

**Meeting of the Central Valley Flood Protection Board
March 23, 2012**

**Revised
Staff Report
PG&E Pole Replacement Project**

1.0 – ITEM

Consider approval of Permit No. 18713 (Attachment B).

2.0 – APPLICANT

Pacific Gas & Electric Company (PG&E), Sutter County

3.0 – LOCATION

The project is adjacent to the Garden Highway, between Riego Road and Howsley Road (Sacramento River, Sutter County, see Attachment A).

4.0 – DESCRIPTION

Applicant proposes to authorize the removal, relocation and replacement of several PG&E power poles and related structures along the Garden Highway to achieve minimum vertical clearance and to fill excavated holes.

5.0 – PROJECT ANALYSIS

The project proposes the removal, relocation and replacement of several PG&E power poles and related structures along the Garden Highway adjacent to the Sacramento River. The proposed work includes the following components:

- Replacing one power pole to achieve minimum 25 feet vertical clearance over Garden Highway: Pole 78;
- Removing three encroaching power poles: Pole 95, Pole 96 and Pole 97;
- Modifying two existing utility crossing to achieve minimum 25 feet vertical clearance: Pole 34 and Pole 81 with existing 18 feet vertical clearance, new pole with 80 feet

tall between Pole 34 and Pole 81, and Pole 41 and Pole 87 with existing 23 feet vertical clearance;

- Relocating one power pole and replacing it with a splice box: Pole 97;
- Obtaining encroachment authorization for five poles with adequate vertical clearance: Pole 82, Pole 83, Pole 98, Pole 53, and Pole 54

A PG&E line truck will excavate a hole for a taller replacement pole adjacent to the pole to be replaced. The new hole will be excavated to a depth of approximately ten feet using a diesel-powered 36-inch diameter auger. The PG&E line truck will lift the replacement pole into the newly-excavated hole, which will be backfilled using cement slurry.

PG&E workers will cut the old pole approximately eight feet about ground level. The resulting pole stub will be pulled from the ground by a PG&E line truck. All of the old pole pieces will be transported by the line truck to a PG&E facility for potential reuse or proper disposal. Cement slurry will be used to fill the old holes to ground level.

Pole 97 will be relocated approximately 90 feet south of its present location. A new 12-inch wide and 36-inch deep utility trench will be excavated between Pole 97's new location and its current location. The utility trench will connect the relocated Pole 97 with a new splice box to be installed at the current location of Pole 97. A PG&E backhoe will excavate the utility trench, which, after installation of the electrical line, will be backfilled with the excavated material, then compacted.

Five poles (Pole 82, Pole 83, Pole 98, Pole 53, and Pole 54) to obtain encroachment authorization appear to be located within fifteen feet of the Garden Highway setback levee. These poles are sufficiently tall to allow the power lines to meet or exceed the minimum vertical clearances required by Title 23 of section 123, subdivision (b)(6). While no work is currently proposed, PG&E is seeking CVFPB authorization for the following pre-existing poles in order to facilitate future repair and/or replacement work.

The proposed method and location of installation will have no significant impacts on the existing and setback levee.

5.1 – Hydraulic Analysis

A hydraulic analysis is not necessary as the diameter of proposed poles ranges from 18 inch to 24 inch. The proposed project will convey the design flow without significant impact or damage to either the levee or flood plain. The hydraulic impact is negligible for removal, relocation and replacement of several PG&E power poles and related structures.

5.2 – Geotechnical Analysis

This project has no significant geotechnical impacts to the existing or setback levee. Excavation occurs at locations that are not critical to the integrity of the levee. All fill, excavation, and temporary structures will be completed in compliance with Permit No. 18713 (see Attachment B) and Title 23.

6.0 – AGENCY COMMENTS AND ENDORSEMENTS

The comments and endorsements associated with this project, from all pertinent agencies are shown below:

- The U.S. Army Corps of Engineers 208.10 comment letter has not been received for this application. Staff anticipates receipt of a letter indicating that the USACE District Engineer has no objection to the project, subject to conditions. Upon receipt of the letter, staff will review to ensure conformity with the permit language and incorporate it into the permit as Exhibit A.

7.0 – CEQA ANALYSIS

Board staff has prepared the following CEQA findings:

Sacramento Area Flood Control Agency (SAFCA), as the lead agency under CEQA, has prepared the Draft Environmental Impact Report (DEIR, SCH No. 2007062016, September 2007), Final Environmental Impact Report (FEIR, November 2007), Supplemental Environmental Impact Report (SEIR, November 2008), and the Final Supplemental to the Environmental Impact Report (January 2009) for the Natomas Levee Improvement Program – Landside Improvements Phase 2 Project. These documents considered impacts to utilities, including relocation of existing PG&E poles. SAFCA determined that the project would have a significant effect on the environment and adopted Resolution 09-022 (which includes Findings, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program) on January 29, 2009 and subsequently filed a Notice of Determination on January 30, 2009 with the State Clearinghouse. These documents, including project design and SAFCA resolutions, may be viewed or downloaded from the Central Valley Flood Protection Board website at <http://www.cvfpb.ca.gov/meetings/2012/03-23-2012.cfm> under a link for this agenda item. The documents are also available for review in hard copy at the Board and SAFCA offices.

The Board, after consideration of the SEIR, and SAFCA findings, adopted the project description, analysis and findings in the SEIR and SAFCA Findings (including SAFCA Resolution 09-022) which are relevant to activities authorized by issuance of final encroachment permits consistent with Permit No. 18159-3, the Sacramento River East Levee Phase 1 Improvement Project, Reaches 1 Through 4A. The Board concurs with SAFCA's Findings and adopted Resolution 2009-07 (Attachment D) on March 27, 2009 and incorporates by reference such findings in Resolution 2012-12. For more information on the CEQA Findings, Mitigation Measures, and the Statement of Overriding Considerations, see the adopted Resolution 2009-07 (Attachment D).

8.0 – SECTION 8610.5 CONSIDERATIONS

1. Evidence that the Board admits into its record from any party, State or local public agency, or nongovernmental organization with expertise in flood or flood plain management:

The Board will make its decision based on the evidence in the permit application and attachments, this staff report, and any other evidence presented by any individual or group.

2. The best available science that related to the scientific issues presented by the executive officer, legal counsel, the Department or other parties that raise credible scientific issues.

The accepted industry standards for the work proposed under this permit as regulated by Title 23 have been applied to the review of this permit.

3. Effects of the decision on the entire State Plan of Flood Control:

This project has no negative impacts on the State Plan of Flood Control. Both hydraulic and geotechnical impacts from the project construction are negligible.

4. Effects of reasonable projected future events, including, but not limited to, changes in hydrology, climate, and development within the applicable watershed:

There are no other foreseeable projected future events that would impact this project.

9.0 – STAFF RECOMMENDATION

Staff recommends that the Board adopt the CEQA findings in Resolution 2012-12 and approve the permit, conditioned upon receipt of a U.S. Army Corps of Engineers comment letter indicating that the District Engineer has no objection to the project, subject to conditions, and direct staff to file a Notice of Determination with the State Clearinghouse.

10.0 – LIST OF ATTACHMENTS

- A. Location Maps and Photos
- B. Draft Permit No. 18713
- C. PG&E Pole Replacement Project General Plan
- D. Adopted Resolution 2009-07
- E. Resolution No. 2012-12

Design Review:

Sungho Lee

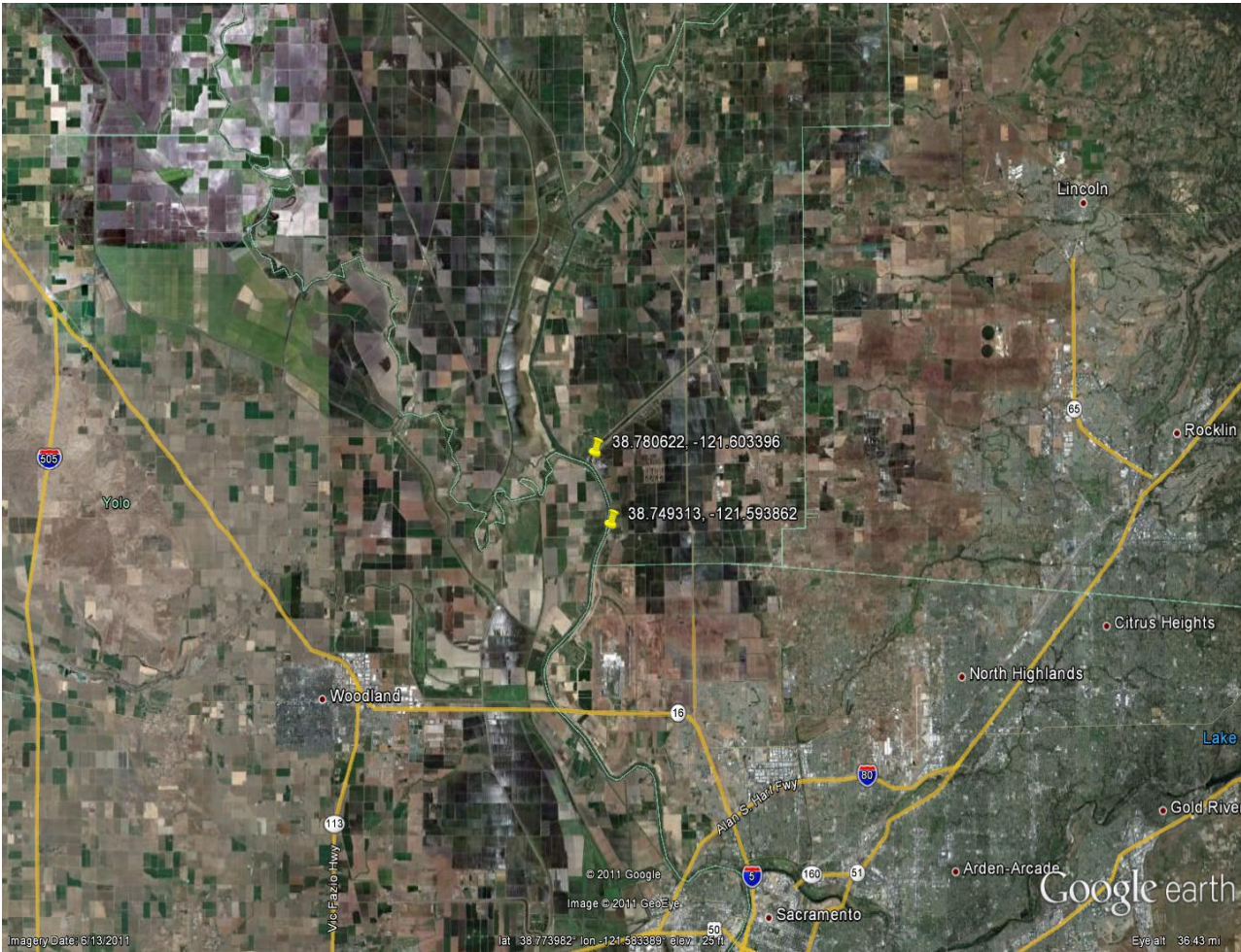
Environmental Review:

James Herota and Andrea Mauro

Document Review:

David Williams, Eric Butler, Len Marino

Project Vicinity



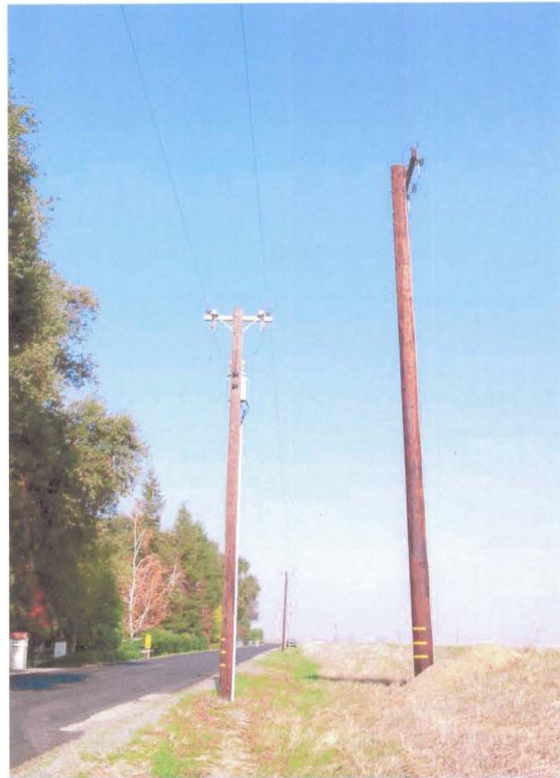
Project Location



1. Pole 78, to be replaced with taller pole.



6. Encroaching Pole 95, shown next to Pole 95.



7. Encroaching Pole 96, shown next to Pole 96.



8. Encroaching Pole 97, shown next to Pole 97.



11. Pole 34



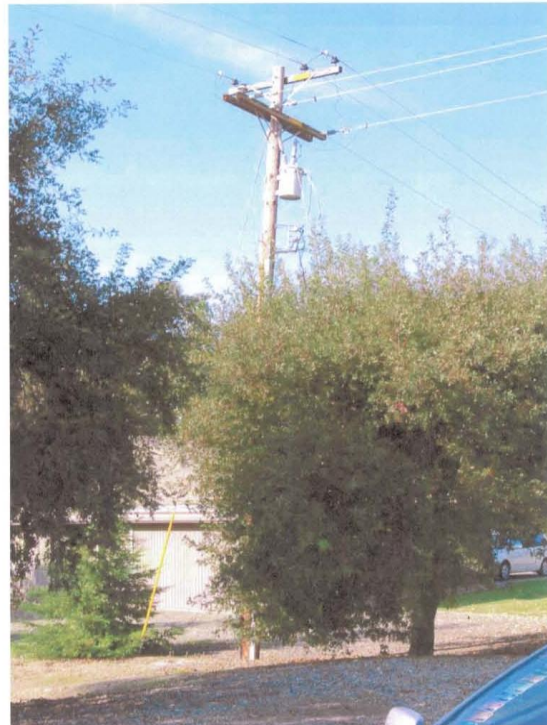
12. Pole 81



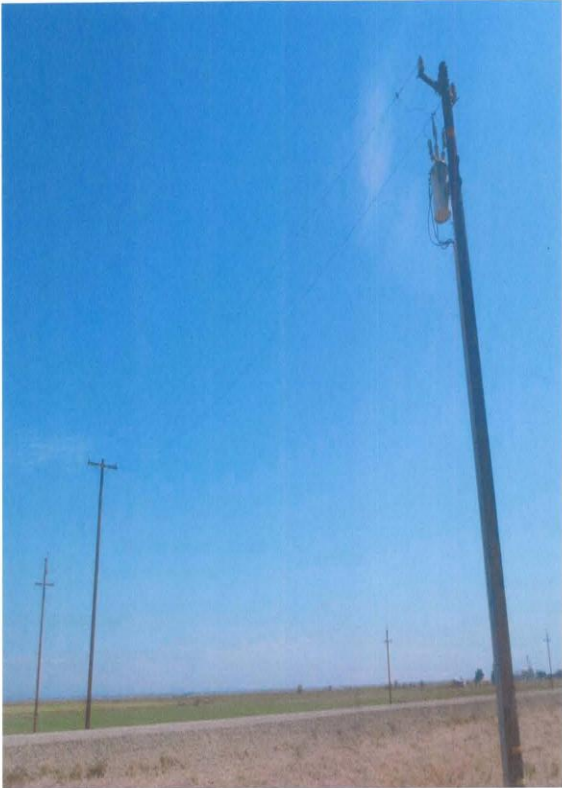
10. Pole 41



9. Pole 87.



13. Left to Right: Pole 37, Pole 82, and Pole 83



14. Pole 98



15. Pole 53



16. Pole 54



DRAFT

STATE OF CALIFORNIA
THE RESOURCES AGENCY
THE CENTRAL VALLEY FLOOD PROTECTION BOARD

PERMIT NO. 18713 BD

This Permit is issued to:

Pacific Gas & Electric Company
3301 Industrial Avenue
Rocklin, California 95765

The removal, relocation and replacement of several PG&E power poles and related structures. The project is adjacent to the Garden Highway, between Riego Road and Howsley Road in Sutter County. (Section 25, T11N, R3E, MDB&M, Reclamation District 1000, Sacramento River, Sutter County).

NOTE: Special Conditions have been incorporated herein which may place limitations on and/or require modification of your proposed project as described above.

(SEAL)

Dated: _____

Executive Officer

GENERAL CONDITIONS:

ONE: This permit is issued under the provisions of Sections 8700 – 8723 of the Water Code.

TWO: Only work described in the subject application is authorized hereby.

THREE: This permit does not grant a right to use or construct works on land owned by the Sacramento and San Joaquin Drainage District or on any other land.

FOUR: The approved work shall be accomplished under the direction and supervision of the State Department of Water Resources, and the permittee shall conform to all requirements of the Department and The Central Valley Flood Protection Board.

FIVE: Unless the work herein contemplated shall have been commenced within one year after issuance of this permit, the Board reserves the right to change any conditions in this permit as may be consistent with current flood control standards and policies of The Central Valley Flood Protection Board.

SIX: This permit shall remain in effect until revoked. In the event any conditions in this permit are not complied with, it may be revoked on 15 days' notice.

SEVEN: It is understood and agreed to by the permittee that the start of any work under this permit shall constitute an acceptance of the conditions in this permit and an agreement to perform work in accordance therewith.

EIGHT: This permit does not establish any precedent with respect to any other application received by The Central Valley Flood Protection Board.

NINE: The permittee shall, when required by law, secure the written order or consent from all other public agencies having jurisdiction.

TEN: The permittee is responsible for all personal liability and property damage which may arise out of failure on the permittee's part to perform the obligations under this permit. If any claim of liability is made against the State of California, or any departments thereof, the United States of America, a local district or other maintaining agencies and the officers, agents or employees thereof, the permittee shall defend and shall hold each of them harmless from each claim.

ELEVEN: The permittee shall exercise reasonable care to operate and maintain any work authorized herein to preclude injury to or damage to any works necessary to any plan of flood control adopted by the Board or the Legislature, or interfere with the successful execution, functioning or operation of any plan of flood control adopted by the Board or the Legislature.

TWELVE: Should any of the work not conform to the conditions of this permit, the permittee, upon order of The Central Valley Flood Protection Board, shall in the manner prescribed by the Board be responsible for the cost and expense to remove, alter, relocate, or reconstruct all or any part of the work herein approved.

SPECIAL CONDITIONS FOR PERMIT NO. 18713 BD

THIRTEEN: All work approved by this permit shall be in accordance with the submitted drawings and specifications except as modified by special permit conditions herein. No further work, other than that approved by this permit, shall be done in the area without prior approval of the Central Valley Flood Protection Board.

FOURTEEN: The permittee shall maintain the permitted encroachment(s) and the project works within the utilized area in the manner required and as requested by the authorized representative of the Department of Water Resources or any other agency responsible for maintenance.

FIFTEEN: Upon receipt of a signed copy of the issued (not approved only) permit the permittee shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a preconstruction conference. Failure to do so at least 10 working days prior to start of work may result in delay of the project.

SIXTEEN: The Central Valley Flood Protection Board and Department of Water Resources shall not be held liable for any damages to the permitted encroachment(s) resulting from flood fight, operation, maintenance, inspection, or emergency repair.

SEVENTEEN: The permittee may be required, at permittee's cost and expense, to remove, alter, relocate, or reconstruct all or any part of the permitted encroachment(s) if removal, alteration, relocation, or reconstruction is necessary as part of or in conjunction with any present or future flood control plan or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may remove the encroachment(s) at the permittee's expense.

EIGHTEEN: The permittee should contact the U.S. Army Corps of Engineers, Sacramento District, Regulatory Branch, 1325 J Street, Sacramento, California 95814, telephone (916) 557-5250, as compliance with Section 10 of the Rivers and Harbors Act and/or Section 404 of the Clean Water Act may be required.

NINETEEN: The permittee shall be responsible for repair of any damages to the project levee and other flood control facilities due to construction, operation, or maintenance of the proposed project.

TWENTY: The permittee is responsible for all liability associated with construction, operation, and maintenance of the permitted facilities and shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California; including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages arising from the project undertaken pursuant to this permit, all to the extent allowed by law. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-ONE: The permittee shall defend, indemnify, and hold the Central Valley Flood Protection Board and the State of California, including its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors and assigns (collectively, the "State"), safe and harmless, of and from all claims and damages related to the Central Valley Flood Protection Board's approval of this permit, including but not limited to claims filed pursuant to the California Environmental Quality Act. The State expressly reserves the right to supplement or take over its defense, in its sole discretion.

TWENTY-TWO: If the project, or any portion thereof, is to be abandoned in the future, the permittee or successor shall abandon the project under direction of the Central Valley Flood Protection Board and Department of Water Resources, at the permittee's or successor's cost and expense.

TWENTY-THREE: No construction work of any kind shall be done during the flood season from November 1 to April 15 without prior approval of the Central Valley Flood Protection Board.

TWENTY-FOUR: The proposed utility poles and guy anchors shall be located a minimum distance of 10 feet from the levee toe.

TWENTY-FIVE: A minimum clearance of 21 feet shall be provided between the levee crown and the overhead wire crossing. Power cables over 750 volts shall have a minimum clearance of 25 feet.

TWENTY-SIX: All debris that may accumulate around the poles and guy wires within the floodway shall be completely removed from the floodway following each flood season.

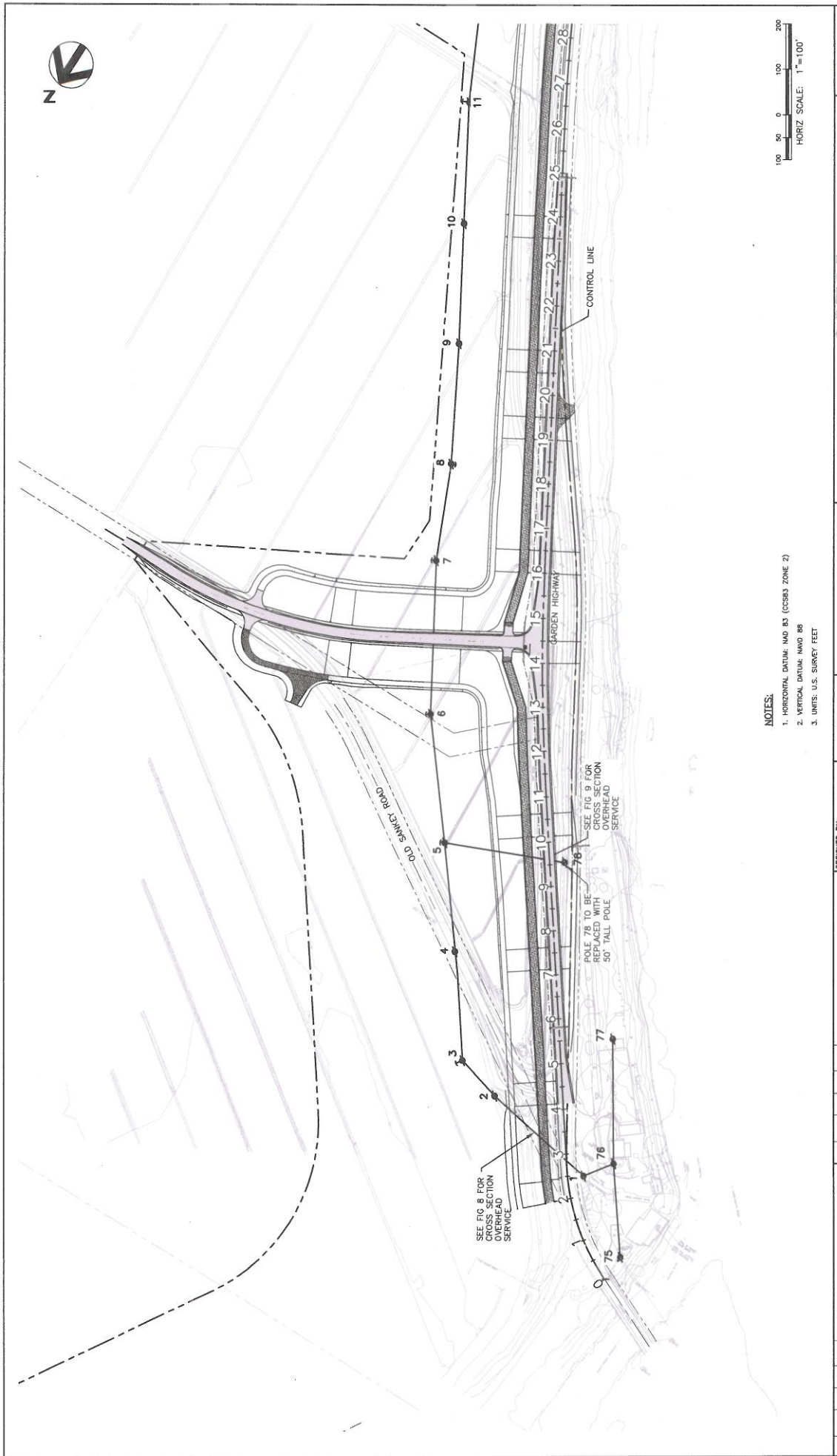
TWENTY-SEVEN: The hole left by the removal of the existing pole shall be backfilled and compacted to a density equal to that of the adjacent undisturbed material.

TWENTY-EIGHT: At all times during construction, at least one lane of the levee crown roadway shall be kept clear for vehicular access.

TWENTY-NINE: Temporary staging, formwork, stockpiled material and/or equipment shall not remain in the floodway during the flood season from November 1st to April 15.

THIRTY: The mitigation measures approved by the CEQA lead agency and the permittee are found in its Mitigation and Monitoring Reporting Program (MMRP) adopted by the CEQA lead agency. The permittee shall implement all such mitigation measures.

THIRTY-ONE: The permittee shall comply with all conditions set forth in the letter from the Department of the Army dated XXXX, 2012, which is attached to this permit as Exhibit A and is incorporated by reference.



NOTES:

1. HORIZONTAL DATUM: NAD 83 (CGCS3 ZONE 2)
2. VERTICAL DATUM: NHVD 88
3. UNITS: U.S. SURVEY FEET

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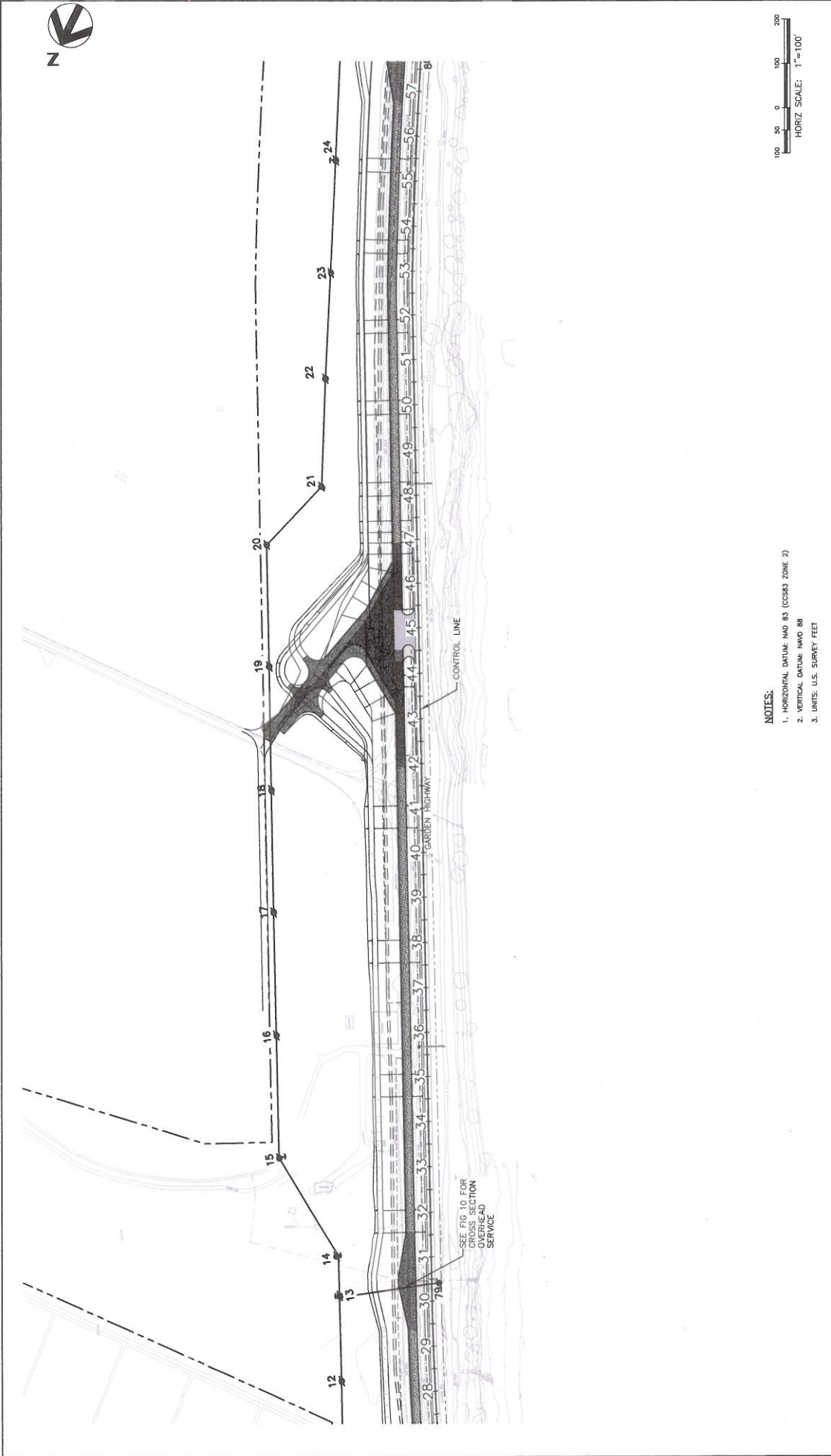
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HDR
1845 Foothill Blvd., Suite 300
Folsom, CA 95630

SREL PHASE 1B POWER POLE COMPLIANCE PLANS

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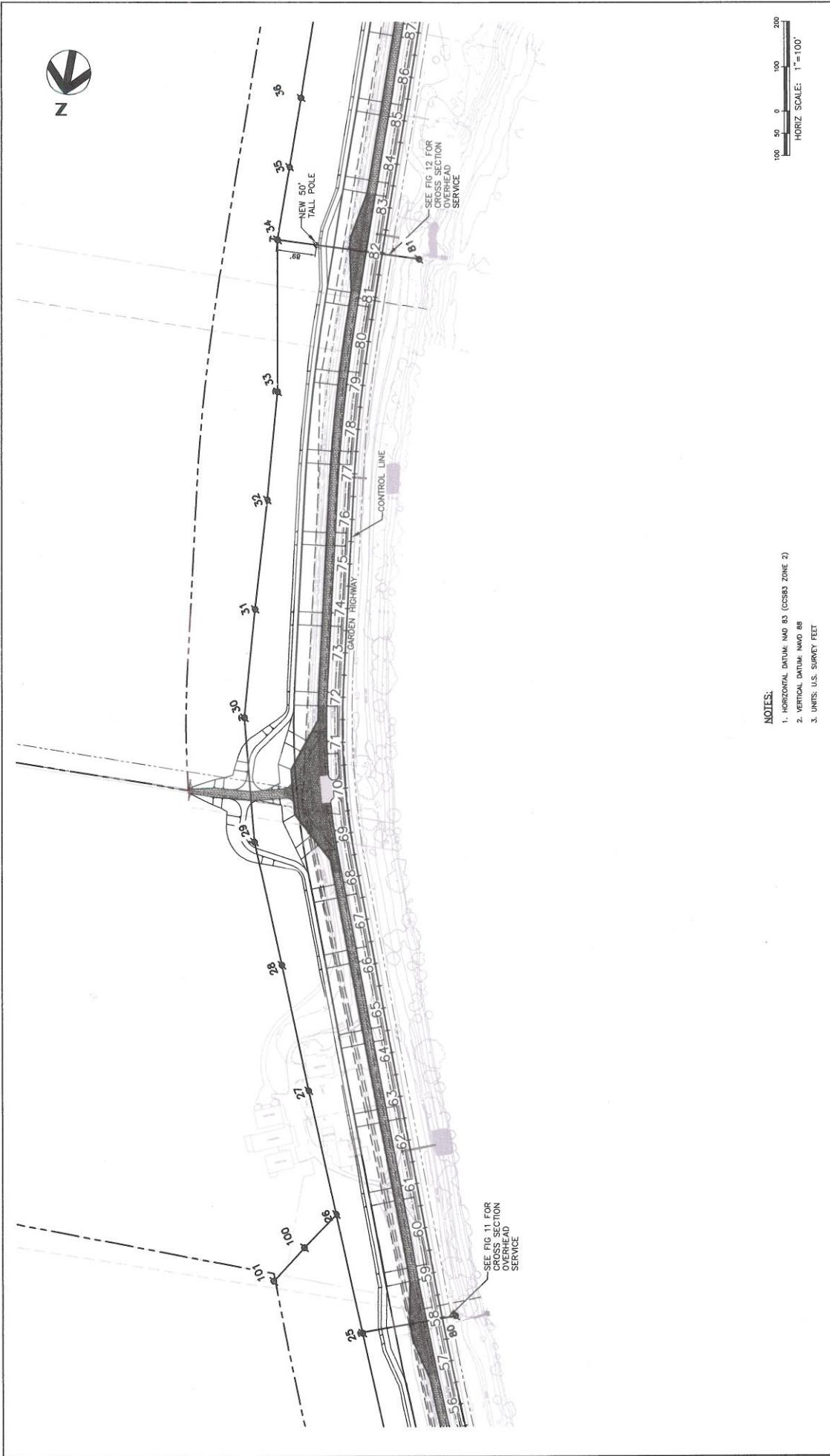
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2. VERTICAL DATUM: NAD 88
3. UNITS: U.S. SURVEY FEET

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2. VERTICAL DATUM: NMD 88
3. UNITS: U.S. SURVEY FEET



SREL PHASE 1B POWER POLE COMPLIANCE PLANS

HDR
 HDR Engineering Inc. Suite 300
 2500 Park Ave. Fremont, CA 94530

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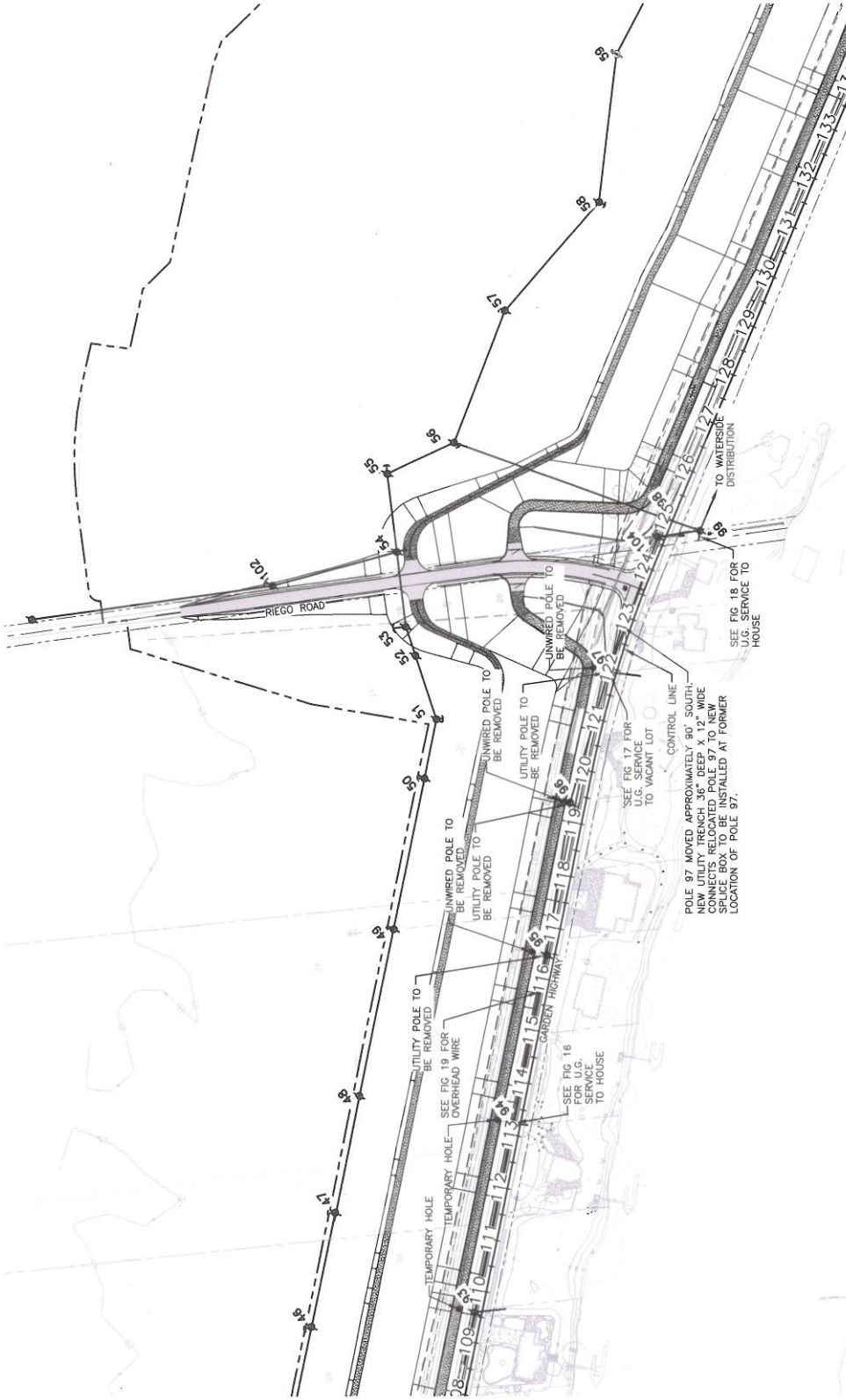
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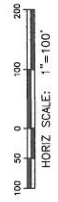
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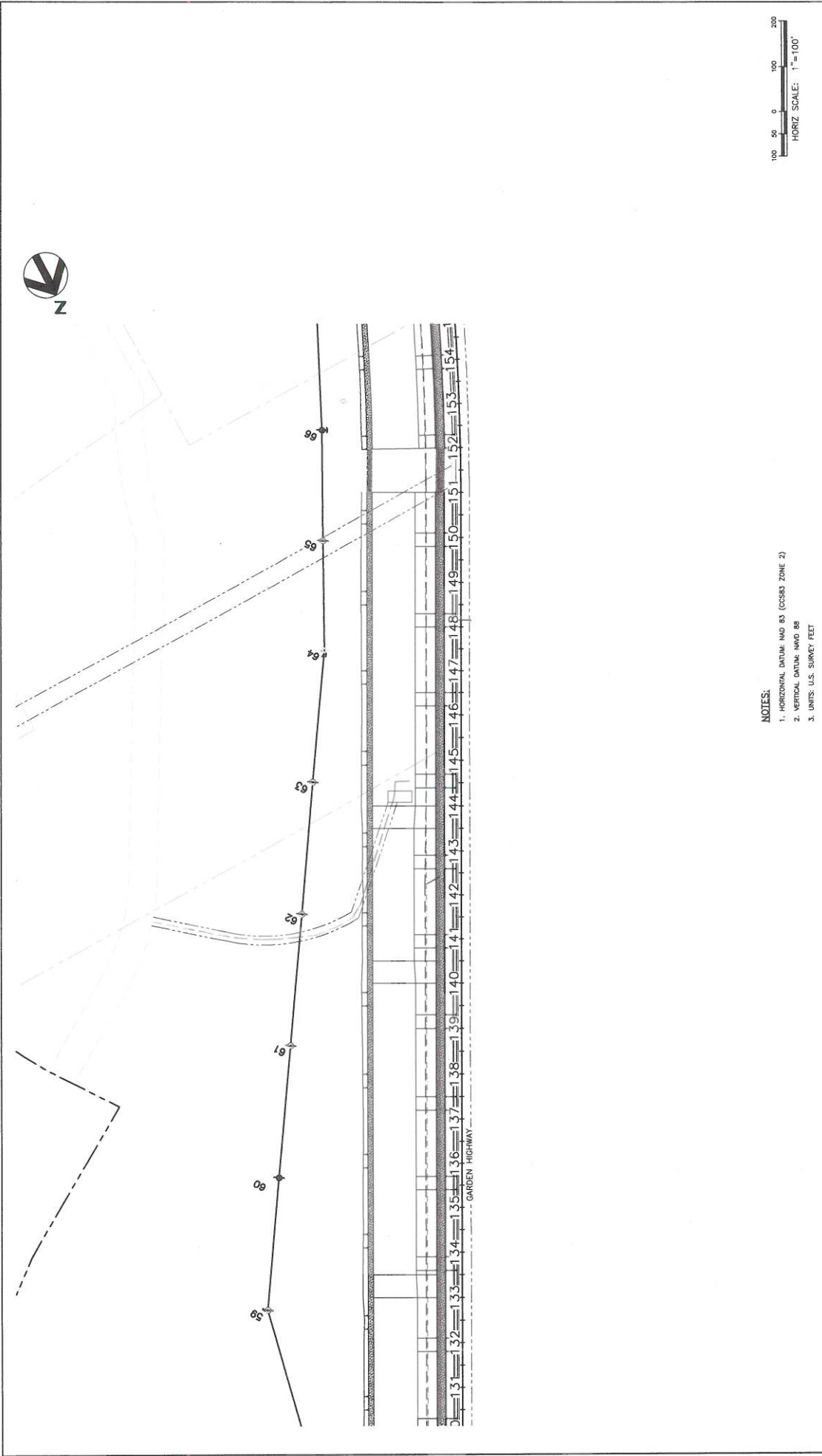


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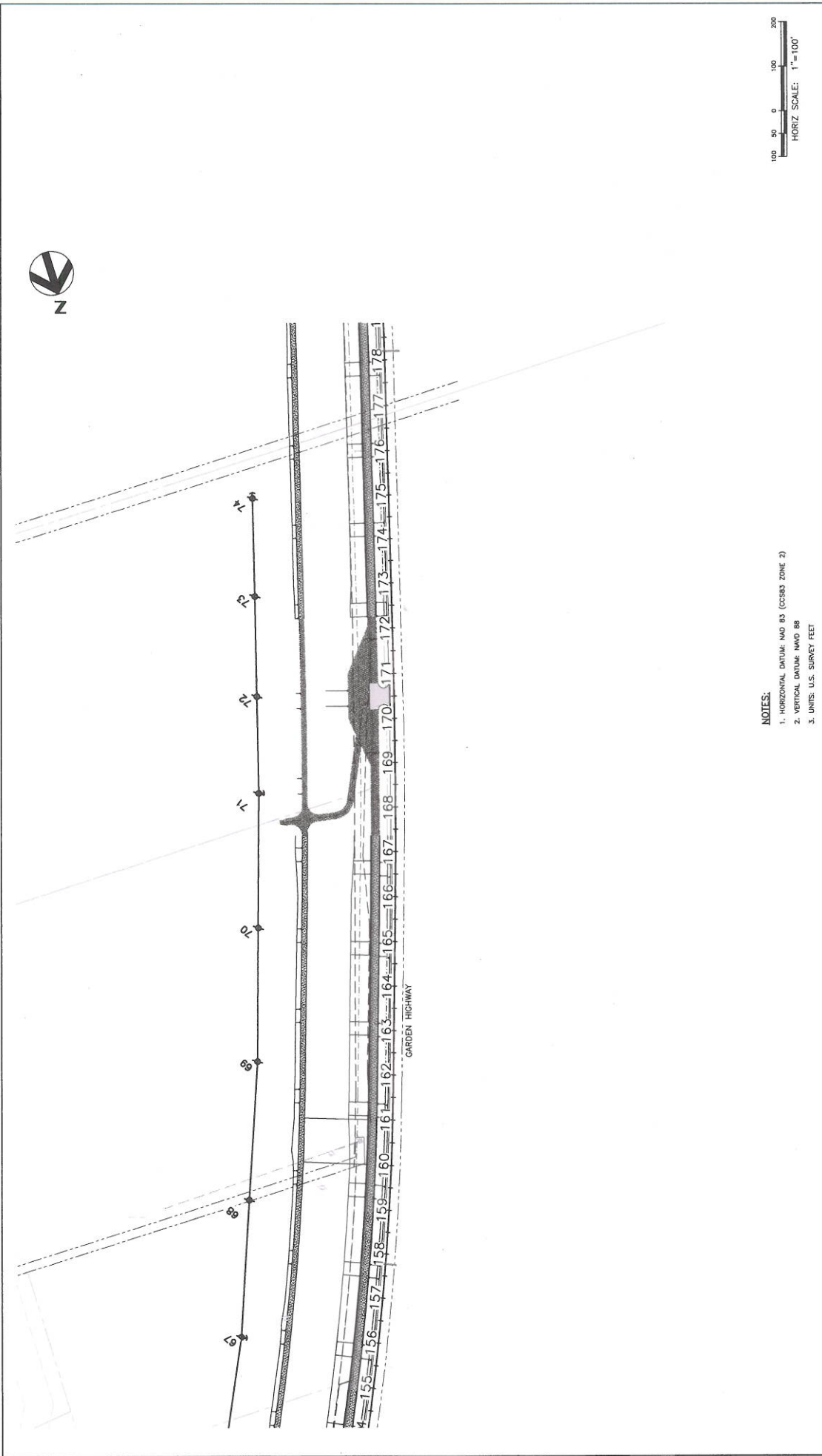


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3. UNITS: U.S. SURVEY FEET



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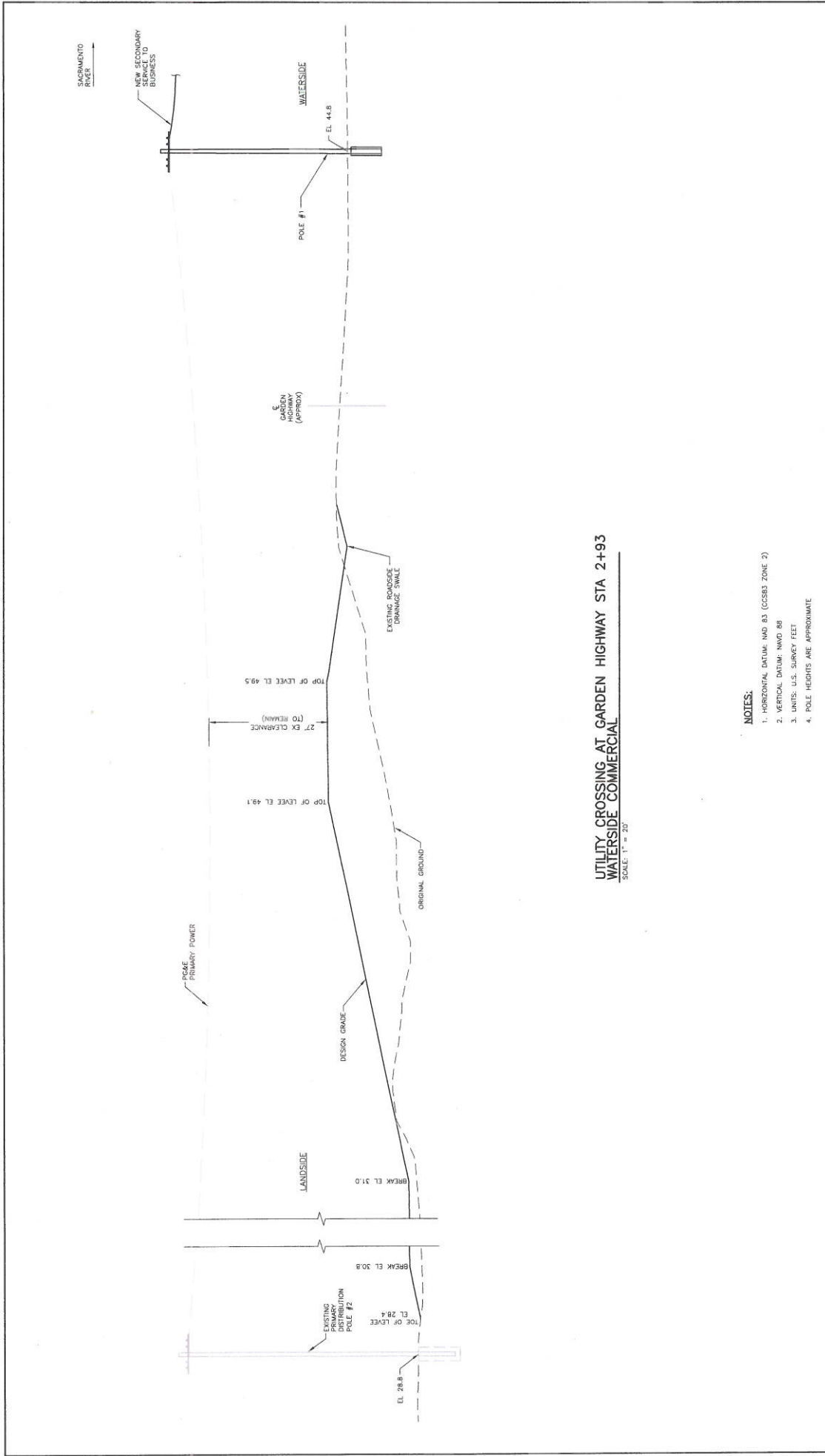


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UTILITY CROSSING AT GARDEN HIGHWAY STA 2+93
WATERSIDE COMMERCIAL

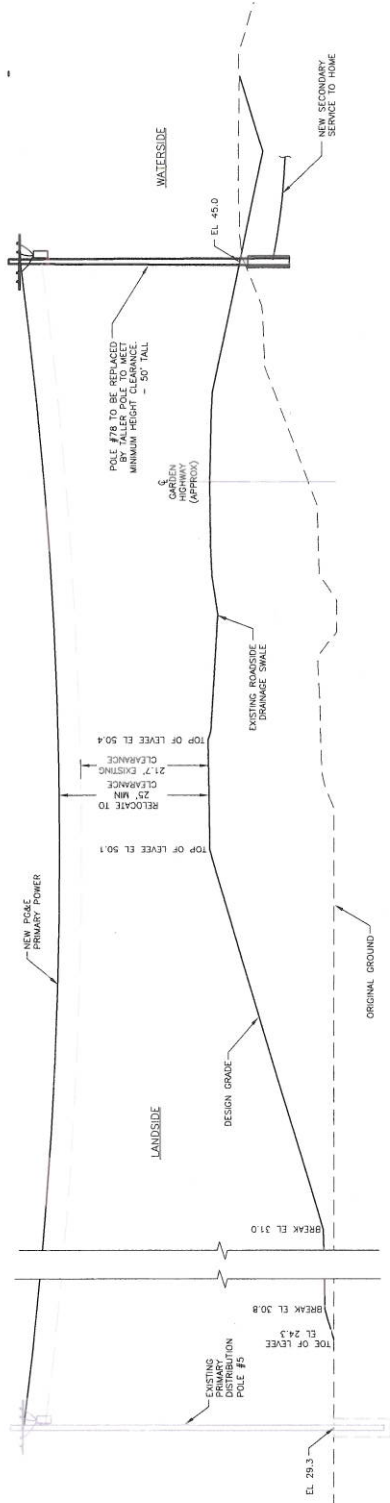
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SACRAMENTO
RIVER



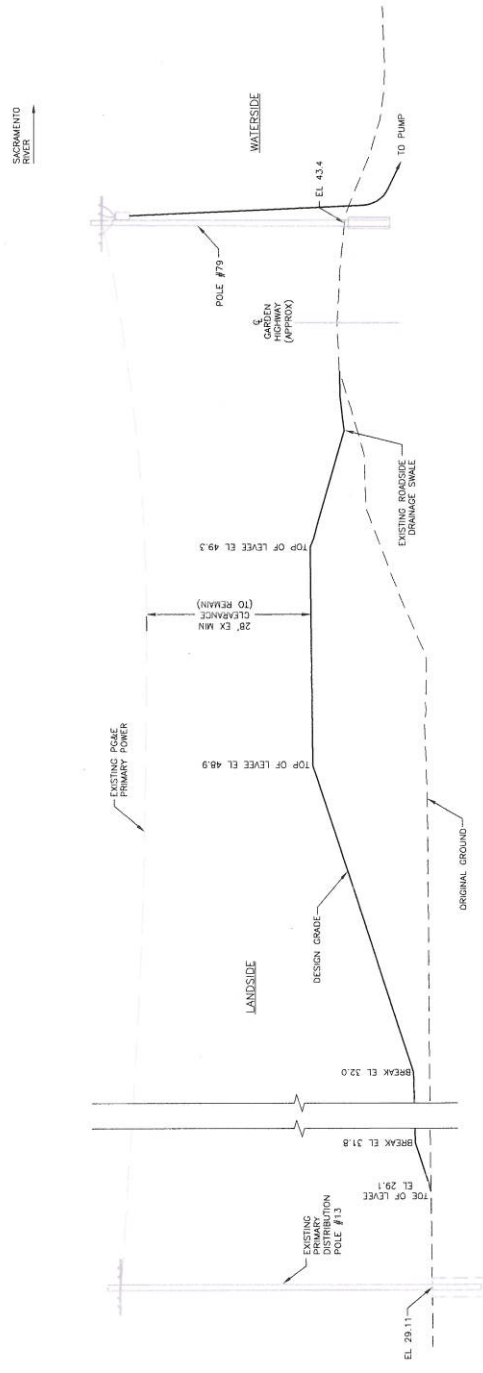
UTILITY CROSSING AT GARDEN HIGHWAY STA 9+67
WATERSIDE COMMERCIAL

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3. UNITS: U.S. SURVEY FEET
4. POLE HEIGHTS ARE APPROXIMATE

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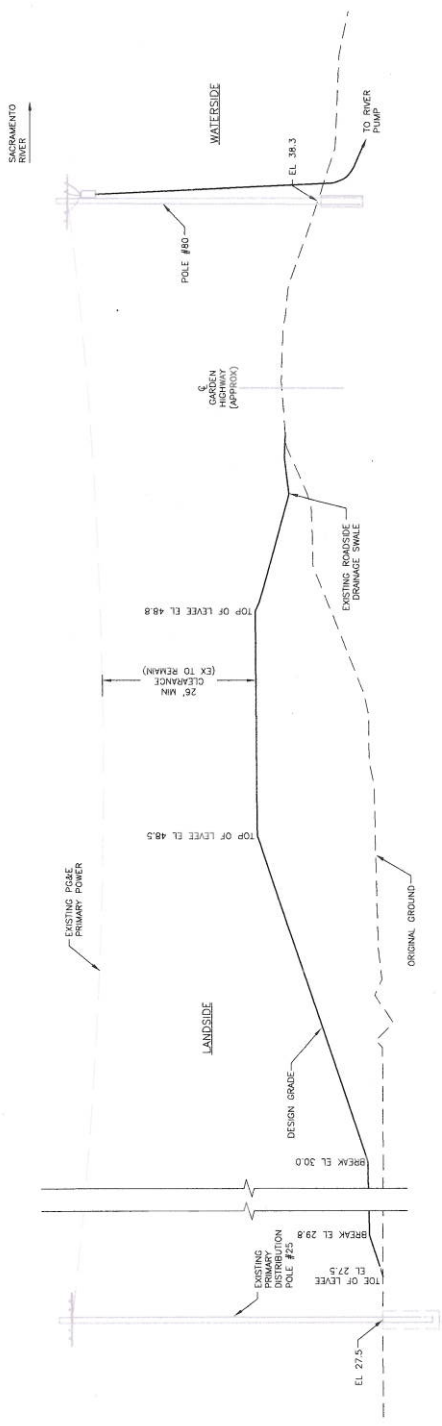


UTILITY CROSSING AT GARDEN HIGHWAY 30+39
WATERSIDE
SCALE: 1" = 20'

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2. VERTICAL DATUM: NAD 88
3. UNITS: U.S. SURVEY FEET
4. POLE HEIGHTS ARE APPROXIMATE

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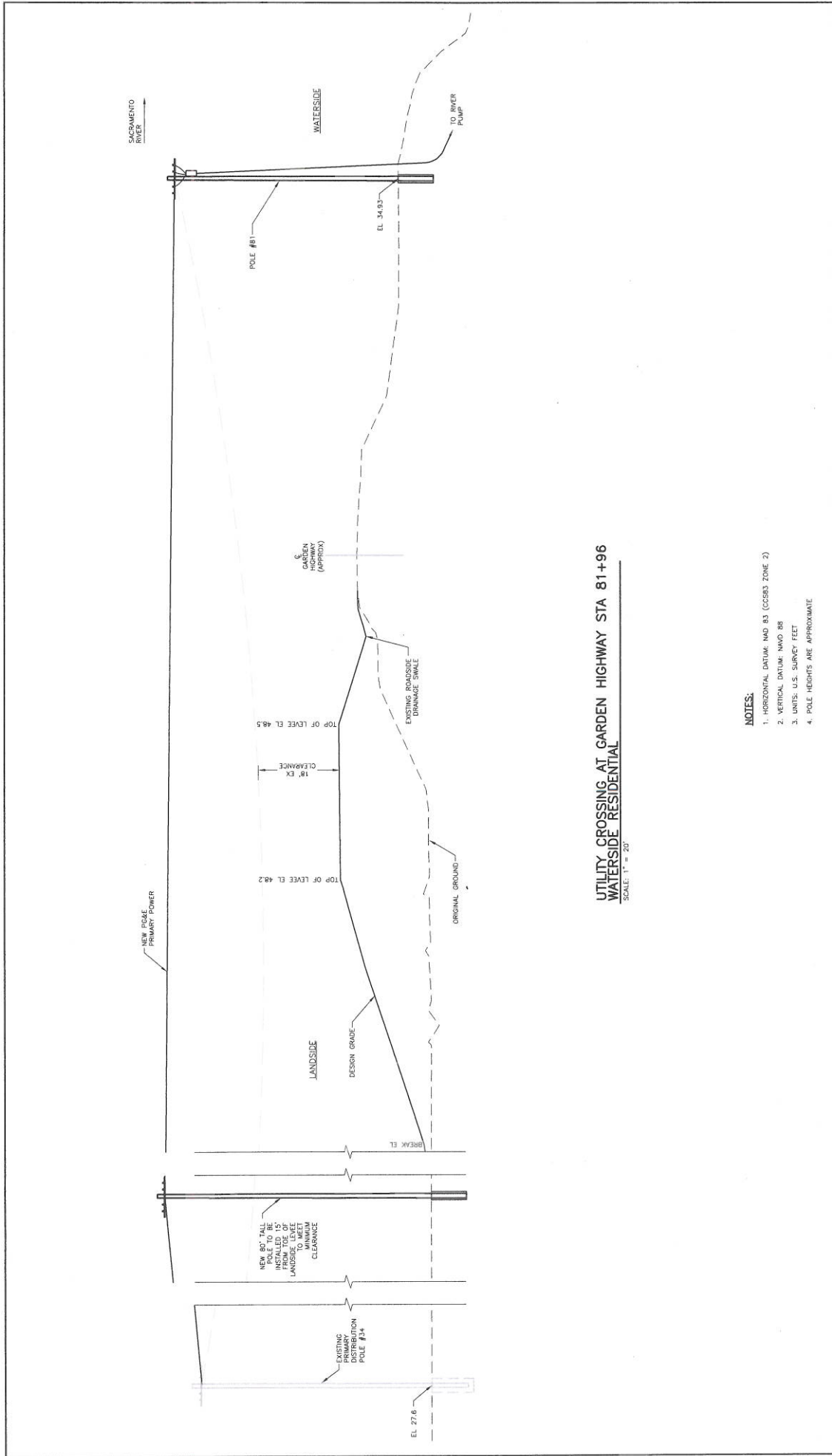


UTILITY CROSSING AT GARDEN HIGHWAY STA 57+98
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SCALE: 1" = 20'

NOTES.

1. HORIZONTAL DATUM: NAD 83 (CCSB3 ZONE 2)
2. VERTICAL DATUM: NVD 88
3. UNITS: U.S. SURVEY FEET
4. POLE HEIGHTS ARE APPROXIMATE

VERIFIED SCALES BY ORIGINAL DRAWING ADJUSTED FOR DISTORTION DATE: 11/19/2011			SRELF PHASE 1B POWER POLE COMPLIANCE PLANS			11	19
DESIGNED BY:			PROJECT/DC MANAGERS			HDR	
DRAWN BY:			DATE			198 California St. Suite 300 2240 Van Ness St. Fremont, CA 94530	
IN CHARGE:			DESCRIPTION				
PROJECT/DC MANAGERS			DESCRIPTION				
DATE			DESCRIPTION				
REV.	DATE	BY	CHK.	APPR.	DESCRIPTION		

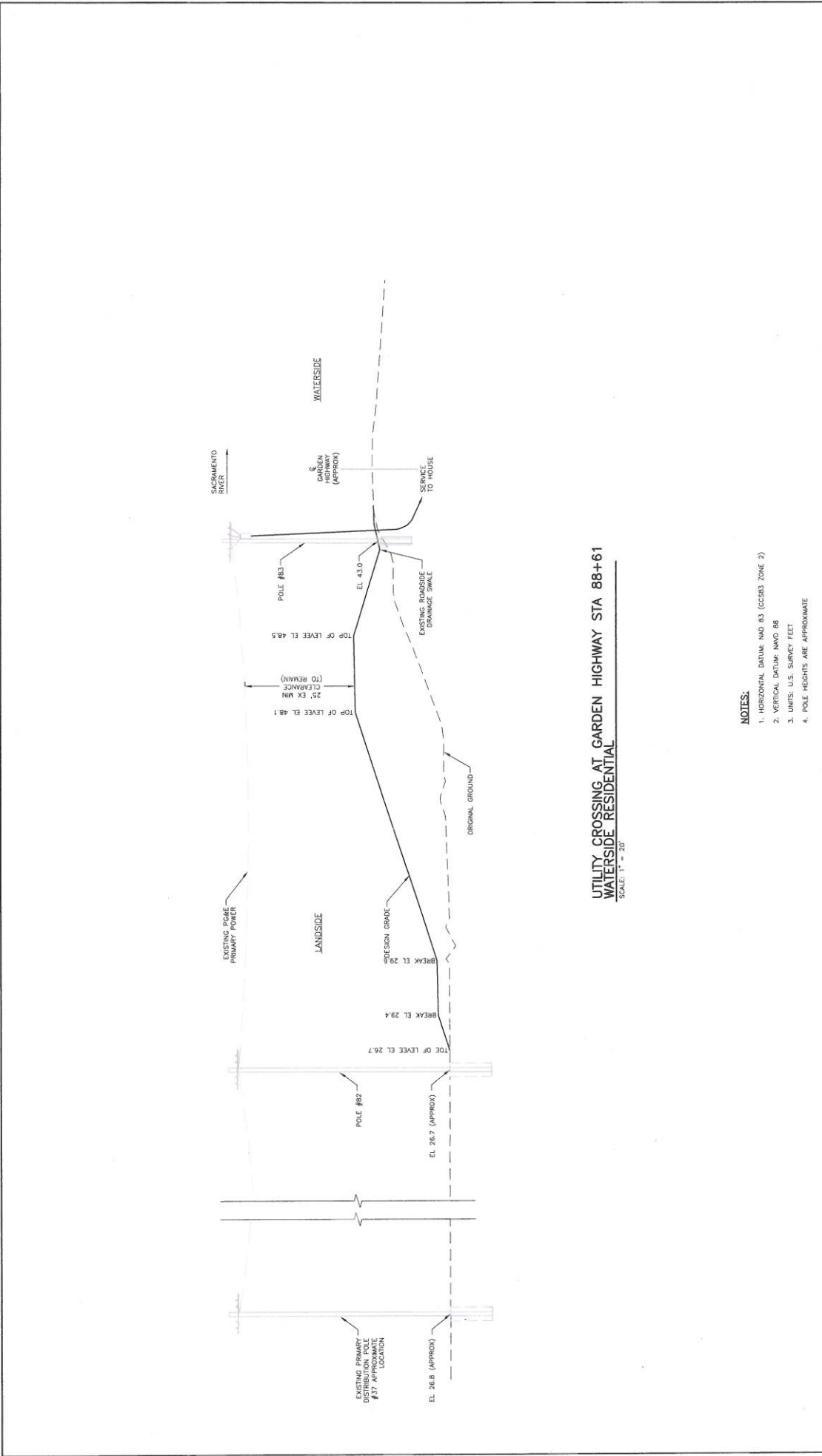


UTILITY CROSSING AT GARDEN HIGHWAY STA 81+96
 WATERSIDE RESIDENTIAL
 SCALE: 1" = 20'

NOTES:

1. HORIZONTAL DATUM: NAD 83 (CGCS83 ZONE 2)
2. VERTICAL DATUM: NVD 88
3. UNITS: U.S. SURVEY FEET
4. POLE HEIGHTS ARE APPROXIMATE

188 California Ave. Suite 300 2285 Van Ness Ave. Folsom, CA 95630		SREL PHASE 1B POWER POLE COMPLIANCE PLANS		
DESIGNED BY: DRAWN BY: IN CHARGE: PROJECT/PC MANAGERS: DATE:		VERIFY SCALES BEFORE ORIGINAL DRAWING ADJUST SCALES FOR DIFFERENTIAL DRAWING NO. SHEET 12 19		
REV.	DATE	BY	CHK. APPR.	DESCRIPTION



UTILITY CROSSING AT GARDEN HIGHWAY STA 88+61
WATERSIDE RESIDENTIAL

SCALE: 1" = 20'

NOTES:

1. HORIZONTAL DATUM: NAD 83 (CGCS83 ZONE 2)
2. VERTICAL DATUM: NVD 88
3. UNITS: U.S. SURVEY FEET
4. POLE HEIGHTS ARE APPROXIMATE

VERIFY SCALES AND DIMENSIONS IN ORIGINAL DRAWING FOR ADJUSTED DIMENSIONS ON ALL SHEETS		DRAWING NO. SHEET	
SARCA		13 19	
SREL PHASE 1B POWER POLE COMPLIANCE PLANS			
HDR 188 California St 2200 Van Ness St Emeryville, CA 94608		DESIGNED BY: DRAWN BY: IN CHARGE: PROJECT/PC MANAGERS: DATE:	
REV.	DATE	BY	DESCRIPTION

STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2009-07

FINDINGS AND DECISION AUTHORIZING ISSUANCE OF
ENCROACHMENT PERMIT NO. 18159-2
NATOMAS CROSS CANAL SOUTH LEVEE PHASE II IMPROVEMENTS
AND
ENCROACHMENT PERMIT NO. 18159-3
SACRAMENTO RIVER EAST LEVEE PHASE I IMPROVEMENT PROJECT
REACHES 1 THROUGH 4A
SACRAMENTO AREA FLOOD CONTROL AGENCY
SUTTER AND SACRAMENTO COUNTIES

WHEREAS, the Sacramento Area Flood Control Agency (“SAFCA”) has begun a multi-year Natomas Levee Improvement Program; and

WHEREAS, SAFCA as lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* (“CEQA”) prepared an Environmental Impact Report on the Natomas Levee Improvement Program Landside Improvements Project (“EIR”) (incorporated herein by reference and available at the Central Valley Flood Protection Board offices or SAFCA offices); and

WHEREAS, SAFCA, as lead agency, certified the EIR, adopted mitigation measures and a Mitigation Monitoring Reporting Plan (“MMRP”) (incorporated herein by reference and available at the Central Valley Flood Protection Board or at SAFCA), approved findings and a statement of overriding considerations pursuant to CEQA and the CEQA Guidelines (incorporated herein by reference); and approved the Project as identified in Alternative 1 of the EIR; and

WHEREAS, SAFCA submitted Application No. 18159-2 to the Reclamation Board on November 7, 2007, and submitted an updated application to the Central Valley Flood Protection Board on January 13, 2009. The application proposes to place fill to raise and realign approximately 28,750 linear feet of levee and to construct approximately 19,050 linear feet of seepage cutoff wall along the left (south) project levee.

WHEREAS, SAFCA submitted Application No. 18159-3 to the Reclamation Board on November 7, 2007, and submitted an updated application to the Central Valley Flood Protection Board on January 13, 2009. The application proposes to construct approximately 11,000-linear-feet of seepage cutoff wall at 20 to 63-feet in depth, construct approximately 8,100-linear-feet of seepage berm varying in width from 100 to 300-feet-wide, and construct a 18,800-linear-foot setback levee 3-foot-higher than the existing levee on the landside slope of the existing left (east) bank levee.

WHEREAS, on January 1, 2008, the new Central Valley Flood Protection Board came into being, and succeeded to all of the responsibilities of the former Reclamation Board; and

WHEREAS, on January 18, 2008, the Central Valley Flood Protection Board held a hearing on Application 18159-2, adopted CEQA Findings and a Statement of Overriding Considerations, and conditionally approved the proposed permit subject to 33 U.S.C. 408 approval by the U.S. Army Corps of Engineers.

WHEREAS, on March 21, 2008, the Central Valley flood Protection Board held a hearing on Application 18159-3, adopted CEQA Findings and a Statement of Overriding Considerations, and conditionally approved the proposed permit subject to 33 U.S.C. 408 approval by the U.S. Army Corps of Engineers.

WHEREAS, since the events above, SAFCA proposed modifications to the Phase 2 Project.

WHEREAS, SAFCA prepared a Supplement to the Environmental Impact Report on the Natomas Levee Improvement Program Landside Improvements Project – Phase 2 Project (State Clearinghouse No. 2007062016) (“SEIR”), which analyzes the modifications to the Phase 2 Project, which are fully described in Chapter 2 of the November 2008 Draft SEIR, as amended by the January 2009 Final Supplement to the Environmental Impact Report on the Natomas Levee Improvement Program Landside Improvements Project – Phase 2 Project (together, the “Final SEIR”). The SEIR is available at http://www.safca.org/Programs_Natomas.html and <http://www.cvfpb.ca.gov/meetings/2009/03-27-2009.cfm> or at SAFCA and Board offices.

WHEREAS, the Draft SEIR was published on November 18, 2008, for a 45-day public review period that ended on January 2, 2009. In addition, members of the public were invited by formal public notice to submit comments on the Draft SEIR in testimony at a public hearing held for that purpose on December 11, 2008. Additional public comments were received at this hearing.

WHEREAS, the Final SEIR was published in January, 2009. SAFCA also prepared a Mitigation Monitoring and Reporting Program (MMRP). On January 29, 2009, the SAFCA Board certified the Final SEIR, made CEQA Findings, and adopted a Statement of Overriding Considerations and approved the modifications to the Phase 2 project (Exhibit A to SAFCA Resolution 09-022).

WHEREAS, the Director of Civil Works for the U.S. Army Corps of Engineers, based on his review of the 33 U.S.C. 408 recommendation package, the Final Environmental Impact Statement, the views of other Federal, State, and local agencies, and input from the public, found that the recommended Natomas Levee Improvement Program Phase 2 project to be technically adequate and not an impairment to the usefulness of existing Federal project; to be in accordance with environmental statutes; to be without significant adverse hydraulic impacts; and to not be injurious to the public interest.

WHEREAS, the Director of Civil Works for the U.S. Army Corps of Engineers approved the request under 33 U.S.C. 408 made by the State of California Central Valley Flood Protection Board on behalf of SAFCA to alter the Sacramento River Flood Control Project by construction of the Natomas Levee Improvement Program Phase 2 Project.

WHEREAS, the Central Valley Flood Protection Board has conducted a hearing and has reviewed the updated applications, the Reports of its staff, the documents and correspondence in its file, and the environmental documents prepared by SAFCA;

NOW, THEREFORE, BE IT RESOLVED THAT,

Findings of Fact.

1. The Central Valley Flood Protection Board hereby adopts as findings the facts set forth in the Staff Report.
2. The Board has reviewed the Figures, Attachments, and References listed in the Staff Report.

CEQA Findings.

3. The Central Valley Flood Protection Board, as a responsible agency, has independently reviewed the analysis in the SEIR, MMRP, and the findings prepared by the lead agency, SAFCA, and has reached its own conclusions regarding them.
4. The Central Valley Flood Protection Board, after consideration of the SEIR, and SAFCA findings, adopts the project description, analysis and findings in the SEIR and SAFCA Findings which are relevant to activities authorized by issuance of final encroachment permits consistent with Draft Permit No. 18159-2, Natomas Cross Canal South Levee Phase II Improvements, and Draft Permit No. 18159-3, the Sacramento River East Levee Phase I Improvement Project, Reaches 1 Through 4A.

5. **Findings regarding significant impacts.** Pursuant to CEQA Guidelines sections 15096(h) and 15091, the Central Valley Flood Protection Board determines that the SAFCA Findings, attached to the Staff Report, and incorporated herein by reference, summarize the SEIR's determinations regarding impacts of the modifications to the Phase 2 Project before and after mitigation. Having reviewed the SEIR and the SAFCA Findings, the Central Valley Flood Protection Board makes its findings as follows:

a. **Findings regarding Significant and Unavoidable Impacts.**

The Central Valley Flood Protection Board finds that the modifications to the Phase II Project may have the following significant, unavoidable impacts, as more fully described in the SEIR and the SAFCA Findings. Mitigation has been adopted for each of these impacts,

although it does not reduce the impact to less than significant. The impacts and mitigation measures are set forth in more detail in the SEIR and SAFCA Findings.

A. Impact 3.4-b. Potential Construction Impacts on Cultural Resource CA-SAC-485/H

Mitigation Measure 3.4-b: Avoid Ground Disturbance near Known Archeological Site CA-Sac-485/H to the Extent Feasible and Prepare and Implement a Historic Properties Treatment Plan.

B. Impact 3.4-c. Damage to or Destruction of Other Identified Prehistoric Cultural Resources

Mitigation Measure 3.4-c: Evaluate NLIP-7 and NLIP-22. If the Resources are Eligible, Avoid Disturbance to the Extent Feasible, and Prepare and Implement a Historic Properties Treatment Plan.

C. Impact 3.4-d. Damage to or Destruction of Previously Undiscovered Cultural Resources

Mitigation Measure 3.4-d: Conduct Additional Backhoe and Canine Forensic Investigations As Appropriate

D. Impact 3.4-e. Damage to or Destruction of Previously Undiscovered Interred Human Remains

Mitigation Measure 3.4-e: Halt Work Within 50 Feet of the Find, Notify the County Coroner and Most Likely Descendant, and Implement Appropriate Treatment of Remains

E. Impact 3.5-a. Generation of Temporary, Short-Term Construction Noise

Mitigation Measure 3.5-a: Implement Noise-Reducing Construction Practices, Prepare and Implement a Noise Control Plan, and Monitor and Record Construction Noise Near Sensitive Receptors.

Finding: The Board finds that changes or alterations have been required in, or incorporated into, the project which substantially lessen such impacts, as set forth more fully in the SAFCA Findings, but that each of the above impacts remains significant after mitigation. Such mitigation measures are within the responsibility of another agency, SAFCA, and SAFCA can and should implement the described mitigation measures. Specific economic, legal, social, technological or other considerations, rendered infeasible mitigation or alternatives that would have reduced these impacts to less than significant.

b. Findings regarding significant impacts that can be reduced to less-than significant.

The Final SEIR identifies the following significant impacts associated with the modifications to the Phase 2 Project. These impacts are reduced to a less-than-significant level by mitigation measures identified in the Final SEIR and incorporated into the project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less-than-significant level or avoided by incorporation of these mitigation measures into the project.

A. Impact 3.2-a. Possible Effects on Water Quality from Stormwater Runoff from Garden Highway Drainage Outlets to the Sacramento River

Mitigation Measure 3.2-a: Implement Standard Best Management Practices and Comply With NPDES Permit Conditions.

B. Impact 3.3-a. Loss of Sensitive Habitats

Mitigation Measure 3.3-a: Minimize Effects on Sensitive Habitats; Develop and Implement a Habitat Management Plan to Ensure Compensation for Unavoidable Adverse Effects; Comply with Section 404, Section 401, and Section 1602 Permit Processes; and Implement all Permit Conditions.

C. Impact 3.3-b. Disturbance and Loss of Giant Garter Snake Habitat

Mitigation Measure 3.3-b: Minimize the Potential for Direct Loss of Giant Garter Snake Individuals, Develop a Management Plan in Consultation with USFWS and DFG, and Obtain Incidental Take

D. Impact 3.3-c. Loss of Swainson's Hawk Habitat and Potential Disturbance of Nests

Mitigation Measure 3.7-f: Minimize Potential Impacts on Swainson's Hawk, Monitor Active Nests during Construction, Develop a Management Plan in Consultation with DFG, and Obtain Incidental Take Authorization.

E. Impact 3.4-a. Changes to Elements of RD 1000, which Consists of a Rural Historic Landscape District That is Eligible for Listing on the NRHP

Mitigation Measure 3.4-a: Incorporate Mitigation Measures to Documents Regarding Any Elements Contributing to RD 1000 and Distribute the Information to the Appropriate Repositories.

Finding. The Board finds that changes or alterations have been required in, or incorporated into, the project which substantially lessen such impacts, as set forth more fully in the

SAFCA Findings, which describe the mitigation measures for each impact in detail. With such mitigation, each of the significant impacts will be reduced to less-than-significant. Such mitigation measures are within the responsibility of another agency, SAFCA, and SAFCA can and should implement the described mitigation measures.

6. As a responsible agency, the Central Valley Flood Protection Board has responsibility for mitigating or avoiding only the direct or indirect environmental effects of those parts of the Project which it decides to carry out, finance, or approve. The Board confirms that it has reviewed the MMRP, and confirmed that SAFCA has adopted and committed to implementation of the measures identified therein. The Board agrees with the analysis in the MMRP and confirms that there are no feasible mitigation measures within its powers that would substantially lessen or avoid any significant effect the project would have on the environment. None of the mitigation measures in the MMRP require implementation by the Board directly, although continued implementation of the MMRP shall be made a condition of issuance of the Encroachment Permit. However, the measures in the MMRP may be modified to accommodate changed circumstances or new information not triggering the need for subsequent or supplemental analysis under CEQA Guidelines sections 15062 or 15063.

7. **Statement of Overriding Considerations.** Pursuant to CEQA Guidelines sections 15096(h) and 15093, the Board has balanced the economic, social, technological and other benefits of the Project described in application Nos. 18159-2 and 18159-3, against its significant and unavoidable impacts, listed in paragraph 5 (a) above, and finds that the benefits of the Project outweigh these impacts and they may, therefore, be considered “acceptable”.

The Central Valley Flood Protection Board finds that there is an immediate need to protect the people and property at risk in the project area. The Natomas Basin floodplain is occupied by over 83,000 residents and \$10 billion in damageable property. The area is presently vulnerable to flooding in a less than 100-year flood event along the Sacramento River or American River. The Natomas Basin is a deep floodplain and depending on the circumstances, flood depths in the Natomas Basin could reach life-threatening levels. The disruption in transportation that would result from a major flood would affect the Sacramento International Airport, interstate and state highways, and rail service.

The health and safety benefits of the project, which would significantly reduce the risk of an uncontrolled flood in the Natomas Basin that would result in a catastrophic loss of property and threat to residents of the area, outweigh the remaining unavoidable environmental impacts.

8. **Custodian of Record.** The custodian of the CEQA record for the Board is its Executive Officer, Jay Punia, at the Central Valley Flood Protection Board Offices at 3310 El Camino Avenue, Room LL40, Sacramento, California 95821.

Findings pursuant to Water Code section 8610.5

9. **Evidence Admitted into the Record.** The Board has considered all the evidence presented in this matter, including the original and updated applications, past and present Staff Reports and attachments, the original Environmental Impact Report on the Natomas Levee Improvement Program Landside Improvements Project (Draft and Final Versions), the Supplement to the NLIP EIR (SEIR) (Draft and Final versions), the original and supplemental MMRP, the SAFCA Findings, the Corps of Engineers' Investigation Results on the Natomas Levees, transcripts of evidentiary hearings on permit applications 18159-2 and 18159-3 held at the Central Valley Flood Protection Board meetings on December 21, 2007, January 18, 2008, March 21, 2008 and March 27, 2009. The Board has also considered evidence from the U.S. Army Corps of Engineers presentation at the January 2008 meeting, and all letters and other correspondence received by the Board and in the Board's files related to this matter.

The custodian of the file is Executive Officer Jay Punia at the Central Valley Flood Protection Board.

10. **Best Available Science.** In making its findings, the Board has used the best available science relating to the issues presented by all parties. On the important issue of hydraulic impacts and the computed water surface profiles, SAFCA used the UNET one-dimensional unsteady flow model developed by the USACE for the Sacramento-San Joaquin Comprehensive Study. The model is considered by many experts as one of the best available scientific tools for the purpose of modeling river hydraulics, including flood control system simulations and water surface profile computations.

11. **Effects on State Plan of Flood Control.** This project has positive effects on the State Plan of Flood Control as it includes features that will provide 200-year protection to the Natomas Basin. The Board found (through prior Resolutions 2008-2 and 2008-4) that the hydraulic impacts of the proposed Natomas Cross Canal and Sacramento River East Levee Improvements, as computed using the UNET model, on the entire State Plan of Flood Control, are not significant. Those findings included landside levee raises, adjacent setback levees, seepage berms, and drainage collection systems. The Board now also finds that no changes in project design from the 60 percent to 100 percent levels result in negative hydraulic impacts on the entire State Plan of Flood Control.

On January 21, 2009 the U.S. Army Corps of Engineers issued "Record of Decision, 408 Permission and Department of the Army 404 Permit to Sacramento Area Flood Control Agency for the Natomas Levee Improvement Project". This approval, pursuant to U.S.C. Title 33, Chapter 9, Subchapter 1, Section 408 included the Natomas Cross Canal South Levee Phase 2 project (included in encroachment permit 18159-2) and the Sacramento River East Levee Phase 1 project (included in encroachment permit 18159-3). This permission was granted based upon Corps determination that such alterations will not be injurious to the public interest and will not impair the usefulness of the Sacramento River Flood Control Project.

In California Statutes of 2007, Chapter 641 (SB276), the Legislature found and declared that “The projects authorized in Section 12670.14 of the Water Code [which includes the Natomas Cross Canal South Levee Phase II Improvements and the Sacramento River East Levee Phase I Improvement Project, Reaches 1 Through 4A work] will increase the ability of the existing flood control system in the lower Sacramento Valley to protect heavily urbanized areas within the City of Sacramento and the Counties of Sacramento and Sutter against very rare floods without altering the design flows and water surface elevations prescribed as part of the Sacramento River Flood Control Project or impairing the capacity of other segments of the Sacramento River Flood Control Project to contain these design flows and to maintain water surface elevations. Accordingly, the projects authorized in that section will not result in significant adverse hydraulic impacts to the lands protected by the Sacramento River Flood Control Project and neither the Central Valley Flood Control Board nor any other state agency shall require the authorized projects to include hydraulic mitigation for these protected lands.”

12. **Effects of reasonably projected future events.** The impact of climate change on future hydrology and floodplain conditions is discussed in the original Draft EIR at pages 3.11-12 to 3.11-13. An increase in precipitation due to climate change “could lead to increased potential for floods because water that would normally be held in the Sierra Nevada until spring could flow into the Central Valley concurrently with winter storm events” thus placing more pressure on California’s levee/flood control system. The impact of greenhouse gases is acknowledged and discussed in the DEIR in Section 4.2.5.6 at page 4-18. Proposed development projects in the Natomas Basin are discussed beginning on page 4-11 of the DEIR. In addition, the DEIR discusses the Master Plan for the Sacramento International Airport., beginning on page 4-9 of the DEIR. Thus, improved levees will not only benefit existing residents, they will permit additional planned development, and airport expansion.

Other Findings/Conclusions regarding Issuance of the Permit.

13. Based on the foregoing, and particularly on the evidence that the condition of the existing Natomas levees poses an unacceptable risk to life and property, the Board finds and concludes that the issuance of the Encroachment Permits Nos. 18159-2 and 18159-3 for the Natomas Cross Canal South Levee Phase II Improvements and Sacramento River East Levee Phase I Improvement Project, Reaches 1 Through 4A, as modified, is in the public interest.

14. This resolution shall constitute the written decision of the Central Valley Flood Protection Board in the matter of Permits Nos. 18159-2 and 18159-3.

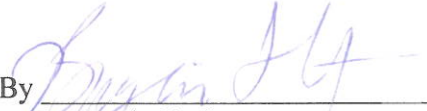
Approval of Permits.

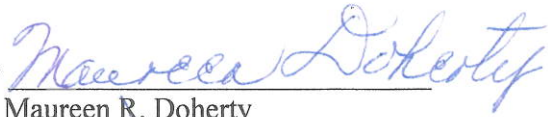
15. Based on the foregoing, the Central Valley Flood Protection Board hereby approves the modifications to the NLIP Phase II Project and approves issuance of Encroachment Permits in substantially the form provided as Attachments A and B of the Staff Report.

16. The Board directs the Executive Officer to take the necessary actions to prepare and execute the permits and related documents and to prepare and file a Notice of Determination under the California Environmental Quality Act for the Natomas Levee Improvement Program, Landside Improvements Project, Natomas Cross Canal South Levee Phase II Improvements and Sacramento River East Levee Phase I Improvement Project, Reaches 1 Through 4A.

DATED: 3-27-09

THE CENTRAL VALLEY FLOOD
PROTECTION BOARD OF THE
STATE OF CALIFORNIA

By 
Benjamin F. Carter
President

By 
Maureen R. Doherty
Secretary

STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2012-12

FINDINGS AND DECISION AUTHORIZING ISSUANCE OF
ENCROACHMENT PERMIT NO. 18713
PACIFIC GAS & ELECTRIC COMPANY (PG&E)
PG&E POLE REPLACEMENT PROJECT
SACRAMENTO COUNTY

WHEREAS, PG&E submitted Application No. 18713 to the Central Valley Flood Protection Board on December 5, 2011 to:

Replace one power pole to achieve minimum 25 feet vertical clearance over Garden Highway: Pole 78;

Remove three encroaching power poles: Pole 95, Pole 96 and Pole 97;

Modify two existing utility crossing to achieve minimum 25 feet vertical clearance: Pole 34 and Pole 81 with existing 18 feet vertical clearance, one new pole 80 feet tall between Pole 34 and Pole 81; and Pole 41 and Pole 87 with existing 23 feet vertical clearance;

Relocate one power pole and replacing it with a splice box: Pole 97;

Obtain encroachment authorization for five poles with adequate vertical clearance: Pole 82, Pole 83, Pole 98, Pole 53, and Pole 54;

Authorize five existing poles (Pole 82, Pole 83, Pole 98, Pole 53, and Pole 54) located within fifteen feet of the Garden Highway setback levee. These poles are sufficiently tall to allow the power lines to meet or exceed the minimum vertical clearances required by Title 23, California Code of Regulation (CCR) Section 123,(b)(6); and

WHEREAS, Sacramento Area Flood Control Agency (SAFCA) as lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* (“CEQA”) prepared an Environmental Impact Report on the Natomas Levee Improvement Program – Landside Improvements Phase 2 Project (“EIR”) (incorporated herein by reference and available at the Central Valley Flood Protection Board office or SAFCA office); and

WHEREAS, SAFCA, as lead agency, certified the EIR, adopted mitigation measures and a Mitigation Monitoring Reporting Plan (“MMRP”) (incorporated herein by reference and available at the Central Valley Flood Protection Board office or SAFCA office), approved findings and a statement of overriding considerations pursuant to the CEQA Guidelines

(incorporated herein by reference); and approved the Project as identified in the EIR including the impacts from the relocation of existing PG&E poles; and

WHEREAS, SAFCA as the lead agency prepared a Draft Environmental Impact Statement /Draft Environmental Impact Report (DEIS/DEIR) (SCH No. DEIR, SCH No. 2007062016, September 2007) and the Final EIS/EIR (November 2007); Supplemental Environmental Impact Report (SEIR, November 2008), and the Final Supplemental to the Environmental Impact Report (January 2009) for the Natomas Levee Improvement Program - Landside Improvements Phase 2 Project EIR including the impacts from the relocation of existing PG&E poles; and

WHEREAS, the DEIS/DEIR was published on September 14, 2007, for a 45-day public review period that ended on October 29, 2007; and

WHEREAS, the FEIS/EIR was published on November 30, 2007, the Notice of Determination was filed with the State Clearinghouse on January 30, 2009;

WHEREAS, SAFCA prepared a Mitigation Monitoring and Reporting Program (MMRP), and on January 29, 2009, the SAFCA Board made CEQA findings, and adopted a Statement of Overriding Considerations and approved the Natomas Levee Improvement Program - Landside Improvements Phase 2 Project, (SAFCA Resolution 09-022); and

WHEREAS, on March 27, 2009, the Central Valley flood Protection Board held a hearing on Permit No. 18159-3 Natomas Levee Improvement Program - Landside Improvements Phase 2 Project, adopted CEQA Findings and a Statement of Overriding Considerations, and approved Permit Application 18159-3;

WHEREAS, the Board concurred with SAFCA's Findings and adopted Resolution 2009-07 (Attachment D) on March 27, 2009 including the CEQA Findings, Mitigation Measures, and the Statement of Overriding Considerations; and

WHEREAS, the U.S. Army Corps of Engineers 208.10 comment letter has not been received for this application and Board Staff anticipates receipt of a letter indicating that the USACE District Engineer has no objection to the project, subject to conditions; and

WHEREAS, Board staff completed a technical review of Permit Application No. 18713; and

WHEREAS, the Board has conducted a public hearing on Permit Application No. 18713 and has reviewed the Reports of its staff, the documents and correspondence in its file, and the environmental documents prepared by SAFCA;

NOW, THEREFORE, BE IT RESOLVED THAT,

Findings of Fact.

1. The Central Valley Flood Protection Board hereby adopts as findings the facts set forth in the Staff Report.
2. The Board has reviewed all Attachments, Exhibits, Figures, and References listed in the Staff Report.

CEQA Findings.

3. The Central Valley Flood Protection Board, as a responsible agency, has independently reviewed the analysis in the Natomas Levee Improvement Program - Landside Improvements Phase 2 Project EIR, SEIR, MMRP, and the findings prepared by the lead agency, SAFCA, and has reached its own conclusions regarding them.
4. The Central Valley Flood Protection Board, after consideration of the Natomas Levee Improvement Program - Landside Improvements Phase 2 Project EIR, SEIR, and SAFCA findings, adopts the project description, analysis and SAFCA Findings which are relevant to activities authorized by issuance of final Encroachment Permit No. 18713, the PG&E Pole Replacement Project.
5. **Custodian of Record.** The custodian of the CEQA record for the Board is its Executive Officer, Jay Punia, at the Central Valley Flood Protection Board Offices at 3310 El Camino Avenue, Room 151, Sacramento, California 95821.

Considerations pursuant to Water Code section 8610.5

6. **Evidence Admitted into the Record.** The Central Valley Flood Protection Board (Board) has considered all the evidence presented in this matter, including the original application for Encroachment Permit No. 18713 and technical documentation provided by PG&E on the Pole Replacement Project past and present Staff Reports and attachments, the original Environmental Impact Report on the Natomas Levee Improvement Program – Landside Improvements Phase 2, Project (Draft and Final Versions), SAFCA Resolution 09-022 including findings, Statement of Overriding Considerations, the Mitigation Monitoring and Reporting Program.
7. **Best Available Science.** In making its findings, the Board has used the best available science relating to the issues presented by all parties. The Board has taken into consideration and the design is in compliance with these standards.
8. **Effects on State Plan of Flood Control.** This project has no negative impacts on the State Plan of Flood Control. Both hydraulic and geotechnical impacts from the project construction are negligible.
9. **Effects of Reasonably Projected Future Events.** There are no other foreseeable projected future events that would impact this project.

Other Findings/Conclusions regarding Issuance of the Permit.

10. Based on the foregoing and particularly on the evidence that the electrical distribution lines supported overhead by wooden poles would provide electrical service to PG&E customers, the Central Valley Flood Protection Board (Board) finds and concludes that the issuance of Encroachment Permit No. 18713 for the PG&E pole replacement project is in the public interest.
11. This resolution shall constitute the written decision of the Board in the matter of Encroachment Permit No. 18713.

Approval of Encroachment Permit No. 18713

12. Based on the foregoing, the Central Valley Flood Protection Board (Board) hereby conditionally approves issuance of Encroachment Permit No. 18713 in substantially the form provided in the Staff Report for Permit 18713, subject to receipt of U.S. Army Corps of Engineers comment letter indicating that the District Engineer has no objection to the project.
13. The Board directs the Executive Officer to take the necessary actions to prepare and execute Encroachment Permit No. 18713 and all related documents and to prepare and file a Notice of Determination under the California Environmental Quality Act for the PG&E Pole Replacement Project.

PASSED AND ADOPTED by vote of the Board on _____, 2012

Benjamin F. Carter
President

Jane Dolan
Secretary