

**Meeting of the Central Valley Flood Protection Board
April 25, 2014**

Staff Report – Encroachment Permit 18919

Pacific Gas and Electric Company, Canal Creek, Merced County

1.0 - ITEM

Consider approval of Draft Permit No. 18919 (Attachment B).

2.0 – APPLICANT

Pacific Gas and Electric Company (PG&E)

3.0 – LOCATION

The project is located on the west side of State Route 99 between North Buhach Road and North Gurr Road, in the city of Atwater (Canal Creek, Merced County, see Attachment A).

4.0 – DESCRIPTION

The applicant has applied to the Central Valley Flood Protection Board (Board) for a permit to directional bore under the left and right banks and the channel of Canal Creek and to install a 16-inch natural gas pipeline within the bore. The proposed project includes abandonment of an existing 8-inch pipeline.

5.0 – PROJECT ANALYSIS

The proposed bore and installation of a new 16-inch high pressure pipeline and abandonment of an existing 8-inch pipeline will accomplish two objectives:

1. Facilitate Caltrans realignment of State Route 99, and;
2. Provide greater capacity for a growing service area by a public utility.

Pursuant to California Code of Regulations Title 23 (23 C.C.R.) Section 123, Pipelines, Conduits, and Utility Lines, the installation of pipelines, conduits, utility lines, utility poles and appurtenant structures are allowed within an adopted plan of flood control provided that the proposed encroachment meets all applicable conditions in Section 123. The proposed directional bore and subsequent installation of the aforementioned 16-inch pipeline under Canal Creek and abandonment of the existing 8-inch pipeline will conform to all applicable standards in Section 123.

5.1 – Hydraulic Analysis

The scope of the work for this project does not require a hydraulic analysis.

5.2 – Geotechnical Analysis

The scope of work for this project does not require a geotechnical analysis.

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 (USACE) comment letter has been received for this application. The USACE District Engineer has no comments or recommendations regarding this project because the proposed work does not affect a federally constructed project. The letter is incorporated into the permit as Exhibit A.
- A Merced Irrigation District encroachment agreement dated July 05, 1989 and amended with conditions April 19, 2013 is incorporated into the permit as Exhibit B.

7.0 – CEQA ANALYSIS

Board staff has prepared the following California Environmental Quality Act (CEQA) determination:

Pursuant to the California Environmental Quality Act (CEQA), the California Department of Transportation (Caltrans) prepared and adopted a project Environmental Impact Report (EIR) on March 19, 2009 (SCH No. 2006081138). The Board considered and adopted Responsible Agency CEQA findings in Resolution

2012-47, November 2012 (Attachment D).

The Board finds that its prior CEQA findings made on November 16, 2012 regarding the California Department of Transportation project are still valid and that this PG&E relocation activity was covered in the original project description. The Board finds that the proposed utility relocation was within the scope of the previously certified EIR. No new environmental effects could occur and no new mitigation measures are required as a result of this utility relocation therefore no new environmental documents are required pursuant to CEQA Guidelines section 15162.

The documents and other materials which constitute the record of the Central Valley Flood Protection Board proceedings in this matter are in the custody of Jay Punia, Executive Officer, Central Valley Flood Protection Board, 3310 El Camino Ave., Room 151, Sacramento, California 95821.

8.0 – WATER CODE 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 at or before the public meeting.

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 facilities of the State Plan of Flood Control, and consistency of the proposed project with the Central Valley Flood Protection Plan as adopted by Board Resolution 2012-25 on June 29, 2012:

The proposed horizontal directional bore and installation of a 16-inch natural gas pipeline under the levees and channel of Canal Creek will have no adverse effects on facilities of the State Plan of Flood Control, and the project is consistent with the goals of the 2012 Central Valley Flood Protection Plan because completion of this project will neither prevent nor impair the ability of the surrounding community to achieve targeted levels of flood protection in the

future.

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

The larger capacity gas pipeline permit application is in response to projected growth within the service area.

9.0 – STAFF RECOMMENDATION

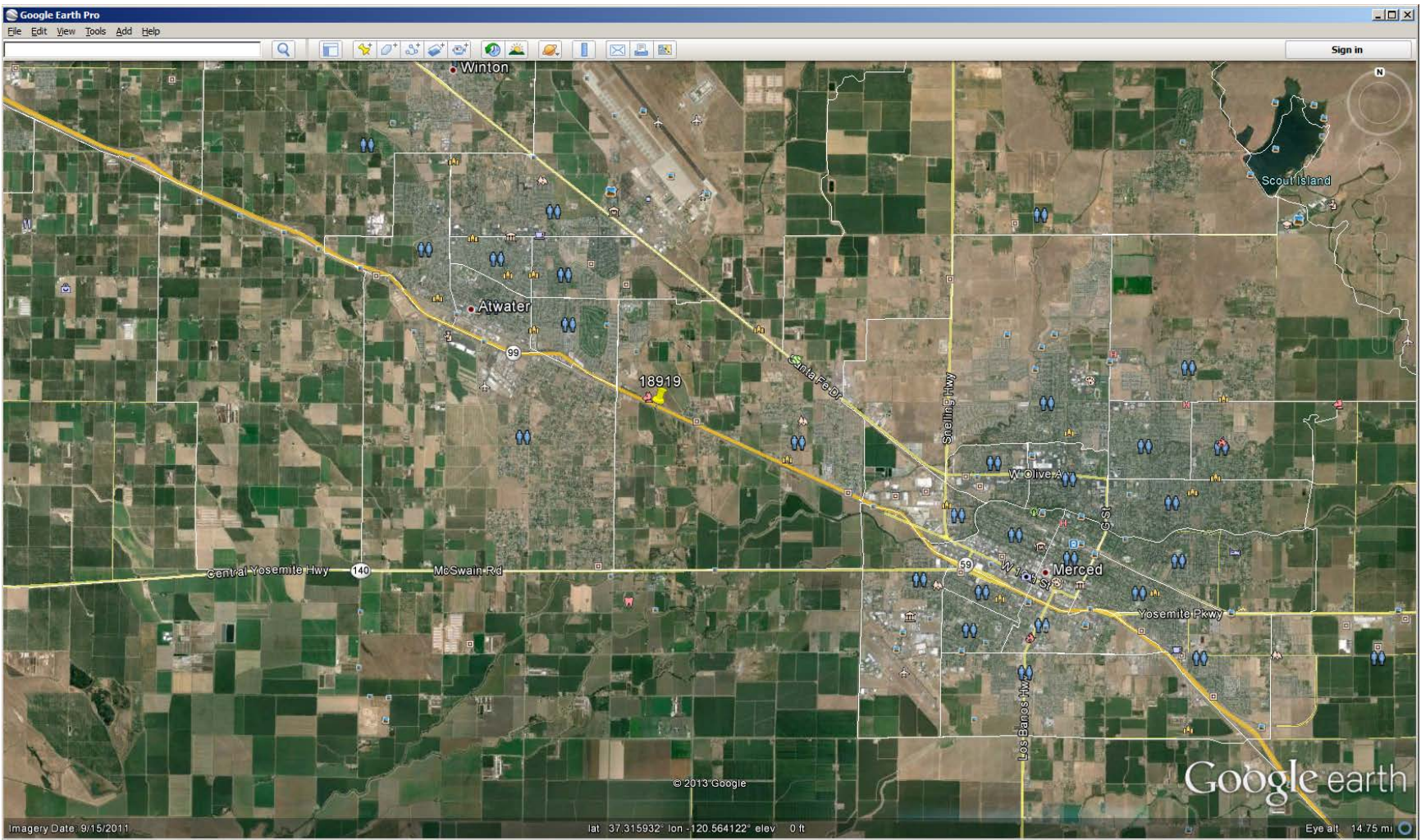
Staff recommends that the Board:

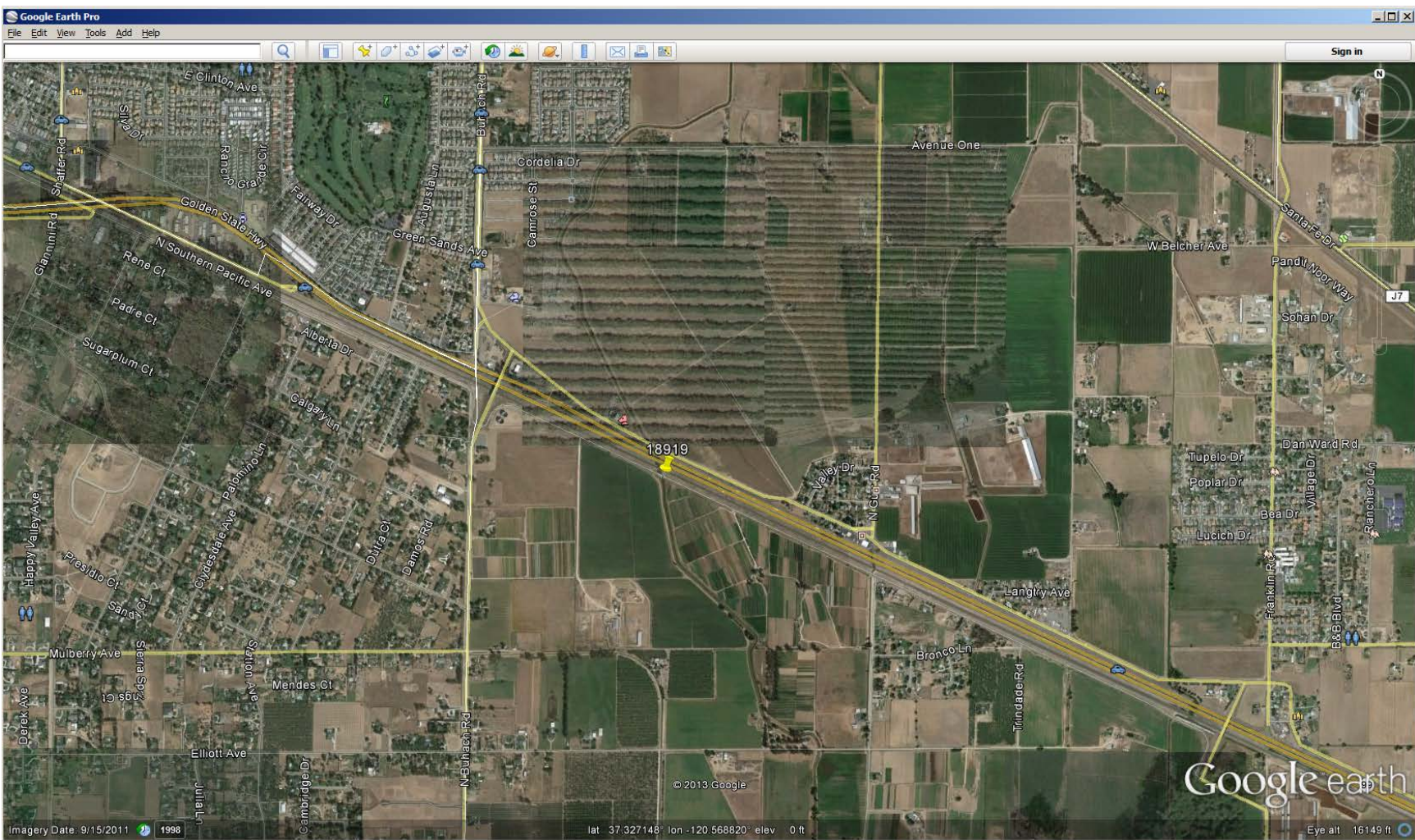
1. Approve Permit No. 18919, and
2. Direct the Executive Officer to take the necessary actions to execute the permit and file a Notice of Determination pursuant to CEQA with the State Clearinghouse.

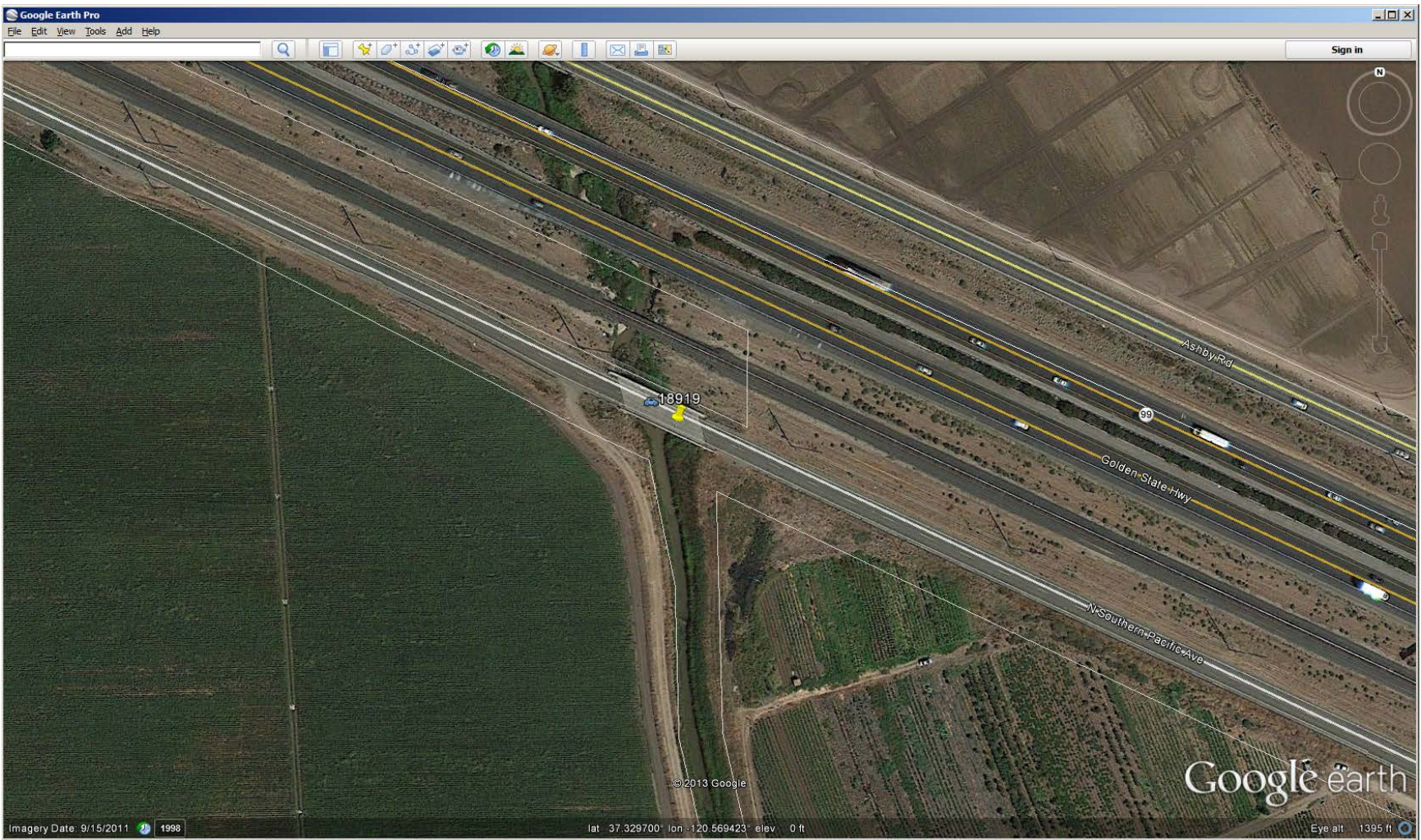
10.0 – LIST OF ATTACHMENTS

- A. Location Maps and Photos
- B. Draft Permit No. 18919
- C. Project Plans
- D. Adopted Resolution 2012-47

Design Review:	Sterling Sorenson
Environmental Review:	Andrea Buckley
Document Review:	Mitra Emami, Len Marino, Eric Butler
Legal Review:	Leslie Gallagher





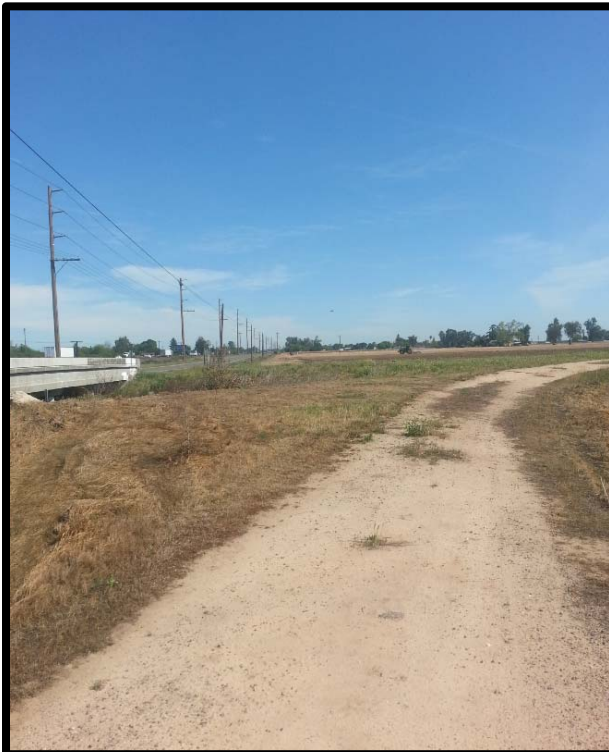


PG&E Atwater-Merced Gas Pipeline Relocation | **Canal Creek**

Canal Creek, looking southeasterly along Hwy 99

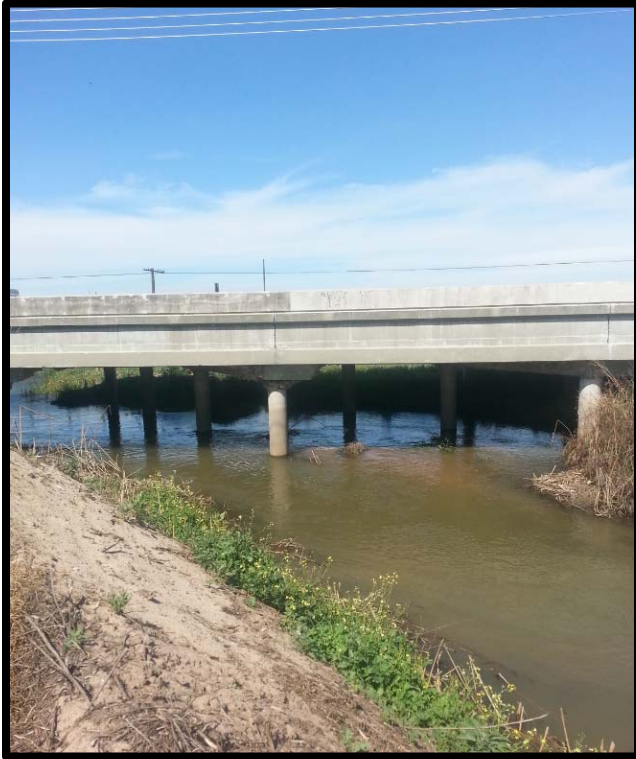


Approaching Canal Creek, looking southeasterly along Hwy 99



PG&E Atwater-Merced Gas Pipeline Relocation **Canal Creek**

Canal Creek, looking upstream (northerly)



Canal Creek, looking downstream (southerly)



This page intentionally left blank.

DRAFT

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

PERMIT NO. 18919 BD

This Permit is issued to:

Pacific Gas and Electric (PG&E)
1455 East Shaw Avenue, Bag 23
Fresno, California 93710

To authorize the relocation of a natural gas pipeline that requires the abandonment of an 8-inch line and a new Horizontal Directional Drilling (HDD)-type bore for a new 16-inch line under Canal Creek. The project is located along State Route 99, between North Buhach Road and North Gurr Road in the City of Atwater. (Section 8, 17, T7S, R13E, MDB&M, Merced Irrigation District, Canal Creek, Merced 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. 18919 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 gas pipeline shall have a readily accessible rapid-closure device located as close to each end of the herein permitted HDD crossing as is practical.

FIFTEEN: Location markers shall be placed near both landside levee toes for the buried pipeline not surfacing near the levee toes.

SIXTEEN: The permittee is responsible for all liability associated with construction, operation, and maintenance of the herein permitted encroachment(s) 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.

SEVENTEEN: 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.

EIGHTEEN: The Central Valley Flood Protection Board and/or the State of California, its agencies, departments, boards, commissions, and their respective officers, agents, employees, successors shall not be held liable for any damage to the herein permitted encroachment(s) resulting from release(s) of water from reservoirs, flood fight, operation, maintenance, inspection, or emergency repairs relative to Canal Creek, a regulated stream.

NINETEEN: The permittee shall contact the Department of Water Resources by telephone, (916) 574-0609, and submit the enclosed postcard to schedule a conference concerning the issuance of this permit and its conditions. Failure to do so within 10 working days of receipt of this permit may result in adverse action by the Board.

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

TWENTY-ONE: Pipe installed under the levee and stream channel shall have a minimum of 50 feet of cover below the levee toes and under the stream channel.

TWENTY-TWO: All debris generated by this project shall be properly disposed of outside the regulatory boundaries of Canal Creek.

TWENTY-THREE: The permittee shall be responsible for repair of any damage(s) to Canal Creek due to construction, operation and/or maintenance of the herein permitted encroachment(s).

TWENTY-FOUR: 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 Central Valley Flood Protection Board, the California Department of Water Resources, Merced Irrigation District or any other agency responsible for maintenance.

TWENTY-FIVE: The permitted encroachment(s) shall not interfere with operation and maintenance of Canal Creek, a regulated stream. If the permitted encroachment(s) are determined by any agency responsible for operation and/or maintenance to interfere, the permittee shall be required, at permittee's cost and expense, to modify or remove the permitted encroachment(s) under direction of the Central Valley Flood Protection Board through the Department of Water Resources. If the permittee does not comply, the Central Valley Flood Protection Board may modify or remove the encroachment(s) at the permittee's expense.

TWENTY-SIX: If the herein permitted encroachment(s), or any portion(s) thereof, is/are to be abandoned in the future, the permittee or successor shall abandon the encroachment(s) under direction of the Central Valley Flood Protection Board at the permittee's or successor's cost and expense.

TWENTY-SEVEN: The permittee may be required, at permittee's cost and expense, to remove or alter all or any part of the herein permitted encroachment(s) if modification or alteration is/are necessary as part of or in conjunction with any present or future flood control plan(s) or project or if damaged by any cause. If the permittee does not comply, the Central Valley Flood Protection Board may modify/remove the herein permitted encroachment(s) at the permittee's expense.

TWENTY-EIGHT: The condition of the pipe(s) shall be verified using video or sonar equipment at

least once every five years or by annual pressure readings showing no significant loss in pressure. The results of the inspection shall be submitted through the Department of Water Resources, Flood Project Integrity and Inspection Branch to the Central Valley Flood Protection Board and the USACE.

TWENTY-NINE: The letter from the Department of the Army dated February 24, 2014 is attached to this permit as Exhibit A in reference to this project.

THIRTY: A Master Encroachment Agreement (Agreement) between Merced Irrigation District and PG&E dated July 5, 1989 and modified April 19, 2013 is attached to this permit as Exhibit B and is incorporated by reference. Except where conditions are more stringent in this permit, the permittee shall comply with all conditions set forth in said Agreement.



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. Army Engineer District, Sacramento
Corps of Engineers
1325 J Street
Sacramento, California 95814-2922

Flood Protection and Navigation Section (18919)

FEB 24 2014

Mr. Jay Punia, Executive Officer
Central Valley Flood Protection Board
3310 El Camino Avenue, Room 151
Sacramento, California 95821

Dear Mr. Punia:

We have reviewed a permit application by Pacific Gas and Electric (application number 18919). This project includes relocating a natural gas pipeline by using horizontal directional drilling (HDD) under Canal Creek. The project is located along Highway 99, between North Buhach Road and North Gurr Road, in Atwater, California, at 37.330360°N 120.568311°W NAD83, Merced County, California.

The District Engineer has no comments or recommendations regarding flood control because the proposed work does not affect a federally constructed project.

Based upon the information provided, no Section 10 or Section 404 permit is needed.

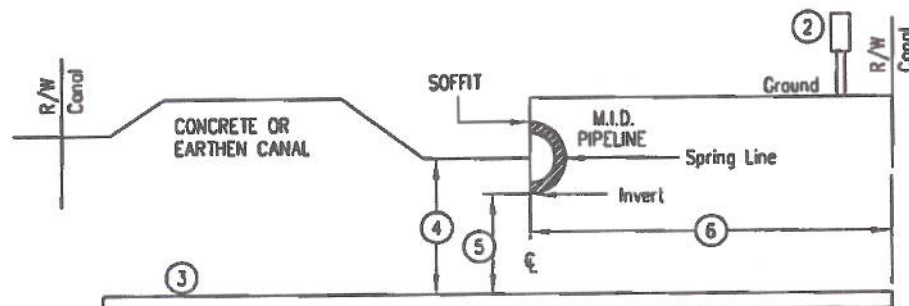
A copy of this letter is being furnished to Mr. Don Rasmussen, Chief, Flood Project Integrity and Inspection Branch, 3310 El Camino Avenue, Suite 200, Sacramento, CA 95821.

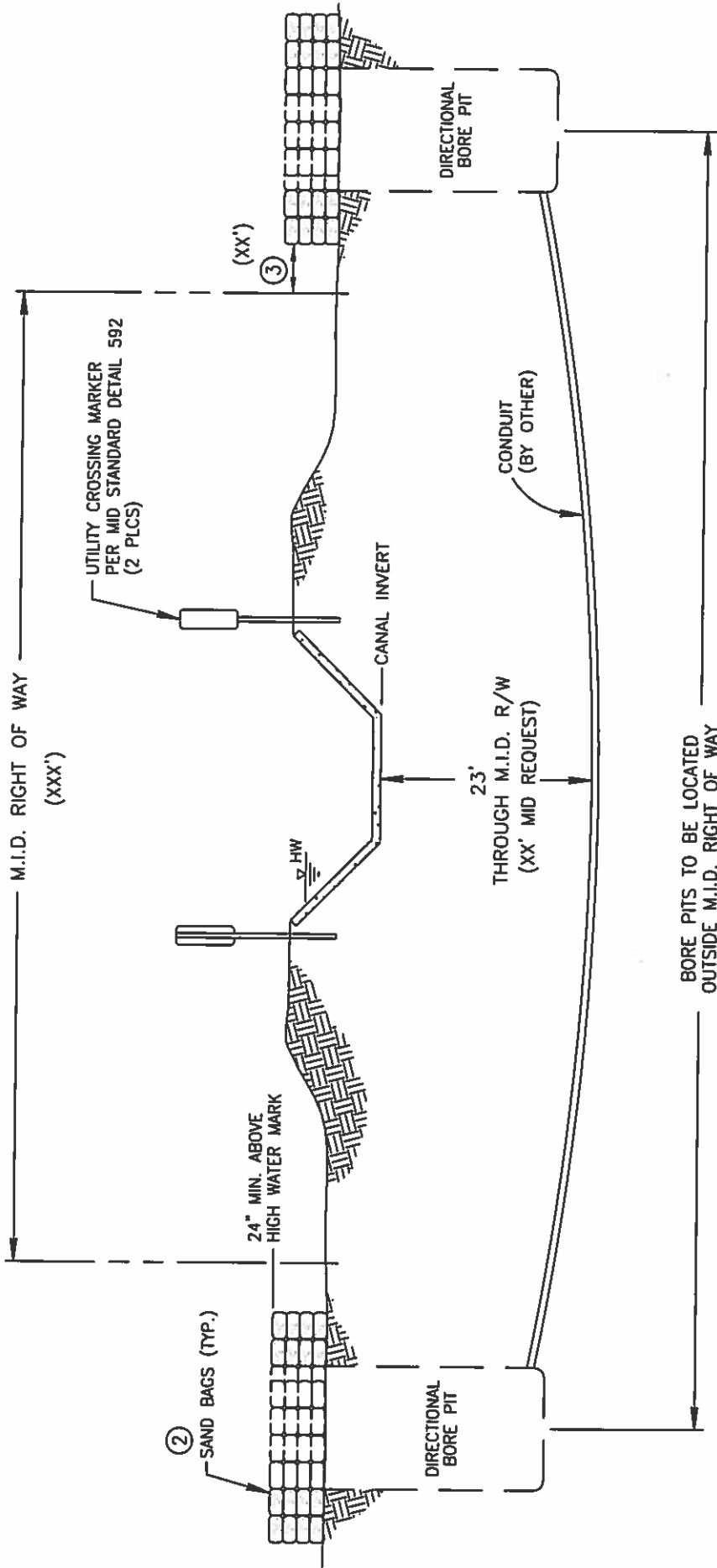
Sincerely,

A handwritten signature in black ink, reading "Randy P. Olsen", is positioned below the word "Sincerely,".

Randy P. Olsen
Chief, Operations-Readiness Branch

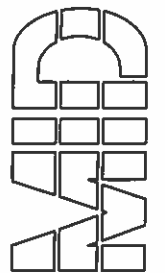
This page intentionally left blank.





NOTES:

- ① DIRECTIONAL BORE M.I.D. FACILITIES ONLY WITH WRITTEN PERMISSION FROM M.I.D. ENGINEERING, WATER RESOURCES DEPARTMENT (209-722-5761).
- ② SAND BAG PROTECTION OF BORE PITS REQUIRED DURING M.I.D. IRRIGATION SEASON (MARCH 1 TO OCT. 31), AND AT THE DISCRETION OF THE MID ENGINEER.
- ③ DISTANCE VARIES TO CLEAR CANAL TOE IF TOE IS OUTSIDE M.I.D. EASEMENT STRIP. (XX')



NON-EXCLUSIVE PIPELINE LICENSE AGREEMENT

(CONDUIT DIRECTIONAL BORE DETAIL UNDER OPEN CANAL)

MERCED IRRIGATION DISTRICT
ENGINEERING DEPARTMENT, WATER RESOURCES

DRAWN:
BRB

SCALE:
NONE

DATE:
3-11-13

JOB NO.
30890613

\\Dwg.....\Directional Bore_Utility.dwg

Attachment B - Exhibit B



**Pacific Gas and
Electric Company.**

Marisol Garcia
Senior Land Technician

Technical and Land Services
650 "O" Street, Bag 23
Fresno, Ca. 93760
Office: (559) 263-5240
Fax: (559) 263-7388
E-mail: mlg4@pge.com

February 27, 2013

Ron Price
Merced Irrigation District
744 W. 20th Street
Merced, CA. 95344

RE: Supplement #258 Crossing under Canal Creek. 35 feet southwesterly of South Pacific Avenue southwesterly right of way. Approximately 2,500 feet east of Buhach Road. NW ¼ of the NE ¼ of Section 17, T7S, R13E, MDB&M. - Merced Co.

Our File: PM 30890613

Dear Mr. Ron Price,

Enclosed are two copies of Supplement #258 to the Master Encroachment Agreement dated July 5, 1989. One is for your records and one is for our files. Upon your approval please process this request and return a signed copy to this office.

Please note that I requested a copy of the easement for Canal Creek from Kevin Malone. However, he was unable to provide me with an easement and asked me to reference Deed 12 O.R. 1 on the supplement.

Your cooperation in this matter is appreciated. Please call me at 559-263-5240, if you have any questions regarding this supplement request.

Thank you,

Marisol Garcia
Sr. Land Technician

Enclosures

This page intentionally left blank.



BILL OF MATL SHEET 13

DWG LIST

SUPSDS

SUPSD BY

SHEET NO _____

30890613 0

00050015 0

1:14:29 PM

A 2

Attachment C-1

—



DATE TICKET NO. BY

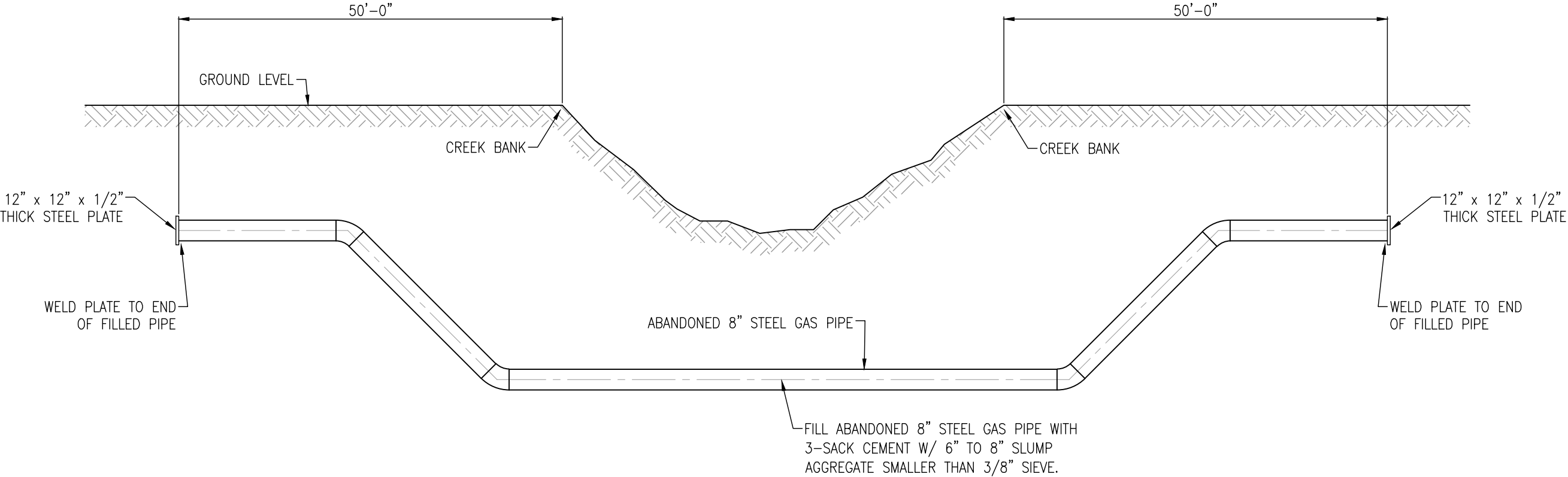
WELDING INSPECTED PER
PG&E GAS STANDARD D-4
VISUAL _____ ☐
MAGNETIC PARTICLE _____ ☐
INSPECTOR _____
DATE _____

[illegible]

APPROVED BY	JN
	SUPV JZSJ
	DSGN SABR
	DWN SABR
	CHKD MANO
	OK
	DATE 2-25-13
	SCALES
	AS SHOWN

ATWATER-MERCED / 99 INTERCHANGE
RELOCATE 8" WITH 16", CALTRANS WRC
TRANSMISSION LINE 118A
MP 63.65 TO MP 64.53, ATWATER, CA.

PACIFIC GAS AND ELECTRIC COMPANY
WALNUT CREEK , CALIFORNIA



THIS DRAWING IS FOR
VISUAL REFERENCE ONLY.
SCALE IS APPROXIMATE.
LOCATION OF EXISTING
AND PROPOSED
STRUCTURES IS
APPROXIMATE. ANY AND
ALL DIMENSIONS ARE
APPROXIMATE. ORIGINAL
DRAWING SIZE 11"x17".
IMAGE SOURCE: GOOGLE
EARTH



ENGINEERING & CONSULTING
130 AMBER GROVE DR. SUITE 134
CHICO, CA 95973
(530) 893-6711
www.gtsinc.us

DATE LAST WORKED ON
04/01/2014

L-118A RELOCATION PROJECT
CVFPB CREEK CROSSING
ABANDONMENT FIGURE

ATWATER, CALIFORNIA

SCALE
NOT TO SCALE

DRAWING NUMBER
GTS-13017-08

SHEET
1 OF 1

5 4 3 2 1 0 INCH

STATE OF CALIFORNIA
THE RESOURCES AGENCY
CENTRAL VALLEY FLOOD PROTECTION BOARD

RESOLUTION NO. 2012-47

FINDINGS AND DECISION AUTHORIZING ISSUANCE OF
ENCROACHMENT PERMIT NO. 18796

MERCED COUNTY ASSOCIATION OF GOVERNMENTS (MERCED COUNTY)
ATWATER-MERCED EXPRESSWAY PROJECT
CANAL CREEK BRIDGE

WHEREAS, California Department of Transportation (Caltrans) submitted Encroachment Permit Application No. 18796 to the Central Valley Flood Protection Board (Board) on July 25, 2012 to construct replacement State Route 99 north and southbound bridges, and a new northbound onramp bridge, at the crossing of Canal Creek; and

WHEREAS, Merced County as lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 *et seq.* ("CEQA") prepared an Environmental Impact Report on the Atwater-Merced Expressway Project ("EIR") (incorporated herein by reference and available at offices of the Board or Merced County); and

WHEREAS, Merced County, as lead agency, certified the EIR, adopted mitigation measures and a Mitigation Monitoring Reporting Plan ("MMRP") (incorporated herein by reference and available at offices of the Board or Merced County), 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 Modified Alternative 1B of the EIR; and

WHEREAS, the Draft EIR (State Clearinghouse (SCH) No. 2006081138) was published on November 18, 2008, for a 45-day public review period that ended on January 5, 2009; and

WHEREAS, the Final EIR (FEIR) was published in February 9, 2009 and on March 19, 2009 Merced County certified the Final EIR, made CEQA Findings adopting the Mitigation Monitoring and Reporting Program (MMRP), a Statement of Overriding Considerations (Merced County Resolution 2009/03-19-02); and filed a Notice of Determination with the Merced County Clerk on March 20, 2009; and

WHEREAS, Caltrans as a responsible agency on February 19, 2009, made CEQA Findings adopting the Mitigation Monitoring and Reporting Program (MMRP), a Statement of Overriding Considerations (Merced County Resolution 2009/03-19-02); and filed a Notice of Determination with the State Clearinghouse on May 19, 2009; and

WHEREAS, Merced County prepared an addendum to the EIR (SCH No. 2006081138, March 27, 2012) on the Atwater-Merced Expressway Project, including bridge structures over Canal Creek and related improvements;

WHEREAS, the Board has conducted a hearing on Permit Application No. 18796 and has reviewed the Reports of its staff, the documents and correspondence in its file, and the environmental documents prepared by Merced County and Caltrans;

NOW, THEREFORE, BE IT RESOLVED THAT,

Findings of Fact.

1. The Board hereby adopts as findings the facts set forth in the Staff Report.
2. The Board has reviewed the Attachments listed in the Staff Report.

CEQA Findings.

3. The Board, as a responsible agency, has independently reviewed the analysis in the Draft EIR (State Clearinghouse (SCH) No. 2006081138), the FEIR (SCH No. 2006081138, February 2009) and Addendum (SCH No. 2006081138 March 2012) on the Atwater-Merced Expressway has reached its own conclusions regarding them.
4. The Board, after consideration of the FEIR, and Merced County findings, adopts the project description, analysis and findings in the FEIR and Merced County Findings which are relevant to activities authorized by issuance of final encroachment Permit No. 18796.
5. **Findings regarding significant impacts.** Pursuant to CEQA Guidelines sections 15096(h) and 15091, the Board determines that the Merced County Findings, attached to the Staff Report, and incorporated herein by reference, summarize the EIR's determinations regarding impacts of the modifications to the Atwater-Merced Expressway Project before and after mitigation. Having reviewed the FEIR and the Merced County Findings, the Board makes its findings as follows:

a. Findings regarding Significant and Unavoidable Impacts.

The Board finds that the modifications to the Atwater-Merced Expressway Project may have the following significant, unavoidable impacts, as more fully described in the Staff Report, FEIR and the Merced County Findings. Mitigation has been adopted for each of these impacts, although it does not reduce the impacts to less than significant. The impacts and mitigation measures are set forth in more detail in the Staff Report, FEIR and Merced County Findings.

- Noise – Implementation of the project would cause a substantial increase in ambient noise levels in the project vicinity and expose persons to noise levels in excess of standards established in the City of Atwater or Merced County General Plans.

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 Staff Report, Merced County Findings, but that each of the above impacts remains significant after mitigation. Such mitigation measures are within the responsibility of another agency, Caltrans, and Caltrans 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 FEIR identifies significant impacts which are reduced to a less-than-significant level by mitigation measures identified in the MMRP and have been incorporated into the project for mitigating impacts to visual resources, traffic and transportation, noise, air quality, geology, hydrology, biological resources, cultural resources, and public services.

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 Staff Report, Merced County 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, Caltrans, and Caltrans can and should implement the described mitigation measures.

6. As a responsible agency, the 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 Mitigation Monitoring and Reporting Plan (MMRP), and confirmed that Caltrans 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 No. 18796, 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 Board finds the project will provide additional roadway capacity to accommodate existing, approved, and planned development within the Cities of Atwater and Merced Spheres of Influence, and unincorporated portions of Merced County.

8. **Custodian of Record.** The custodian of the CEQA record for the Board is its Executive Officer, Jay Punia, at the Board offices at 3310 El Camino Avenue, Room 151, 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 Atwater-Merced Expressway Project (Draft and Final Versions), the MMRP, the Caltrans Findings, and the U. S. Army Corps of Engineers recommendations. The Board has also considered 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.
11. **Effects on State Plan of Flood Control.** This project has no negative impacts on the State Plan of Flood Control.
12. **Effects of Reasonably Projected Future Events.** There are no foreseeable projected future events that would impact this project.


Other Findings/Conclusions regarding Issuance of the Permit.

13. Based on the foregoing, and particularly on the evidence that the condition of the existing State Route 99 bridges pose economic, legal, and social reasons for approving the project, the Board finds and concludes that the issuance of the Encroachment Permit No. 18796, is in the public interest.
14. This resolution shall constitute the written decision of the Board in the matter of Encroachment Permit No. 18796.

Approval of Encroachment Permit No. 18796.

15. Based on the foregoing, the Board hereby approves issuance of Encroachment Permit No. 18796 in substantially the form provided as Attachment B of the Staff Report.
16. The Board directs the Executive Officer to take the necessary actions to prepare and execute the permit and related documents and to prepare and file a Notice of Determination with the State Clearinghouse.

PASSED AND ADOPTED by vote of the Board on November 16, 2012


~~Bill Edgar~~ *William H. Edgar*
President


Jane Dolan
Secretary