

**CALENDAR ITEM
C95**

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S 15

03/29/12
W 26473
D. Simpkin
S. Sugar

GENERAL LEASE – DATA COLLECTION USE

APPLICANT:

Pacific Gas and Electric Company
1415 L Street, Suite 280
Sacramento, CA 95814

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean adjacent to Diablo Canyon Power Plant (DCPP), San Luis Obispo County.

AUTHORIZED USE:

Installation, operation, and maintenance of four temporary and four long-term ocean bottom seismometers (OBSs) and an approximately 11.4-mile-long, two-inch diameter data/power transfer cable.

LEASE TERM:

Up to 11 years beginning March 29, 2012, or 10 years from the date of installation of the Long-Term OBS units, whichever is shorter.

CONSIDERATION:

Annual rent in the amount of \$17,622, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

Liability insurance in the amount of no less than \$1,000,000. Applicant may satisfy all or part of the insurance requirements through maintenance of a self-insurance program as outlined in the lease.

Other:

The Mitigation Monitoring Program and Environmental Conditions to be adopted by the Commission at the time of approval of the Lease are incorporated into the Lease. Pacific Gas and Electric Company (PG&E)

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will be bound by and perform all of the Terms and Conditions contained in the Mitigation Monitoring Program and Environmental Conditions adopted by the Commission.

OTHER PERTINENT INFORMATION:

1. PG&E owns the upland adjoining the lease premises.
2. PG&E has submitted an application to carry out the Point Buchon OBS Project (Project), in the Pacific Ocean, adjacent to the DCP. The Project is being proposed in response to California Assembly Bill (AB) 1632 (Blakeslee, Chapter 722, Statutes of 2006) and the California Energy Commission's related 2008 final AB 1632 Report, which recommend an assessment of the vulnerability of existing nuclear power plants within the State, including vulnerability as a result of major seismic events.
3. The proposed Project consists of installing four temporary and four long-term OBS units and a data/power transfer cable on the ocean floor offshore of DCP. The temporary units are self-contained and will each occupy approximately 8 square feet of ocean floor. The units will be placed at two locations for approximately two weeks, recovered via vessel, and then placed at the final two temporary locations for approximately two weeks.

The four long-term units will each occupy approximately 28 square feet of ocean floor and may remain in-place for up to 10 years. The long-term OBS units will be connected via an approximately 11.4-mile-long, two-inch-diameter data/power transfer cable, to an onshore data recorder and power source located within an existing facility at DCP. The data/power transfer cable, which is expected to sink naturally into sandy sediment on the sea floor, will connect with an existing four-inch diameter conduit along the east side of the DCP intake bay. The long-term OBS units and the data/power transfer cable will be removed from the lease premises upon completion of the Project.

The Project would gather the following data:

- The temporary OBS units would record ambient sound and sea floor movement (termed "noise" in geophysical terms) to allow assessment of background conditions; and
- The long-term OBS units would record earthquake-generated ground movement and sound data and continually transmit real-time data to the onshore facility over the 10-year study period.

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Upon completion of the study, the data gathered would be made available to the public, universities, and agencies through the U.S. Geological Survey. Staff considers the sharing of the significant data to be a public benefit and has taken this into account in setting the annual rent.

4. Because the Commission is the lead agency for the Project pursuant to the California Environmental Quality Act (CEQA) (Pub. Resources Code, § 21000 et seq.), Commission staff had an Initial Study performed to discover whether or not the Project may have a significant effect on the environment (State CEQA Guidelines, § 15063).

Although the Initial Study identified several potentially significant impacts to Air Quality/Greenhouse Gas Emissions, Biological Resources, and Commercial and Recreational Fisheries, Project revisions were proposed and agreed to by PG&E prior to public review that would avoid or mitigate the identified potentially significant impacts “to a point where clearly no significant effects would occur.” (State CEQA Guidelines, § 15070, subd. (b)(1)). Consequently, the Initial Study concluded that, with revisions in the Project plans as described in the Initial Study, “there is no substantial evidence, in light of the whole record before the agency, that the project, as revised, may have a significant effect on the environment” (State CEQA Guidelines, § 15070, subd. (b)(2)) and a Mitigated Negative Declaration (MND) was prepared.

5. Pursuant to CEQA and the State CEQA Guidelines, staff circulated the MND together with the Initial Study, for a 30-day public review period from August 23, 2011, to September 22, 2011. Staff received comment letters from the following entities:

- California Coastal Commission;
- California Department of Fish and Game (DFG);
- California Department of Parks and Recreation;
- Ocean Conservancy, Natural Resources Defense Council and The Otter Project (joint letter);
- PG&E;
- Port San Luis Harbor District; and
- Cathy Taylor.

Commenters provided input regarding several parts of the Project, but the two most common concerns involved (a) the proposal to leave eight detachable cylindrical concrete ballasts, designed to keep the temporary OBS units submerged, on the sea floor, and (b) the proposal to place one of the temporary OBS units and part of the data/power cable in the Point

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Buchon state marine reserve (SMR), one of a network of marine protected areas (MPA) managed by DFG.

6. In response to these comments, as well as additional related discussions among Commission staff, DFG, and PG&E, PG&E revised its Project Description and list of Applicant-Proposed Measures as follows:
1. Relocate temporary OBS Unit #4 to outside the SMR;
 2. Retrieve concrete ballasts instead of abandoning in place on the sea floor;
 3. Relocate portions of the data/power cable used to connect long-term OBS units #3 and #4 to maximally avoid placement in the SMR; and
 4. Conduct installation activities in June or July rather, than in October-November.

In order to ensure that the relocation of the temporary OBS Unit #4 and the relocation of the data/power cable maximally avoids hard-bottom substrate, as was the case for the original placements, PG&E conducted a remotely operated underwater vehicle (ROV) survey of the revised location and route; staff received concurrence from DFG that the new route adequately avoids sensitive rocky substrate and does not increase effects to sensitive seafloor habitats.

Staff also received comments recommending that the Commission require that *more*, rather than less, of the Project be placed within the MPA to avoid potential impacts to commercial and recreational fishing; however, staff has consulted with DFG and determined that potential increased disturbance within the MPA, particularly within the SMR, would threaten sensitive and protected habitat, and would increase the Project's overall environmental impacts.

Commission staff has revised the MND to reflect the above-described changes. After review of the changes in the Project, staff has determined that the changes do not constitute a "substantial revision" as defined in section 15073.5, subdivision (b) of the State CEQA Guidelines, and as such, concluded recirculation of the MND prior to Commission consideration is not required. Important to staff's determination is its conclusion that the revisions are in response to recommendations by commenters that do not give rise to new significant effects; rather, revisions 1-3 above are intended to provide increased environmental protection. As to revision 4 above, DFG staff provided concurrence that the schedule change would not create a new effect requiring additional mitigation (fisheries), and PG&E provided adequate information related to marine mammals' seasonal use to support staff's determination that no

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new significant effect to marine mammals would occur beyond what was analyzed in the publicly circulated draft of the MND.

7. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15025), the staff has prepared an MND identified as CSLC MND No. 762, State Clearinghouse No. 2011081079. Such MND was prepared and circulated for public review pursuant to the provisions of CEQA.

Based upon the Initial Study, the MND, and the comments received in response thereto, there is no substantial evidence that the Project will have a significant effect on the environment; California Code of Regulations, Title 14, section 15074, subdivision (b). A Mitigation Monitoring Program has been prepared in conformance with the provisions of CEQA (Pub. Resources Code, § 21081.6).

8. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the Project, as proposed, is consistent with its use classification.

EXHIBITS:

- A. Land Description
- B. Location and Site Map
- C. Mitigation Monitoring Program

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the MND, CSLC MND No. 762, State Clearinghouse No. 2011081079, was prepared for this Project pursuant to the provisions of CEQA, that the Commission has reviewed and considered the information contained therein and in the comments received in response thereto, and that the MND reflects the Commission's independent judgment and analysis.

Adopt the Proposed MND and determine that the Project, as approved, will not have a significant effect on the environment.

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Adopt the Mitigation Monitoring Program, as contained in Exhibit C, attached hereto.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Data Collection Use to Pacific Gas and Electric Company beginning March 29, 2012, for a term of up to 11 years for the installation, operation, and maintenance of four temporary and four long-term ocean bottom seismometers and an 11.4-mile-long, two-inch diameter data/power transfer cable as shown on Exhibit B (for reference purposes only) and described in Exhibit A attached and by this reference made a part hereof; consideration: annual rent in the amount of \$17,022, with the State reserving the right to fix a different rent periodically during the lease term as provided in the lease; and liability insurance in the amount of \$1,000,000; Applicant may satisfy all or part of the insurance requirements through maintenance of a self-insurance program as outlined in the lease.

EXHIBIT A

W 26473

LAND DESCRIPTION

PARCEL 1 (4 Observations sites and cable)

A twenty (20) foot wide strip of tide and submerged land in the bed of the Pacific Ocean, County of San Luis Obispo, State of California, lying adjacent to Rancho Canada de los Osos and Pecho y Islay and lying ten feet on each side of the following described centerline:

BEGINNING at point having the following coordinates N(y)=2273925.90 feet, E(x)=5709266.55 feet from which an NGS monument "DIABLO", PID:FV1575 having CCS83, Zone 5, Epoch 1991.35 coordinates N(y)=2274027.21 feet, E(x)=5714900.36 feet bears N 88°58'11 E 5634.72 feet thence along said centerline, sequentially through the following sixteen (16) points;

- 1) N(y)=2273895.78 feet, E(x)=5709258.04 feet;
- 2) N(y)=2273722.60 feet, E(x)=5708795.80 feet;
- 3) N(y)=2273847.60 feet, E(x)=5708500.23 feet;
- 4) N(y)=2273752.55 feet, E(x)=5708439.03 feet;
- 5) N(y)=2273601.51 feet, E(x)=5708431.22 feet;
- 6) N(y)=2273103.32 feet, E(x)=5708561.21 feet;
- 7) N(y)=2272633.40 feet, E(x)=5707586.51 feet;
- 8) N(y)=2271710.62 feet, E(x)=5707562.14 feet;
- 9) N(y)=2270235.48 feet, E(x)=5705780.67 feet;
- 10) N(y)=2270041.10 feet, E(x)=5705062.67 feet;
- 11) N(y)=2268788.51 feet, E(x)=5703522.63 feet; (Observation Site #4)
- 12) N(y)=2268881.21 feet, E(x)=5700383.79 feet;
- 13) N(y)=2277387.21 feet, E(x)=5694815.73 feet;
- 14) N(y)=2280610.75 feet, E(x)=5681401.18 feet; (Observation Site #3)
- 15) N(y)=2295038.01 feet, E(x)=5678643.44 feet; (Observation Site #2)
- 16) N(y)=2299096.46 feet, E(x)=5687506.08 feet to the point of termination (Observation Site #1).

Sidelines of said strip to terminate on the ordinary high water mark of said ocean and a line perpendicular to the centerline course between points "15" and "16" running through said point "16".

PARCEL 2 thru 5 (4 Temporary observation sites)

Four (4) circular parcels of submerged land in the bed of the Pacific Ocean, County of San Luis Obispo, State of California, lying adjacent to Rancho Canada de los Osos and Pecho y Islay and having radii of 10 feet emanating from the following described points:

- 1) N(y)=2296558.30 feet, E(x)=5682580.09 feet; (Temp. Observation Site #1)

- 2) N(y)=2285360.08 feet, E(x)=5680765.31 feet; (Temp. Observation Site #2)
- 3) N(y)=2276658.16 feet, E(x)=5687816.68 feet; (Temp. Observation Site #3)
- 4) N(y)=2274151.04 feet, E(x)=5696551.26 feet. (Temp. Observation Site #4)

BASIS OF BEARING is CCS83, Zone 5 (Epoch 1991.35).

END OF DESCRIPTION

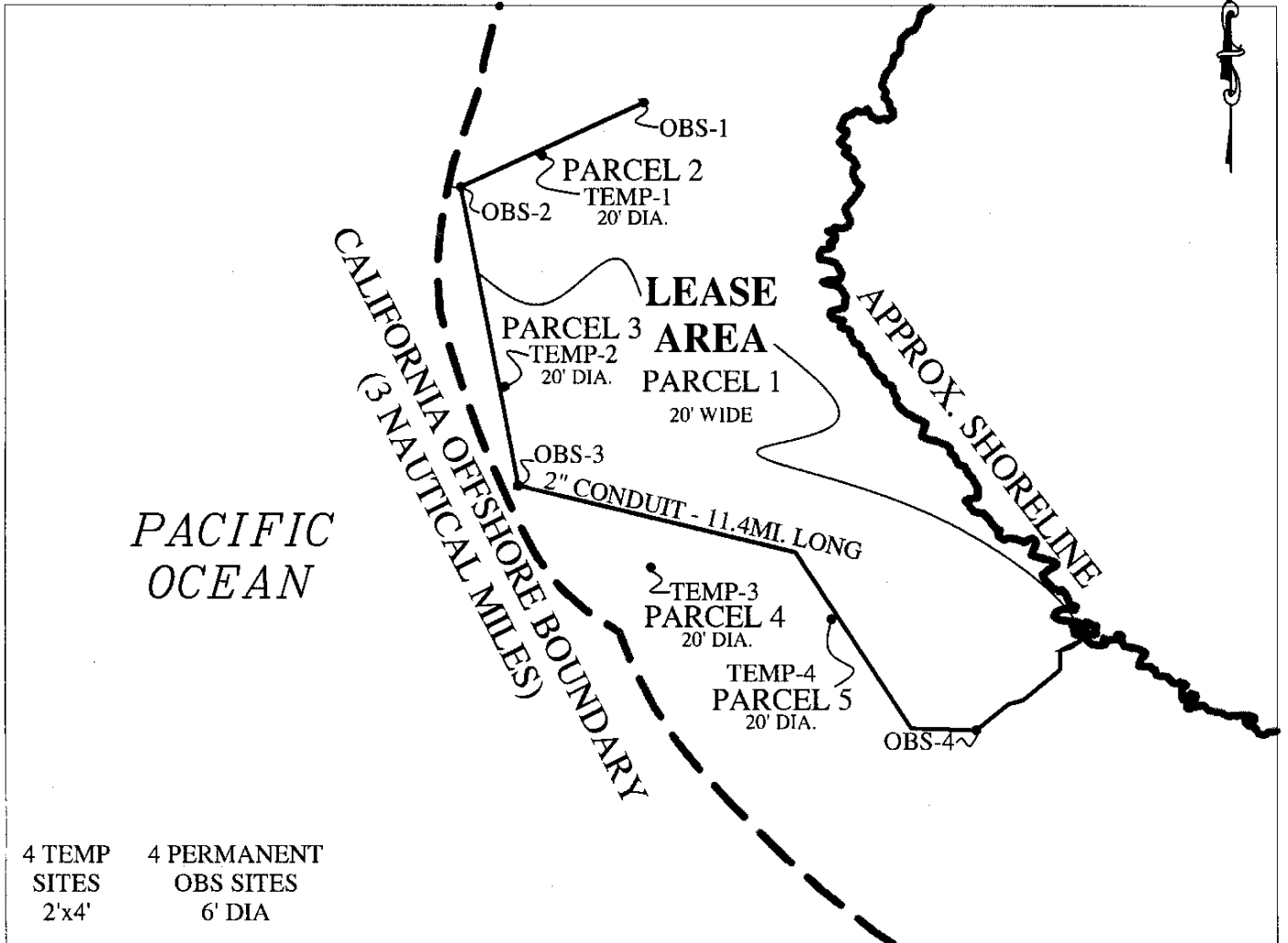
NOTE: This land description is based on a pre-construction preliminary location and will be superseded upon submittal of as-built drawings verifying the actual constructed location of the facilities.

PREPARED 6/15/11 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



NO SCALE

SITE



4 TEMP SITES
2'x4'

4 PERMANENT OBS SITES
6' DIA

Pacific Ocean, near Diablo Canyon NPP

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

Exhibit B

W 26473
 PACIFIC GAS & ELECTRIC
 APN 076-011-018
 GENERAL LEASE - DATA
 COLLECTION USE
 SAN LUIS OBISPO COUNTY



MJF 2/23/12

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

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**PG&E Point Buchon Ocean Bottom Seismometer Project
Mitigation Monitoring Program**

Fuel or petroleum spill	APM-1. Vessel fueling shall only occur at an approved docking facility. No cross vessel fueling shall be allowed. Marine vessels generally will contain petroleum products within tankage that is internal to the hulls of the vessels.	In- and over-water	Compliance monitoring	California State Lands Commission (CSLC)	Throughout installation period
	APM-5. Onboard spill response equipment and contracted services shall be sufficient to contain and recover the worst-case scenario spill of petroleum products.	In- and over-water	Compliance monitoring	CSLC	Throughout installation period
Marine wildlife interactions	APM-2. Project installation schedule shall be limited to June-July to avoid gray whale migration periods and when weather conditions are conducive to expeditious and safe vessel operations.	Project area	Compliance monitoring	CSLC	Throughout installation period
	APM-4. All operations shall be completed during the daytime hours; no nighttime operations are proposed.	Project area	Compliance monitoring	CSLC	Throughout installation period
	APM-7. A qualified marine wildlife observer shall be onboard the <i>MV Michael Uhl</i> during the deployment of the Ocean Bottom Seismometer (OBS) units and cable. That observer shall monitor and record the presence of marine wildlife (mammals and reptiles) and shall have the authority to cease operations if the actions are resulting in potentially significant impacts to wildlife.	Project area	Compliance monitoring	CSLC	Throughout installation period
	APM-9. The Applicant shall implement the marine wildlife contingency plan for Ocean Bottom Seismometer (OBS) deployment, cable lay, and equipment recovery that includes measures to reduce the chance of vessel/marine mammal and reptile interactions (see Appendix H). This Plan includes: (1) the provision for marine mammal monitors approved by the National Oceanic and Atmospheric Administration Fisheries Service or CSLC staff to be onboard the OBS/cable installation vessel throughout the daytime marine operations; and (2) measures that (a) specify the distance, speed, and	Project area	Compliance monitoring	CSLC	Throughout installation period

Exhibit C

W26473

Potential Impact	Mitigation Measure	Location	Monitoring/ Reporting Action	Agency Responsible	Timing
	direction transiting vessels would maintain when in proximity to a marine mammal or reptile; (b) qualifications, number, location, and authority of onboard marine mammal and reptile monitors; and (c) reporting requirements in the event of an observed impact to marine wildlife.				
Habitat damage	APM-3. The cable has been routed to avoid rocky substrate wherever possible. Two pre-construction remotely operated vehicle (ROV) surveys of the rock habitat expected to be crossed by the cable have been conducted and information collected has been used to avoid potential impacts.	Rocky habitats along cable route	Completed. with results incorporated into MND	CSLC	Completed
	APM-6. To reduce the area of seafloor disturbance, no vessel anchoring is proposed, and the cable between the long-term OBS units shall not be manually buried into the sediment or trenched through the rocky substrate.	Project area	Compliance monitoring	CSLC	Throughout installation period
	APM-8. All Ocean Bottom Seismometer (OBS) units shall be located on sedimentary seafloor habitat. All Project-related material, including concrete ballast tubes, shall be removed from the seafloor after data collection is completed.	Project area	Compliance Monitoring	CSLC	Throughout installation period
	APM-10. To avoid rock features, a 275 m- (902 ft) long section of the cable from 200 m (656 ft) northwest of Station 5 to 75 m (246 ft) southeast of Station 4 shall be moved 50 m (164 ft) east of the proposed alignment, as shown in Figure 4 in Appendix I, December 2011 ROV Survey – Summary Report.	Rocky habitats along cable route	Compliance Monitoring	CSLC	Throughout installation period
	MM BIO-1. The Applicant shall comply with the requirements identified in the Scientific Collecting Permits for activities in the Point Buchon Marine Protected Area.	MPA	Reporting	California Department of Fish & Game	Throughout installation period
	MM BIO-2. The Applicant shall install the cable in such a way as to avoid areas of rocky substrate whenever feasible and perform a post-installation ROV survey upon completion of cable installation activities. The survey will document the length of cable in areas of rocky substrate and the actual amount of rocky substrate and number of organisms affected by the cable placement. A CSLC staff-approved marine	Project area	Compliance monitoring	CSLC	Post Installation

	<p>biologist shall be onboard the post-lay ROV survey vessel to observe and record the effects of cable lay operations on the seafloor substrates and the biota along the entire cable route and at each OBS unit. The Applicant shall subsequently prepare a technical report and shall submit the report and video of the ROV survey to the CSLC and California Department of Fish and Game (CDFG) staffs within 90 days following the ROV survey. The report shall include all of the following:</p> <ul style="list-style-type: none"> • Quantification (in square meters) of seafloor impacts and estimated numbers and species of organisms affected as well as a map of the survey route noting the location of the impacted areas included in this quantification and the video timestamp of each relevant site in the ROV survey video; • A restoration proposal that is based on the results of the survey and proportional to the actual amount of soft substrate and rocky habitat affected. The proposal shall contain direct restoration actions that repair or restore affected areas and/or a contribution to an ongoing restoration program in the area (e.g., SeaDoc Society Lost Fishing Gear Recovery Project), as specified by the CSLC or CDFG staffs (and/or other requesting agencies); and • A schedule for implementing and completing the required restoration. 				

Fisheries	<p>MM FISH-1. At the beginning of each day that in-water operations are to occur, observations shall be made along the proposed cable route and the presence of in-place commercial fishing gear located within 30 meters (100 feet) of the OBS site and/or cable route shall be noted. The vessel operator shall notify the owner of the gear and request that the gear be removed and/or the cable will be re-routed to avoid the existing gear by at least 30 meters (100 feet).</p>	Project area	Compliance monitoring	CSLC	Throughout installation period
	<p>MM FISH-2. Upon Project completion and removal of the Ocean Bottom Seismometer (OBS) units and cable, the Applicant shall survey each OBS site and the cable route, submit a report to California State Lands Commission (CSLC) staff documenting the condition of any Project-related materials left on the seafloor, and remove, within 6 months after Project completion, any Project-related materials that CSLC staff determines pose a hazard to commercial fishing operations.</p>	Project area	Reporting	CSLC	Upon Project completion

<p>Air Quality</p>	<p>MM AIR-1. The Applicant shall implement Standard Control Measures for Construction Equipment, which include:</p> <ul style="list-style-type: none"> • Maintain all construction equipment in proper tune according to manufacturer’s specifications; • Fuel all off-road and portable diesel-powered equipment with California Air Resources Board (CARB)-certified motor vehicle diesel fuel (non-taxed version suitable for use off-road); • Use diesel construction equipment meeting CARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines, and comply with the State Off-Road Regulation; • Use on-road heavy-duty trucks that meet CARB's 2007 or cleaner certification standard for on-road heavy-duty diesel engines, and comply with the State On-Road Regulation; • Construction or trucking companies that do not have engines in their fleet that meet the engine standards identified in the above two measures (e.g., captive or Nitrogen Oxides [NO_x]-exempt area fleets) may be eligible by proving alternative compliance; • All on and off-road diesel equipment shall not idle for more than 5 minutes. Signs shall be posted in the designated queuing areas and/or job sites to remind drivers and operators of the 5-minute idling limit; • Diesel idling within 300 meters (1,000 feet) of sensitive receptors is not permitted; • Staging and queuing areas shall not be located within 300 meters (1,000 feet) of sensitive receptors; • Electrify equipment when feasible; • Substitute gasoline-powered in place of diesel-powered equipment, where feasible; and, • Use alternatively fueled construction equipment onsite where feasible, such as compressed natural gas, liquefied natural gas, propane or biodiesel. 	<p>Project area</p>	<p>Compliance monitoring</p>	<p>Air Pollution Control District</p>	<p>During installation period Project</p>

