LLC (SNGS), must provide the State Fire Marshal and the chief fire official of the City of Sacramento and the chief fire official of the County of Sacramento with instructions on how to access and utilize the National Pipeline Mapping System developed by the United States Department of Transportation Pipeline and Hazardous Materials Safety Administration, utilizing data submitted pursuant to § 60132 of Title 49 of the Code of Federal Regulations, to improve local response capabilities for pipeline emergencies. Prior to the start of operation of the Sacramento Natural Gas Storage Facility, SNGS must submit a report to the Energy Division as an information-only filing, pursuant to General Order 96-B, Energy Industry Rule 2 describing its actions to comply with this requirement. SNGS must provide a copy of this filing to the Consumer Protection and Safety Division when it is filed with the Energy Division.

22. Sacramento Natural Gas Storage, LLC (SNGS) is put on notice that SNGS may be subject to any additional requirements adopted by the Commission in connection with §§ 950, 955, 956, 956.5, 957, 958, 958.5, 959, 961, 963, and 969.

23. The Energy Division must coordinate with the Consumer Protection Safety Division its review of the advice letter filings required by Ordering Paragraph Nos. 10, 12 through 15, and 20, as appropriate.

24. Sacramento Natural Gas Storage, LLC, must obtain and maintain a general liability insurance policy with a minimum policy limit of $4.0 million and minimum umbrella coverage of $100.0 million.

25. Sacramento Natural Gas Storage, LLC, (SNGS) must obtain and maintain (i) a surety bond in the amount of $5.0 million to ensure funds are available to properly decommission the Project in the event of bankruptcy or other events that might affect SNGS's financial ability to properly decommission the Project, and (ii) pollution insurance coverage in the amount of $25 million to provide reasonable assurance that SNGS will have the financial capacity to address the low risk that groundwater contamination will result from the Project. The surety bond and pollution coverage must remain in effect until the Project facilities have been decommissioned in accordance with all applicable requirements.

26. Sacramento Natural Gas Storage, LLC, must continue to provide protections in its storage lease agreements by maintaining liability insurance with limits of at least $10.0 million for property owners and to indemnify lessors from any and all claims, demands, losses, damages, and other costs and actions in connection with the Sacramento Natural Gas Storage Facility, as provided pursuant to Paragraphs 4 and 5 of the Underground Gas Storage Lease and Agreement (SNGS-8, Exhibit I at 3).

27. Sacramento Natural Gas Storage, LLC, must establish a community foundation that will benefit the entire neighborhood including renters and those living outside the Sacramento Natural Gas Storage Facility (Project) area, with the mission, organization and operation as described in SNGS-8 at Exhibit J, and to annually contribute not less that 0.25 percent of the Project's annual gross revenues to the community foundation.

28. Sacramento Natural Gas Storage, LLC, must have in place, prior to commencing construction, all of the necessary permits, easement rights, and any other legal authority, to develop the Sacramento Natural Gas Storage Facility.

29. The January 8, 2009 Sacramento Natural Gas Storage, LLC/Pacific Gas & Electric Company (SNGS/PG&E) Stipulation, included as Attachment B, and the terms set forth therein are incorporated as part of this decision, and are adopted as if fully set forth herein. SNGS must comply with the terms set forth in the SNGS/PG&E Stipulation.

30. Pursuant to General Order (GO) 112-E, at least 30 days prior to the start of construction of its pipeline, Sacramento Natural Gas Storage, LLC (SNGS), must file a report with the Commission's Consumer Protection and Safety Division, Utilities Safety and Reliability Branch (USRB) containing the information specified in GO 112-E, Section 125.1. Pursuant to GO 112-E, Section 125.2, SNGS must also file with USRB, as soon as practicable but not more than 30 days after detection of an incident, a report of any failures that occur during the strength testing of pipeline to be operated at hoop stresses of 20 percent or more of the specified minimum yield strength of the pipe used.

31. Sacramento Natural Gas Storage, LLC, must annually report to the Commission's Energy Division and the Division of Ratepayer Advocates, pursuant to § 583, commencing on December 31of the calendar year that the Sacramento Natural Gas Storage Facility (Project) begins storage operations, (1) the capacity of the Project (total inventory, injection and withdrawal rights); (2) average monthly inventory in storage, injections, and withdrawals; (3) daily operating records; (4) annual firm capacity under contract; (5) annual interruptible capacity sold; and (6) a report describing all safety-related incidents.

32. Rule 3.1(f) of the Commission's Rules of Practice and Procedure is waived with respect the provision therein for Sacramento Natural Gas Storage, LLC, to provide cost data.

33. Public Utilities Code § 1005.5(a) is waived with respect to the provision therein to specify the maximum reasonable cost for the Sacramento Natural Gas Storage Facility.

34. Sacramento Natural Gas Storage, LLC (SNGS), is authorized to charge market based rates within a rate zone, and may file tariffs with a rate window. SNGS need not file any cost justification with its tariffs. SNGS must file its initial tariffs using the Tier 1 advice letter process at least 30 days before commencing service. The initial tariff and all future tariff revisions may be filed without cost support.

35. Sacramento Natural Gas Storage, LLC's (SNGS), requests for exemption from the requirements of Pub. Util. Code § 818 and § 851 is granted only with respect to its construction and permanent debt financing of the Sacramento Natural Gas Storage Facility (Project), including the conveyance of security interests therein in support of such financing. SNGS is subject to the requirements of Pub. Util. Code § 818 and § 851 with respect to any other sale, lease, assignment, mortgage, disposition, encumbrance, merger, or consolidation, including, but not limited to, a sale of the Project to a new owner.

36. Sacramento Natural Gas Storage, LLC's (SNGS) request for confidential treatment of its financial information is granted, in part, for a period of two years from the effective date of this decision. During that period the information must not be made accessible or disclosed to anyone other than the Commission staff except on the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then

designated as Law and Motion Judge. If SNGS believes that further protection of the information kept under seal is needed, it may file a motion stating the justification for further withholding of the information from public inspection, or for such other relief as the Commission rules may then provide. This motion must be filed no later than one month before the expiration date. The financial information for which protection is granted is:

(i) Sheet 1 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Consolidated Balance Sheet at March 31, 2007";

(ii) Sheet 2 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Consolidated Statement of Income for the Period from January 1 to March 31, 2007";

(iii) Sheet 3 of Attachment B to the Motion for Protective Order, titled "California Natural Gas Storage, LLC (Parent) and Sacramento Natural Gas Storage, LLC (Wholly Owned Subsidiary) Notes to the Consolidated Financial Statements at March 31, 2007"; and

(iv) Sheet 4 of Attachment B to the Motion for Protective Order, titled "Sacramento Natural Gas Storage, LLC Project Financng [sic] Plan Summary."

37. Sacramento Natural Gas Storage, LLC's request for confidential treatment of the document titled, "Florin Gas Field Storage Rights Rental Report Sacramento County, California for California Natural Gas Storage, LLC" (Rental Report), and Exhibits 1 through 9 attached thereto, is denied.

38. Application 07-04-013 is closed.

This order is effective today.

Dated _____, at San Francisco, California.