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GAVIN NEWSOM, Governor
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September 24, 2024

Katie Nall
Santa Barbara County – Planning and Development
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**SUBJECT: MITIGATED NEGATIVE DECLARATION FOR THE SOCAL GAS LINE
247 SEGMENT 2 REPLACEMENT PROJECT, SCH NO. 2024081294,
SANTA BARBARA COUNTY, CA**

Dear Katie Nall:

The California Department of Fish and Wildlife (CDFW) reviewed the Mitigated Negative Declaration (MND) from the County of Santa Barbara (County) for the SoCal Gas Line 247 Segment 2 Replacement Project (Project) pursuant to the California Environmental Quality Act (CEQA) and CEQA Guidelines¹.

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

CDFW ROLE

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

¹ CEQA is codified in the California Public Resources Code in section 21000 et seq. The "CEQA Guidelines" are found in Title 14 of the California Code of Regulations, commencing with section 15000.

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CDFW may also act as a Responsible Agency under CEQA. (Pub. Resources Code, § 21069; CEQA Guidelines, § 15381). CDFW expects that it may need to exercise regulatory authority as provided by the Fish and Game Code. As proposed, for example, the Project may be subject to CDFW’s lake and streambed alteration regulatory authority (Fish & G. Code, § 1600 et seq.). Likewise, to the extent implementation of the Project as proposed may result in “take” as defined by State law² of any species protected under the California Endangered Species Act (CESA) (Fish & G. Code, § 2050 et seq.) or the Native Plant Protection Act (NPPA; Fish & G. Code, §1900 et seq.), the Project proponent may seek related take authorization as provided by the Fish and Game Code.

PROJECT DESCRIPTION SUMMARY

Proponent: Southern California Gas Company (SCGC)

Objective: The objective of the Project is to conduct an in-kind replacement of a 2,356-foot segment of an existing 16-inch high-pressure natural gas transmission pipeline (Line 247). The proposed Project will not result in any changes to Line 247’s capacity but is to upgrade the line to a Class 3 safety rating. Primary Project activities are proposed to occur in three phases:

Phase 1: The Project proponent will jack and bore 176 feet of replacement pipeline under El Capital Canyon Creek.

Phase 2: On the eastern side of the line, there would be an installation of an 8-inch temporary bypass line, running approximately 56 linear feet along the existing line. There will be an installation of 80 feet of replacement pipeline between the western tie-in and the bore entry hold, and 2,100 feet of replacement line between the receiving pit and the eastern tie-in.

Phase 3: The replacement line will connect the existing line at the eastern tie-in. The temporary by-pass would be removed and the 256-foot section of the existing pipeline, running under the El Capitan Creek, will be capped, cleaned, filled with slurry, and abandoned in place. An open trench will allow the 1,400-foot section of the existing pipeline east of the bore receiving pit to be removed. Lastly, the trench will be backfilled with a layer of slurry and recompact with native soil.

Location: The Project is located within the County of Santa Barbara, north of U.S Highway 101 along the Gaviota Coast. The Project area can be accessed through Naples Access Road and Bear Road, which connect to Highway 101. Calle Real and El Capitan State Park are south of the Project area. The El Capitan Canyon Resort and Ranch is north-west to the Project area and north-east are avocado production and pasture for cattle at El Capitan Ranch. Cañada del Capitan, also known as El Capitan

² “Take” is defined in Section 86 of the Fish and Game Code as “hunt, pursue, catch, capture, or kill, or attempt to hunt, pursue, catch, capture, or kill.”

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Creek, runs through the Project, west of El Capitan Canyon Resort. The creek contains two concrete lined stormwater channels and two road culverts, which go through the center of the Project area. The Pacific Ocean lies approximately 0.25 miles south of the Project area.

Biological Setting: The Project area is partly located within the coastal zone boundary. The land cover types surrounding the Project area consist of agricultural land, developed, landscaped coast live oak, landscaped coast redwood, landscaped toyon, non-native tree grove, orchard, ornamental and landscaped, unvegetated, and upland mustard and other ruderal forbs. Reconnaissance surveys were conducted by Rincon Consultants Inc. on September 21, 2022, and October 12, 2022, for focused tree inventory. Additionally, a rare plant survey was conducted on June 12, 2023. The entire 2,356-foot alignment, two staging and laydown areas, boring and receiving pits, two tie-ins, and surrounding workspace are referred to as the Project footprint. The Project footprint with an additional 100-foot buffer was included in the Study Area, totaling to 25-acres.

The topography of the Project area slopes gently along the eastern portion and becomes slightly hilly as it surrounds the resort and creek area. The vegetation communities within the Study Area are Lemonade berry scrub (*Rhus integrifolia* Shrubland Alliance, 1.91-acres), California sycamore woodland (*Platanus racemosa* Woodland Alliance, 1.05-acres), California sagebrush scrub (*Artemisia californica* Shrubland Alliance, 0.13-acres), coyote brush scrub (*Baccharis pilularis* Shrubland Alliance, 0.61-acres), and coast live oak woodland (*Quercus agrifolia* Woodland Alliance, 0.67-acres). The total area of disturbance is approximately 5.50-acres, including 0.42-acres of native vegetation and 1.35 acres of non-native vegetation. A sensitive species that has potential to occur within the Project area and are of potential concern is the California red-legged frog (*Rana draytonii*, Federally Threatened and Species of Special Concern (SSC)).

The MND provides implementation of worker training (MM-BIO-01), biological monitoring (MM-BIO-02), habitat fencing (MM-BIO-03), habitat restoration (MM-BIO-05), tree protection and replacement (MM-BIO-06 through MM-BIO-08) as mitigation to impacts on vegetation communities. Indirect impacts from construction, such as erosion and runoff, will be minimized through compliance with SoCal Gas' stormwater manual and SoCal Gas' use of appropriate Best Management Practices (MM-BIO-13). MM-BIO-05 describes the implementation of a Habitat Restoration Plan for the re-vegetation of native habitat and biological resources to be impacted during the pipeline removal and replacement. The mitigation ratio for impacts to native habitat is a minimum of 3:1. MM-BIO-06 describes the implementation of a Tree Protection Plan (TPP) to mitigate the impacts to trees. Additionally, MM-BIO-07 provides the replacement ratio for all protected trees to be 10:1 within the Tree Replacement Plan. Maintenance for both plans will occur over five years.

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COMMENTS AND RECOMMENDATIONS

CDFW offers the comments and recommendations below to assist the County in adequately identifying and/or mitigating the Project's significant, or potentially significant, direct and indirect impacts on fish and wildlife (biological) resources. Additional comments are included to improve the document.

COMMENT # 1: Impacts to Streams

Issue: There may be potential impacts to El Capitan Creek during Phase 1 of the Project.

Specific impact: Project activities (i.e. jack and bore and ground disturbance) may cause impacts, such as sedimentation and degradation of water quality, to El Capitan Creek and associated species.

Why impact would occur: Phase 1 of the Project proposes the jack and bore method under El Capitan Creek to avoid work within the stream itself. While the MND states that El Capitan Creek will be avoided, CDFW disagrees that no impacts may occur to the stream. Jack and bore has the potential to impact the streams in which it is intended to avoid. If a frac-out or spills from drilling fluid containment occurs in or adjacent to an environmentally sensitive area, there is reason for concern. While drilling fluid may not be toxic, the fine particles can be detrimental for plants and animals, particularly in an aquatic environment. Even with the Project in which jack and bore is beneath an intermittent stream and concrete-lined channel, there may be aquatic habitats downstream. If an unanticipated frac-out or spill event occurs, notifying CDFW of the work in advance provides the opportunity for event occurs, clean-up activities to be more expeditiously reviewed and/or authorized.

Evidence impact may be significant: CDFW exercises its regulatory authority as provided by Fish and Game Code section 1600 et seq. to conserve fish and wildlife resources, which includes rivers, streams, or lakes and associated natural communities. Fish and Game Code section 1602 requires any person, state or local governmental agency, or public utility to notify CDFW prior to beginning any activity that may do one or more of the following:

1. Divert or obstruct the natural flow of any river, stream, or lake;
2. Change the bed, channel, or bank of any river, stream, or lake;
3. Use material from any river, stream, or lake; or
4. Deposit or dispose of material into any river, stream, or lake.

The Project may adversely affect the existing water features and the hydrology pattern of the Project area. Inadequate avoidance and mitigation measures will result in the Project continuing to have a substantial adverse direct and cumulative effect, either directly or through habitat modifications, on any species identified as a candidate,

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sensitive, or special status species in local or regional plans, policies, or regulations, or by CDFW.

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #1: Lake and Streambed Alteration Agreement

The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and potentially obtain an LSA Agreement from CDFW. Additionally, the Project proponent shall notify CDFW in the event of a frac-out. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. Please visit CDFW's Lake and Streambed Alteration Program webpage for more information (CDFW 2024).

Recommendation #1: CEQA

CDFW's issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project's CEQA document should fully identify the Project's potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the County consider CDFW's comments and revise the MND by incorporating the mitigation measures recommended in this letter into the Project's environmental document. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement, or restoration, and/or protection, and management of mitigation lands in perpetuity.

COMMENT # 2: Noise Impacts to Birds and Raptors

Issue: The MND does not discuss or provide mitigation measures to reduce noise impacts to nesting birds and raptors due to construction activities.

Specific impact: There may be potential impacts to nesting birds and raptors due an increase in noise caused by construction activities as the Project is in proximity to open space and wildlife corridors that may provide nesting and foraging opportunities for birds.

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Why impact would occur: While MM-BIO-11 discuss nesting birds surveys and proposes construction activities occur outside the nesting bird season, there is no discussion on impact or mitigation measures related to noise on nesting birds if Project activities cannot avoid work during the nesting season. According to the MND, "it is reasonable to conclude that birds nesting in this area are acclimated to higher baseline levels of noise and disturbance than those nesting in open space or in agricultural areas" due to high traffic and recreation near the Project site. CDFW disagrees that nesting birds have no impact to noise as, generally, the average hourly noise levels above 60 decibels are considered negative impact to nesting birds and other wildlife (Caltrans 2016). Construction activities are anticipated to be 95 dB(A) at a 50-foot distance from the source and 65 dB(A) within 1,600 feet of the construction site. Additionally, the MND states that there is suitable habitat that can support nesting birds, including raptors, and could be indirectly impacted through increased noise, which could result in nest abandonment. More specifically, an increase in noise due to construction activities could result in changes in foraging location and behavior, interference with acoustic communication, and result in failure to recognize other important biological signals, such as sounds of predators or prey (Caltrans 2016).

Evidence impact may be significant: Sections 3503, 3503.5, and 3513 of the Fish and Game Code protect nesting and migratory birds and birds of prey. Section 3503 states that it is unlawful to take, possess, or needlessly destroy the nest or eggs of any bird, except as otherwise provided by the Fish and Game Code or any regulation made pursuant thereto. Section 3503.5 states that it is unlawful to take, possess, or destroy any birds in the orders Falconiformes or Strigiformes (birds of prey) or to take, possess, or destroy the nest or eggs of any such bird except as otherwise provided by the Fish and Game Code or any regulation adopted pursuant thereto. Section 3513 states that it is unlawful to take or possess any migratory nongame bird as designated in the federal Migratory Bird Treaty Act (MBTA).

Recommended Potentially Feasible Mitigation Measure(s)

Mitigation Measure #2: Implementation of Noise-Reducing Features

During the nesting bird season (February 15 through August 31), all heavy equipment shall have installed and maintain mufflers or other noise-reducing features when working adjacent to riparian vegetated areas. If an increase in sound level from baseline to post-construction initiation is observed (greater than 10 dB) and active nests are observed in close proximity to the work, then sound barriers may be determined necessary to prevent negative affects to nesting birds. The necessity or usefulness of sound barriers will be considered within each construction area within or adjacent to riparian vegetation, and will be based on vegetation density, actual or likely nesting location of birds (high in trees or low in dense cover), species tolerance, and the pre-existing sound levels measured.

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Recommendation #2: Noise Impacts

CDFW recommends that anticipated noise levels in the Project area be discussed in relationship to nesting birds and raptors in the Draft Environmental Impact Report (DEIR) along with pertinent mitigation measures. In addition, a discussion of indirect impacts to nesting birds and raptors from noise resulting from the completed development should also be included.

ADDITIONAL COMMENTS

Mitigation and Monitoring Reporting Plan. CDFW recommends the Project's environmental document include mitigation measures recommended in this letter. CDFW has provided comments via a mitigation monitoring and reporting plan to assist in the development of feasible, specific, detailed (i.e., responsible party, timing, specific actions, location), and fully enforceable mitigation measures (CEQA Guidelines, § 15097; Pub. Resources Code, § 21081.6). The Lead Agency is welcome to coordinate with CDFW to further review and refine the Project's mitigation measures. Per Public Resources Code section 21081.6(a)(1), CDFW has provided a summary of our suggested mitigation measures and recommendations in the form of an attached Draft Mitigation Monitoring and Reporting Plan (Attachment A).

Mitigation and Monitoring Reporting Plan for California Red-Legged Frog. Given that California red-legged frog is a Species of Special Concern, CDFW requests the County provide us with the opportunity to review and provide feedback on the measures to potentially be included in the federal Incidental Take Permit (ITP).

Slurry Alternatives. Phase 3 of the Project description reports the use of slurry to fill the pipeline and backfill the open trench. CDFW recommends the MND be amended to discuss the possible use of native rocks and soils, as opposed to slurry, for the establishment of native vegetation as part of the Project description. We recommend this because the use of native rocks and soils allows for the establishment of riparian vegetation, which contributes to thriving wildlife corridors and the health of the riparian system.

ENVIRONMENTAL DATA

CEQA requires that information developed in environmental impact reports and negative declarations be incorporated into a database which may be used to make subsequent or supplemental environmental determinations. (Pub. Resources Code, § 21003, subd. (e).) Accordingly, please report any special status species and natural communities detected during Project surveys to the California Natural Diversity Database (CNDDDB). The [CNDDDB website](https://wildlife.ca.gov/Data/CNDDDB)³ provides direction regarding the types of information that should be reported and allows on-line submittal of field survey forms.

³ <https://wildlife.ca.gov/Data/CNDDDB>

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In addition, information on special status native plant populations and sensitive natural communities, should be submitted to CDFW's Vegetation Classification and Mapping Program using the [Combined Rapid Assessment and Relevé Form](#)⁴.

The County should ensure data collected for the preparation of the DEIR is properly submitted.

FILING FEES

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

CONCLUSION

CDFW appreciates the opportunity to comment on the MND to assist the County of Santa Barbara in identifying and mitigating Project impacts on biological resources. CDFW requests an opportunity to review and comment on any response that the County of Santa Barbara has to our comments and to receive notification of any forthcoming hearing date(s) for the Project (CEQA Guidelines, § 15073(e)).

Questions regarding this letter or further coordination should be directed to Joleena De La Fe⁵, Environmental Scientist.

Sincerely,

DocuSigned by:



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Victoria Tang
Environmental Program Manager
South Coast Region

ATTACHMENTS

Attachment A: Draft Mitigation, Monitoring, and Reporting Program

⁴ <https://wildlife.ca.gov/Data/VegCAMP/Natural-Communities/Submit>

⁵ Phone: 858-354-3527; Email: Joleena.delafe@wildlife.ca.gov

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cc: California Department of Fish and Wildlife
Victoria Tang, Environmental Program Manager
Jennifer Turner, Senior Environmental Scientist Supervisor (CEQA)
Frederic Rieman, Senior Environmental Scientist Supervisor (LSA)
Christian Romberger, Senior Environmental Scientist Specialist
Sarah Rains, Environmental Scientist (LSA)
Jessie Lane, Environmental Scientist (CEQA)

Office of Planning and Research
State.Clearinghouse@opr.ca.gov

REFERENCES

California Department of Fish and Wildlife. 2024. Lake and Streambed Alteration Program. Available from: <https://wildlife.ca.gov/Conservation/Environmental-Review/LSA>

Caltrans. 2016. Technical Guidance for Assessment and Mitigation of the Effects of Traffic Noise and Road Construction Noise on Birds. Available from: <https://dot.ca.gov/-/media/dot-media/programs/environmental-analysis/documents/env/noise-effects-on-birds-jun-2016-a11y.pdf>

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ATTACHMENT A: DRAFT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

CDFW provides the following language to be incorporated into the MMRP for the Project.

Mitigation Measure	Timing	Responsible Party
<p>Mitigation Measure #1: Lake and Streambed Alteration Agreement</p> <p>The Project proponent shall notify CDFW pursuant to Fish and Game Code 1602 and potentially obtain an LSA Agreement from CDFW. Additionally, the Project proponent shall notify CDFW in the event of a frac-out. The LSA Notification shall include a hydrology report to evaluate whether altering streams within the Project site may impact hydrologic activity. The hydrology report shall also include a hydrological evaluation of a 100, 50, 25, 10, 5, and 2-year frequency storm event for existing and proposed conditions. The Project proponent shall comply with the mitigation measures detailed in an LSA Agreement issued by CDFW. Please visit CDFW’s Lake and Streambed Alteration Program webpage for more information (CDFW 2024).</p>	<p>Prior to Project Initiation / After Project Completion</p>	<p>Project Proponent</p>

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<p>Recommendation #1: CEQA</p> <p>CDFW’s issuance of an LSA Agreement for a project that is subject to CEQA will require CEQA compliance actions by CDFW as a Responsible Agency. As a Responsible Agency, CDFW may consider the CEQA document from the County for the Project. To minimize additional requirements by CDFW pursuant to Fish and Game Code section 1600 et seq. and/or under CEQA, the Project’s CEQA document should fully identify the Project’s potential impacts on stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of the LSA Agreement. As such, CDFW recommends the County consider CDFW’s comments and revise the MND by incorporating the mitigation measures recommended in this letter into the Project’s environmental document. To compensate for any on- and off-site impacts to aquatic and riparian resources, additional mitigation conditioned in any LSA Agreement may include the following: erosion and pollution control measures, avoidance of resources, protective measures for downstream resources, on- and/or off-site habitat creation, enhancement, or restoration, and/or protection, and management of mitigation lands in perpetuity.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p>Mitigation Measure #2: Implementation of Noise-Reducing Features</p> <p>During the nesting bird season (February 15 through August 31), all heavy equipment shall have installed and maintain mufflers or other noise-reducing features when working adjacent to riparian vegetated areas. If an increase in sound level from baseline to post-construction initiation is observed (greater than 10 dB) and active nests are observed in close proximity to the work, then sound barriers may be determined necessary to prevent negative affects to nesting birds. The necessity or usefulness of sound barriers will be considered within each construction area within or adjacent to riparian vegetation, and will be based on vegetation density, actual or likely nesting location of birds (high in trees or low in dense cover), species tolerance, and the pre-existing sound levels measured.</p>	<p>Prior to Project Initiation / During Project Activities</p>	<p>Project Proponent</p>

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<p>Recommendation #2: Noise Impacts</p> <p>CDFW recommends that anticipated noise levels in the Project area be discussed in relationship to nesting birds and raptors in the Draft Environmental Impact Report (DEIR) along with pertinent mitigation measures. In addition, a discussion of indirect impacts to nesting birds and raptors from noise resulting from the completed development should also be included.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p>Mitigation and Monitoring Reporting Plan for California Red-Legged Frog. Given that California red-legged frog is a Species of Special Concern, CDFW requests the County provide us with the opportunity to review and provide feedback on the measures to potentially be included in the federal Incidental Take Permit (ITP).</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>
<p>Slurry Alternatives. Phase 3 of the Project description reports the use of slurry to fill the pipeline and backfill the open trench. CDFW recommends the MND be amended to discuss the possible use of native rocks and soils, as opposed to slurry, for the establishment of native vegetation as part of the Project description. We recommend this because the use of native rocks and soils allows for the establishment of riparian vegetation, which contributes to thriving wildlife corridors and the health of the riparian system.</p>	<p>Prior to Project Initiation</p>	<p>Lead Agency</p>