



**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Tentative Notice of Action

*Promoting the wise use of land
Helping build great communities*

MEETING DATE August 19, 2016 LOCAL EFFECTIVE DATE September 2, 2016 APPROX FINAL EFFECTIVE DATE September 16, 2016	CONTACT/PHONE Brandi Cummings, Project Manager 805-781-1006 bcummings@co.slo.ca.us	APPLICANT Pacific Gas & Electric Company	FILE NO. DRC2015-00116
SUBJECT A request by PACIFIC GAS & ELECTRIC COMPANY for a Minor Use Permit/Coastal Development Permit (DRC2015-00116) to allow for grading on slopes greater than 20 percent. The project consists of the removal of a 40-year old earthen berm and damaged 48-inch x 40-foot metal corrugated culvert from the bed and bank of Pecho Creek, adjacent to Diablo Canyon Road. The project will also remove vegetation and debris in Pecho Creek for 80 linear feet upstream of the berm. The removed berm soil will be exported and spread on a previously permitted spoils disposal site 0.3 miles north of the Diablo Canyon Nuclear Power Plant main building, and approximately 4.3 miles west of the berm removal area. Following berm removal, disturbed creek banks will be recontoured to match the existing slope contours immediately adjacent and upstream of the berm removal area. Up to 15 multi-trunked willows will be removed as part of this project. A site stabilization plan has been developed for assistance with revegetation of banks, mitigation, and enhancement of riparian habitat for wildlife. Construction equipment will be staged on the south side of Diablo Canyon Road, within an existing graded and gravel-surfaced turn-out. The project will result in 3,780 cubic yards of earthwork cut and will result in the disturbance of approximately 22,500 square-feet (0.52 acres) within a 4.3 acre project limit area, across three parcels totaling approximately 2,220 acres. The spoils disposal site is located on a separate parcel totaling 968 acres. The proposed project is within the Agriculture and Public Facilities land use categories and is located approximately 115 ft. north of Diablo Canyon Road at the intersection with Pecho Creek, approximately 2 miles northwest of the community of Avila Beach. The site is in the San Luis Bay Coastal planning area.			
RECOMMENDED ACTION 1. Adopt the Mitigated Negative Declaration issued for this project on July 14, 2016. 2. Approve Minor Use Permit DRC2015-00116 based on the findings listed in Exhibit A and the conditions listed in Exhibit B			
ENVIRONMENTAL DETERMINATION The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on July 14, 2016 for this project. Mitigation measures are proposed to address Biology and Cultural Resources and are included as conditions of approval. Anyone interested in commenting or receiving a copy of the proposed Environmental Determination should submit a written statement. Comments will be accepted up until completion of the public hearing(s).			
FINAL ACTION This tentative decision will become the final action on the project, unless the tentative decision is changed as a result of information obtained at the administrative hearing or is appealed to the County Board of Supervisors pursuant Section 23.01.042 of the Coastal Zone Land Use Ordinance; effective on the 10th working day after the receipt of the final action by the California Coastal Commission. The tentative decision will be transferred to the Coastal Commission following the required 14-calendar day local appeal period after the administrative hearing. The applicant is encouraged to call the Central Coast District Office of the Coastal Commission in Santa Cruz at (831) 427-4863 to verify the date of final action. The County will not issue any construction permits prior to the end of the Coastal Commission process.			

ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER γ SAN LUIS OBISPO γ CALIFORNIA 93408 γ (805) 781-5600 γ FAX: (805) 781-1242			
LAND USE CATEGORY Agriculture (AG), Public Facilities (PF)	COMBINING DESIGNATION Geologic Study Area (GSA); Flood Hazard; Energy Extractive Area; Sensitive Resource Area (SRA); Renewable Energy; Local Coastal Plan	ASSESSOR PARCEL NUMBER 076-011-013, 076-151-012, 076-171-016, 076-171-032	SUPERVISOR DISTRICT(S) 3
PLANNING AREA STANDARDS: San Luis Bay Coastal – Sloping Sites, Sensitive Resource Area <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
LAND USE ORDINANCE STANDARDS: Local Coastal Program, Appeals to the Coastal Commission, Geologic Study Area, Energy Extractive Area, Flood Hazard, Sensitive Resource Area, Coastal Zone Creek or Stream, <i>Does the project conform to the Land Use Ordinance Standards: Yes - see discussion</i>			
SURROUNDING LAND USE CATEGORIES AND USES: North: Rural lands, agricultural uses South: Pacific Ocean East: Public facilities; agriculture West: Public facilities (State Park)			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: The project was referred to: Public Works, Building Division, Cal Fire, Avila Valley Advisory Council, California Coastal Commission			
TOPOGRAPHY: Moderate to steeply sloping		VEGETATION: Non-native grasses, willow trees	
PROPOSED SERVICES: Water supply: n/a Sewage Disposal: n/a Fire Protection: Cal Fire, Diablo Canyon Fire Department		ACCEPTANCE DATE: May 10, 2016	

DISCUSSION

The applicant proposes to remove an earthen berm and approximately 40 years old metal culvert, from Pecho Creek near the access road to Diablo Canyon Nuclear Power Plant (DCNPP). The applicant also proposed to clear vegetation and debris in Pecho Creek for 80 linear feet upstream of the berm location. The removed berm spoils will be placed on a previously permitted stockpile site north of the DCNPP main facility.

PLANNING AREA STANDARDS:

As described below, the project complies with applicable Combining Designations and the rural development standards of the San Luis Bay Coastal Area Plan.

Sloping Sites. Development plan proposals for sites with varied terrain are to include design provisions for concentrating development on moderate slopes while retaining steeper slopes visible from public roads undeveloped.

Staff comments: The proposed project is the removal of an earthen berm and restoration of the associated creek. The project will not include any development, and construction will not be visible from a public road.

Sensitive Resource Area.

Upper Diablo Canyon - Access Limitation. Further construction of access roads through upper Diablo Canyon is prohibited.

Staff comments: No access roads are proposed as part of this project.

COASTAL ZONE LAND USE ORDINANCE STANDARDS

Section 23.07.120: Local Coastal Program: The project site is located within the California Coastal Zone as established by the California Coastal Act of 1976, and is subject to the provisions of the Local Coastal Program.

Section 23.01.043c.(3)(i): Appeals to the Coastal Commission (Coastal Appealable Zone): The project is appealable to the Coastal Commission because the subject parcel is located between the first public road and the sea.

23.04.420 – Coastal Access Required: New development between the first public road and the ocean should provide coastal access if access is not already provided. Coastal access provisions in this case are not warranted as the project is in support of an access road to an existing facility that will not result in an intensification of that use. In addition, the facility is a nuclear power plant that has strict safety provisions and would qualify under the limited provisions in Title 23 where access is not required: “Access would be inconsistent with public safety.” Furthermore, previous projects involving the addition of spent fuel storage and steam generator replacement were approved with the provisions for expanded coastal access at locations within the property owners land holdings, but at locations and under conditions that maintained security and public safety. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, and the above provisions of Title 23.

Section 23.05.034 – Grading Standards: Grading, dredging or diking (consistent with Section 23.07.174) shall not alter any intermittent or perennial stream, or natural body of water shown on any USGS 7-1/2 minute map, except as permitted through approval of a county drainage plan and a streambed alteration permit from the California Department of Fish and Game issued under Sections 1601 or 1602 of the Fish and Game Code. Watercourses shall be protected as follows: (1) Watercourses shall not be obstructed unless an alternate drainage facility is approved; (2) Fills placed within watercourses shall have suitable protection against erosion during flooding; (3) Grading equipment shall not cross or disturb channels containing live streams without siltation control measures approved by the County Engineer in place; (4) Excavated materials shall not be deposited or stored in or alongside a watercourse where the materials can be washed away by high water or storm runoff.

Where natural vegetation has been removed through grading in areas not affected by the landscape requirements, and that are not to be occupied by structures, such areas are to be replanted as set forth in this subsection to prevent erosion after construction activities are completed. (1) Preparation for revegetation: Topsoil removed from the surface in preparation for grading and construction is to be stored on or near the site and protected from erosion while grading operations are underway, provided that such storage may not be located where it would cause suffocation of root systems of trees intended to be preserved. After completion of such grading, topsoil is to be restored to exposed cut and fill embankments or building pads to provide a suitable base for seeding and planting.

Staff comments: The project proposes to remove an earthen berm and culvert from Pecho Creek along with 15 multi-trunk willow trees. The project is conditioned to submit a drainage plan for review and approval by Public Works at the time of construction permit application. The project is also conditioned to obtain any required permits from outside agencies including the California Department of Fish and Wildlife. The project is conditioned to comply with the Site Stabilization and Restoration Plan (Terra Verde 2016), which includes replanting of compensatory willows at a 1:1 ratio for those removed and application of a site-specific native seed mix.

Section 23.05.036 – Sedimentation and Erosion Control: Submittal of a sedimentation plan for review and approval by the County Engineer is required when land disturbance activities, including the removal of more than one-half acre of native vegetation are conducted in geologically unstable areas, on slopes in excess of 30%, on soils rated as having severe erosion hazard, or within 100 feet of any water course shown on the most current 7-1/2 minute USGS quadrangle map.

Staff comments: The project is conditioned to submit a sedimentation and erosion control plan for review and approval by Public Works at the time of construction permit application.

Section 23.05.042 – Drainage Plan Required: No land use or construction permit (as applicable) shall be issued for a project where a drainage plan is required, unless a drainage plan is first approved pursuant to Section 23.05.046. Drainage plans shall be submitted with or be made part any land use, building or grading permit application for a project that involves hillside development on slopes steeper than 10 percent.

Staff comments: The project is conditioned to submit a drainage plan for review and approval by Public Works at the time of construction permit application.

Section 23.05.060 – Tree Removal: No person shall allow or cause the removal of any tree without first obtaining a tree removal permit, as required by this section. Plot Plan approval is required before the removal or replacement of any existing trees except for tree removal under circumstances that are exempt from tree removal permit requirements pursuant to subsection b. of this section, and except for the following types of tree removal, which are instead subject to Minor Use Permit approval: (1) Riparian vegetation near any coastal stream or wetland; (2) Proposed for removal when not accompanied by a land use permit for development; (3) Located in any appealable area as defined by Section 23.01.043c; (4) Located in any Sensitive Resource Area (where the identified resources are trees) as shown on official combining designation maps (Part III of Land Use Element); (5) Where tree cutting will cumulatively remove more than 6,000 square feet of vegetation as measured from the canopy of trees removed.

Staff comments: The project proposes to remove 15 multi-trunk willow trees from Pecho Creek bed and bank. This activity meets the permitting requirements noted above under “Riparian vegetation near any coastal stream or wetland”. The project is conditioned to comply with the Site Stabilization and Restoration Plan (Terra Verde 2016), which includes replanting of compensatory willows at a 1:1 ratio for those removed

Section 23.07.040 – Energy and Extractive Resource Area: When located in an EX area, all proposed land uses required to have land use permit approval by Chapter 23.03 (Permit Requirements), Chapter 23.08 (Special Uses), or by planning area standards of the Land Use Element (Part II), are subject to the requirements of Sections 23.07.040 through 23.07.044. This designation includes the location of the power plant and the surrounding buffer area of the Pacific Gas and Electric Company lease site. The operations should not be expanded beyond the present property nor should future development of adjacent lands encroach into this area so as to hinder the operating capabilities of the plant.

Staff comments: The portion of the project located in the EX area is the previously permitted spoils stockpile site on the north side of DCNPP. The berm removal area is not located in the EX designation. Because the spoils site is allowed under a separate permit, this standard does not apply.

Section 23.07.060 – Flood Hazard Area: The Flood Hazard combining designation is applied to specific parcels by the Official Maps (Part III) of the Land Use Element to areas where terrain characteristics would present new developments and their users with potential hazards to life and property from potential inundation by a 100-year frequency flood or within coastal high hazard areas. These standards are also intended to minimize the effects of development on drainage ways and watercourses.

Staff comments: The proposed project consists of the removal of an earthen berm and culvert from Pecho Creek. The project site and a portion of the creek will be restored and stabilized. The project is conditioned to submit a drainage plan for review and approval by Public Works at the time of construction permit application.

Section 23.07.080: Geologic Study Area: The project site is located within the Geologic Study Area (GSA) combining designation, and is subject to the provisions of the CZULO. All land use permit applications for projects located within a Geologic Study Area (except those exempted by Section 23.07.082) shall be accompanied by a report prepared by a certified engineering geologist and/or registered civil engineer (as to soils engineering), as appropriate.

Staff comments: The GSA is related to coastal bluff erosion as described in Chapter 7 of the San Luis Bay Area Plan (Coastal):

Bluff Erosion (GSA) - Portions of the coastline where bluff erosion poses a concern for siting new development have been noted. Development shall be located so that it can withstand 75 years of bluff erosion without the need for a shoreline protection structure that would substantially alter the landform, affect public access, or impact movement of sand.

The proposed project is grading to remove a berm and culvert from a creek. The project location will not support any development that would be subject to the requirements of a GSA. Additionally, the site is located landward of the bluff and the Diablo Canyon Power Plant access road.

Section 23.07.160 – Sensitive Resource Area: The coastal terrace both north and south of Diablo Canyon, supports a variety of coastal species that differ from other coastal areas. There are also substantial archaeological sites in the terrace south of Diablo Canyon. The terrace

area north of Diablo Canyon has outstanding scenic value, with volcanic formations and the offshore Lion Rock.

Staff comments: Though portions of the project parcels are located within the SRA designation, the actual berm removal site is located just outside the SRA. Notwithstanding this location, the applicant has submitted a Phase 1 surface survey (Albion Environmental). The survey revealed that the project area has been heavily disturbed, with limited cultural material that had likely been removed from its original context. It is Albion's judgement that intact subsurface archaeological deposits could exist within the project area along the banks of Pecho Creek. Furthermore, research indicates that the current study area is located within close proximity to important and significant archaeological sites and human burials that are located in the immediate vicinity of the project site. Mitigation is proposed to protect potential artifacts and/or cultural materials.

COASTAL PLAN POLICIES:

Shoreline Access: Policy No: 1
Recreation and Visitor Serving: N/A
Energy and Industrial Development: N/A
Commercial Fishing, Recreational Boating and Port Facilities: N/A
Environmentally Sensitive Habitats: N/A
Agriculture: N/A
Public Works: N/A
Coastal Watersheds: Policy No(s): 8, 9, and 10
Visual and Scenic Resources: Policy No(s): 1 and 2
Hazards: Policy No(s): 1 and 2
Archeology: Policy No(s): 1, 4, and 6
Air Quality: N/A

Does the project meet applicable Coastal Plan Policies: Yes, as conditioned

COASTAL PLAN POLICY DISCUSSION:

Shoreline Access:

Policy 1: Protection of Existing Access. *The berm area is adjacent to a nuclear power plant that has strict safety provisions and would qualify under the limited provisions in Title 23 where access is not required where: 23.040.420 (c)(1) "Access would be inconsistent with public safety.."*

Furthermore, previous projects involving the addition of spent fuel storage and steam generator replacement were approved with the provisions for expanded coastal access at locations within the property owners land holdings, but at locations and under conditions that maintained security and public safety. The proposed use is in conformity with the public access and recreation policies of Chapter 3 of the California Coastal Act, and the above provisions of Title 23.

Coastal Watersheds:

Policy 8: Timing of Construction and Grading. *The proposed project is conditioned to comply with this policy as the project shall have an erosion and sedimentation control plan where grading is conducted or left in an unfinished state during the period from October 15 through April 15.*

Policy 9: Techniques for Minimizing Sedimentation. *The proposed project is conditioned to comply with this policy as the applicant shall apply Best Management Practices in the selection and implementation of site maintenance.*

Policy 10: Drainage Provisions. *The proposed project is conditioned to comply with this policy as the applicant shall provide a drainage plan to San Luis Obispo County Public Works Department for review and approval, and shall implement the approved drainage plan.*

Visual and Scenic Resources:

Policy 1: Protection of Visual and Scenic Resources. *The proposed project is not located on a public road. Additionally, the project calls for restoration of Pecho Creek, and will not degrade unusual landforms.*

Policy 2: Site Selection for New Development. *The proposed project calls for the removal of a berm and culvert, and restoration of Pecho Creek. The project will not permanently alter the view from the Pacific Ocean.*

Hazards

Policy 1: New Development. *The proposed project consists of the removal of an earth berm and metal culvert, and restoration of Pecho Creek. The project does not propose any permanent development, and will not detrimentally alter landforms. No shoreline development is proposed.*

Policy 2: Erosion and Geological Stability. *The proposed project is conditioned to implement and comply with the Site Stabilization and Restoration Plan (Terra Verde Environmental Consulting) to stabilize and restore the creek to prevent erosion and sedimentation. The project is also required to replant the 15 willow trees that will be removed as part of this project.*

Archaeology

Policy 1: Protection of Archaeological Resources. *The proposed project complies with this standard because the project is conditioned to retain a qualified archaeologist to monitor ground-disturbing activities and to halt construction in the event archaeological resources are discovered, and to monitor the removal of the upper 40 cm of the berm soils.*

Policy 4: Preliminary Site Survey for Development within Archeologically Sensitive Areas. *The proposed project complies with this standard because the applicant conducted a Phase I (surface) survey conducted by Albion Environmental in December 2015 which produced positive results. It is Albion's judgement that intact subsurface archaeological deposits could exist within the project area along the banks of Pecho Creek. Furthermore, research indicates that the current study area is located within close proximity to important and significant archaeological sites and human burials that are located in the immediate vicinity of the project site. The project is conditioned to retain an archaeologist*

during the removal of the berm, and to train the construction works on correct handling of any artifacts that may be found. In the event resources are found or human remains are discovered, the project shall cease construction and identify a mitigation plan.

Policy 6: Archaeological Resources Discovered during Construction or through Other Activities.
The proposed project is conditioned to comply with this standard.

COMMUNITY ADVISORY GROUP COMMENTS:

This project was referred to the Avila Valley Advisory Council. No response was received.

AGENCY REVIEW:

Public Works – Per attached referral response (Marshall, April 27, 2016), drainage and erosion control per ordinance will be reviewed with future grading plans/permits.

Building Division – No response.

California Coastal Commission – No response.

California Fish & Wildlife – No response.

LEGAL LOT STATUS:

The existing lots were created by recorded deed at a time when that was a legal method to create a parcel.

Staff report prepared by Brandi Cummings and reviewed by James Caruso.