

**Before the Zoning Administrator in and for the  
County of Monterey, State of California**

In the matter of the application of:

**PACIFIC GAS AND ELECTRIC COMPANY (PLN090236)**

**RESOLUTION NO. 090236**

Resolution by the Monterey County Zoning  
Administrator:

- 1) Considers the Negative Declaration adopted by State of California Department of Toxic Substances Control on June 26, 2009; and
- 1) Approves PLN090236 Coastal Development Permit to allow the excavation of approximately 2,109 cubic yards of potentially contaminated soil within the eastern half of an approximately 41,200 square foot area called the Rock Blotter Area of the Moss Landing Power Plant. Also to be removed, as necessary, remaining concrete foundations associated with previously removed transformers, as well as steel rails and rebar associated with those transformers.

(PLN090236, Pacific Gas and Electric Company, 7251 Highway One, Moss Landing, North County Land Use Plan, APN: 133-181-011-000)

**The Coastal Development Permit application (PLN090236) came on for public hearing before the Monterey County Zoning Administrator on October 29, 2009. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Zoning Administrator finds and decides as follows:**

**FINDINGS**

1. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.  
**EVIDENCE:** a) During the course of review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:
  - the Monterey County General Plan,
  - North County Land Use Plan,
  - Monterey County Coastal Implementation Plan, Part 2,
  - Monterey County Zoning Ordinance (Title 20)No conflicts were found to exist. No communications were received during the course of review of the project indicating any inconsistencies with the text, policies, and regulations in these documents.
- b) The property is located at 7251 Highway 1, Moss Landing (Assessor's Parcel Number 133-181-011-000, North County Land Use Plan. The parcel is zoned Heavy Industrial (HI (CZ)) which allows uses accessory to industrial uses in the Heavy Industrial District; Therefore, the project is an allowed land use for this site.

- c) The proposed project site is located in an area already disturbed by past development of the property, and will have no effect on special-status species, sensitive habitat, or other significant biological resources (North County Coastal LUP Policy 2.3.2.1). No tree removal is proposed, and there is no evidence that any cultural resources would be disturbed (North County Coastal LUP Policy 2.9.1).
- d) General Development Plan: Pursuant to Section 20.28.030.A.E, the requirement for a General Development Plan (GDP) is waived by the Director of Planning. There is no potential significant adverse impact from the development, and requiring a GDP will not further the purpose of the applicable chapter in Title 20. The project involves the excavation of approximately 2,109 cubic yards of potentially contaminated soil within an area that measures approximately 365 feet long and 50 feet wide. Also to be removed, as necessary, remaining concrete foundations associated with previously removed transformers, as well as steel rails and rebar associated with those transformers.
- e) The project planner conducted a site inspection on August 13, 2009 to verify that the project on the subject parcel conforms to the plans listed above.
- f) The project was referred to the North County Coastal Land Use Advisory Committee (LUAC) on October 5, 2009. However, a quorum was not met and the LUAC meeting was postponed to October 19, 2009. At the time of preparation of the staff report, the meeting had not taken place. The Land Use Advisory Committee unanimously recommended approval.
- g) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090236.

2. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.

- EVIDENCE:**
- a) The project has been reviewed for site suitability by the following departments and agencies: RMA - Planning Department, North County Fire Protection District, Parks, Public Works, Environmental Health Division, and Water Resources Agency. There has been no indication from these departments/agencies that the site is not suitable for the proposed development. Conditions recommended have been incorporated.
  - b) No technical reports were required by outside consultants as the applicant prepared its own environmental impact analysis. The analysis indicates that there are no physical or environmental constraints that would indicate that the site is not suitable for the use proposed. Although County records identify the project site is within an area of high archaeological sensitivity; previous archaeological reports prepared for the site indicate there would be no potential impacts as a result of the project. Pursuant with CIP Policy 20.144.110.B.5.a, allows the Director of Planning to waive the requirement for a report based on a previous report prepared for the site. In 1999, Archaeological Consulting prepared an extensive on-site

survey of the accessible portions of the Area of Potential Effects (APE) for the parcel. Soil visibility on the northwest portion of the Moss Landing Power Plant (MLPP) provided evidence of an archaeological site which was located approximately one-quarter from a previously approved project. Survey of the other accessible portions of the MLPP showed no evidence of cultural material. The current PG&E proposed soil removal action project location is within the confines of the MLPP site and is far from the known site. Therefore, the proposed project could not have a significant effect on the environment. County staff independently reviewed the environmental assessment provided in the Initial Study and concurs with its conclusions. However, because the parcel is located in a high archaeological sensitivity zone, staff has conditioned the project to limit the excavation area (Condition #4).

- c) Staff conducted a site inspection on August 13, 2009 to verify that the site is suitable for this use.
- d) The application, project plans, and related support materials submitted by the project applicant to the Monterey County RMA - Planning Department for the proposed development found in Project File PLN090236.

3. **FINDING:** **HEALTH AND SAFETY** - The establishment, maintenance, or operation of the project applied for will not under the circumstances of this particular case be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by the RMA - Public Works, Water Resources Agency, Environmental Health Division, North County Fire Protection Agency and RMA – Planning Department. The respective departments/agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
  - b) The Department of Toxic Substances Control (DTSC) has completed an Initial Study and filed a Negative Declaration for the project. On the basis of the information presented in the Initial Study, the proposed project could not have a significant effect on the environment. (*See Finding #5*)
  - c) See Findings #1 and #2 and supporting evidence for PLN090236.

4. **FINDING:** **NO VIOLATIONS** - The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed Monterey County RMA - Planning Department and Building Services Department records and is not aware of any violations existing on subject property.
  - b) Staff conducted a site inspection on August 13, 2009 and researched

- County records to assess if any violation exists on the subject property.
- c) There are no known violations on the subject parcel.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090236.

5. **FINDING:** **CEQA (Negative Declaration)** - On the basis of the whole record before the Monterey County Zoning Administrator, there is no substantial evidence that the proposed project as designed and conditioned, will have a significant effect on the environment. The County, as the decision-making body of a Responsible Agency, hereby confirms that it reviewed and considered the information contained in the Lead Agency's (Department of Toxic Substances Control) Initial Study prior to acting upon or approving the project. The Negative Declaration reflects the independent judgment and analysis of the County.

- EVIDENCE:**
- a) Public Resources Code Section 21080.d and California Environmental Quality Act (CEQA) Guidelines Section 15064.a.1 require environmental review if there is substantial evidence that the project may have a significant effect on the environment.
  - b) Pursuant to CEQA Guidelines 15050(a), Where a project is to be carried out or approved by more than one public agency, one public agency shall be responsible for preparing an EIR or negative declaration for the project. This agency shall be called the Lead Agency.
  - c) The Lead Agency, Department of Toxic Substances Control, distributed the final Initial Study to responsible agencies, trustee agencies, and interested parties, including the State Clearinghouse (SCH# 2009051092). The public review and comment period for this document was from June 26, 2009 to July 26, 2009.
  - d) The County, a Responsible Agency, received the final document from the Lead Agency with the application materials. This document analyzed the environmental impacts of all potential impacts within the Initial Study. Findings conclude that the proposed project could not have a significant effect on the environment.
  - e) Soil visibility on the northwest portion of the Moss Landing Power Plant (MLPP) provided evidence of an archaeological site which was located approximately one-quarter from a previously approved project. The current PG&E proposed soil removal action project location is within the confines of the MLPP site and is far from the known site. Therefore, the proposed project could not have a significant effect on the environment. County staff independently reviewed the environmental assessment provided in the Initial Study and concurs with its conclusions.
  - f) The Lead Agency certified the Initial Study and Negative Declaration for this project on June 26, 2009, per Statutory Authority - California Health & Safety Code, Chapter 6.5.
  - g) The documents are on file in the office of the RMA – Planning Department and is hereby incorporated by reference (PLN090236/Pacific Gas and Electric Company):
    - i. Final Initial Study and Negative Declaration (SCH#2009051092),

June 26, 2009.

- h) The Zoning Administrator considered the Initial Study and Negative Declaration at a duly noticed public hearing held on October 29, 2009. The County is serving as a Responsible Agency for this project. The materials upon which the County's decision is based are located in the Planning Department, 168 W. Alisal Street, 2<sup>nd</sup> Floor, Salinas, CA
- i) No new information of substantial importance has been presented, which was not known and could not have been known with the exercise of reasonable diligence at the time the Initial Study and Negative Declaration was certified by the Lead Agency. All identified potential impacts have been mitigated to a level less than significant, and no unresolved issues remain. There are no changes in the project or unusual circumstances that exist which would necessitate additional environmental review by the County of Monterey

5. **FINDING:** **PUBLIC ACCESS** – The project is in conformance with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with Section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.

- EVIDENCE:**
- a) No access is required as part of the project as no substantial adverse impact on access, either individually or cumulatively, as described in Section 20.70.050.B.4.c of the Monterey County Coastal Implementation Plan can be demonstrated.
  - b) The subject property is not described as an area where the Local Coastal Program requires public access (Figure 6 of the Shoreline Access/Trails Map in the North County Land Use Plan).
  - c) No evidence or documentation has been submitted or found showing the existence of historic public use or trust rights over this property.
  - d) The application, plans and supporting materials submitted by the project applicant to the Monterey County Planning Department for the proposed development are found in Project File PLN090236.
  - e) The project planner conducted a site inspection on August 13, 2009.

6. **FINDING:** **APPEALABILITY** - The decision on this project may be appealed to the Board of Supervisors and the California Coastal Commission

- EVIDENCE:**
- a) Section 20.86.070 Monterey County Zoning Ordinance (Board of Supervisors).
  - b) Section 20.86.080.A.3 Monterey County Zoning Ordinance (Coastal Commission). The project is subject to appeal by/to the California Coastal Commission because any approved project involving development that is permitted in the underlying zone as a conditional use is appealable.

### **DECISION**

**NOW, THEREFORE**, based on the above findings and evidence, the Zoning Administrator does hereby:

- A. Consider the Negative Declaration adopted by State of California Department of Toxic Substances Control on June 26, 2009; and

- B. Approve Coastal Development Permit, in general conformance with the attached sketch (**Exhibit 2**) and subject to the conditions (**Exhibit 1**), both exhibits being attached hereto and incorporated herein by reference.

**PASSED AND ADOPTED** this 29th day of October, 2009

  
MIKE NOVO, ZONING ADMINISTRATOR

COPY OF THIS DECISION MAILED TO APPLICANT ON **NOV 02 2009**

THIS APPLICATION IS APPEALABLE TO THE BOARD OF SUPERVISORS.

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK TO THE BOARD ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **NOV 12 2009**

THIS PROJECT IS LOCATED IN THE COASTAL ZONE AND IS / IS NOT APPEALABLE TO THE COASTAL COMMISSION. UPON RECEIPT OF NOTIFICATION OF THE FINAL LOCAL ACTION NOTICE (FLAN) STATING THE DECISION BY THE FINAL DECISION MAKING BODY, THE COMMISSION ESTABLISHES A 10 WORKING DAY APPEAL PERIOD. AN APPEAL FORM MUST BE FILED WITH THE COASTAL COMMISSION. FOR FURTHER INFORMATION, CONTACT THE COASTAL COMMISSION AT (831) 427-4863 OR AT 725 FRONT STREET, SUITE 300, SANTA CRUZ, CA

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90th day following the date on which this decision becomes final.

NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning Department and Building Services Department office in Salinas.

2. This permit expires 4 years after the above date of granting thereof unless construction or use is started within this period.

<b>RESOLUTION 090236- EXHIBIT 1</b> <b>Monterey County Resource Management Agency</b> <b>Planning Department</b> <b>Condition Compliance and/or Mitigation Monitoring</b> <b>Reporting Plan</b>	<b>Project Name:</b> <u>Pacific Gas &amp; Electric</u> <b>File No:</b> <u>PLN090236</u> <b>APN:</b> <u>133-181-011-000</u> <b>Approved by:</b> <u>Zoning Administrator</u> <b>Date:</b> <u>October 29, 2009</u>
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*\*Monitoring or Reporting refers to projects with an EIR or adopted Mitigated Negative Declaration per Section 21081.6 of the Public Resources Code.*

Permit Cond. Number	Mitig. Number	Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department	Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.	Responsible Party for Compliance	Timing	Verification of Compliance (name/date)
<b>RMA – Planning Department</b>						
1.		<b>PD001 - SPECIFIC USES ONLY</b> This Coastal Development Permit (PLN090236) allows the excavation of approximately 2,109 cubic yards of potentially contaminated soil within the eastern half of an approximately 41,200 square foot area called the Rock Blotter Area of the Moss Landing Power Plant. Also to be removed, as necessary, remaining concrete foundations associated with previously removed transformers, as well as steel rails and rebar associated with those transformers. The property is located at 7251 Highway One Moss Landing (Assessor's Parcel Number 133-181-011-000), North County Land Use Plan. This permit was approved in accordance with County ordinances and land use regulations subject to the following terms and conditions. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. <b>(RMA-Planning Department)</b>	Adhere to conditions and uses specified in the permit.  Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of the RMA - Planning Department.	Pacific Gas and Electric Company/ Applicant  RMA - Planning	Ongoing unless otherwise stated	

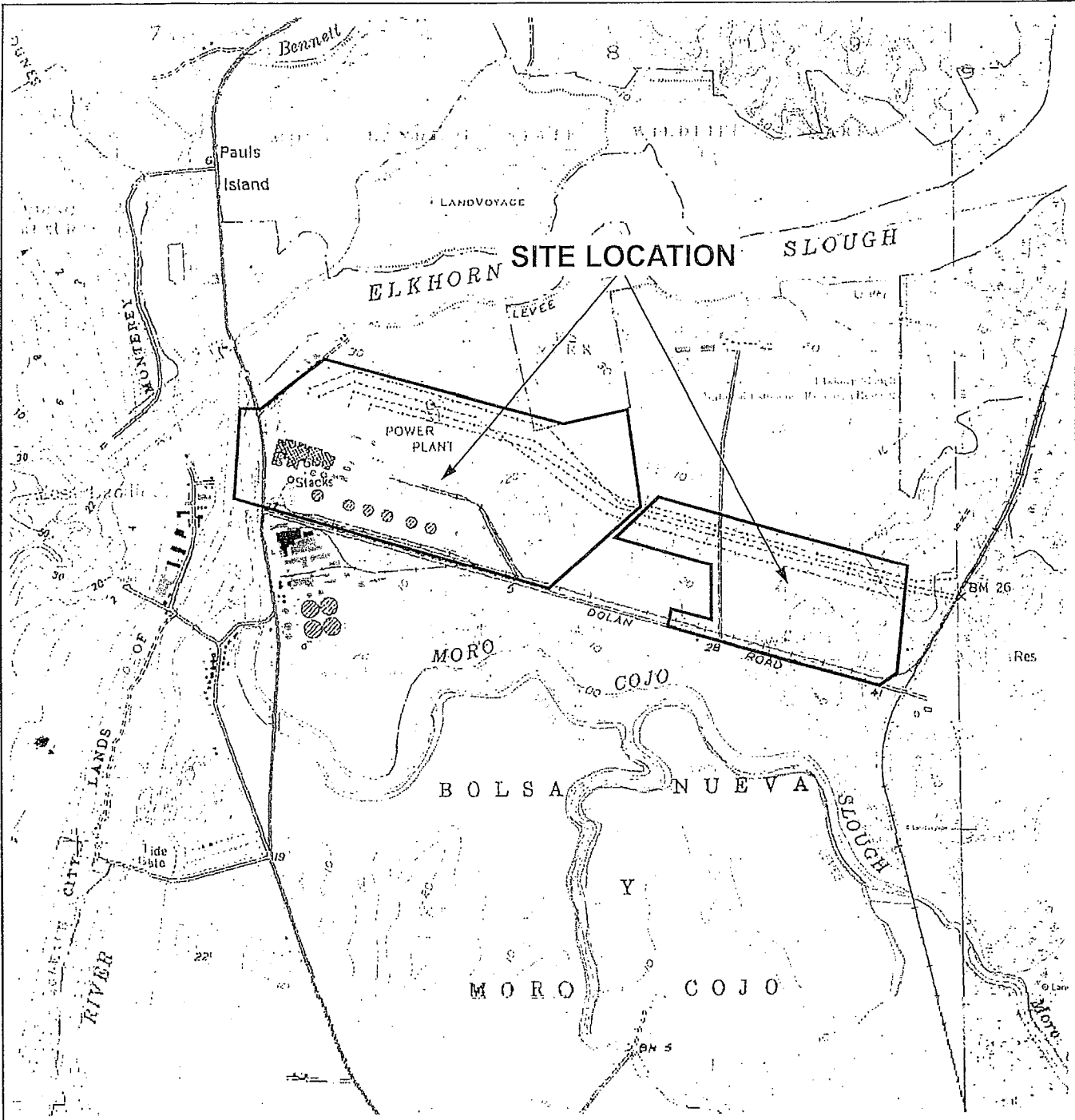
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
2.		<b>PD002 - NOTICE-PERMIT APPROVAL</b> The applicant shall record a notice which states: "A permit (Resolution 090236) was approved by the Zoning Administrator for Assessor's Parcel Number 133-181-011-000 on October 29, 2009. The permit was granted subject to 7 conditions of approval which run with the land. A copy of the permit is on file with the Monterey County RMA - Planning Department." <b>(RMA-Planning Department)</b>	Obtain appropriate form from the RMA-Planning Department.  The applicant shall complete the form and furnish proof of recordation of this notice to the RMA - Planning Department.	Pacific Gas and Electric Company/ Applicant  RMA-Planning	Prior to the issuance of grading and building permits or commencement of use.	
3.		<b>PD032(A) - PERMIT EXPIRATION</b> The permit shall be granted for a time period of four years, to expire on October 29, 2013 unless use of the property or actual construction has begun within this period. <b>(RMA - Planning Department)</b>	The applicant shall obtain a valid grading or building permit and/or commence the authorized use to the satisfaction of the Director of Planning. Any request for extension must be received by the Planning Department at least 30 days prior to the expiration date.	Pacific Gas and Electric Company/ Applicant	As stated in the conditions of approval	
4.		<b>PDSP001- CULTURAL RESOURCES - HIGH ARCHAEOLOGICAL SENSITIVITY (NON-STANDARD)</b> Excavation shall be limited to only those areas approved. If, during the course of excavation, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. The Monterey County RMA - Planning Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. <b>(RMA - Planning Department)</b>	The applicant shall provide a Construction Management Plan to the RMA-Planning Department for review and approval. The plan shall include designated staging areas for vehicles and materials.	Owner / Applicant	Prior to the issuance of grading, or building permits.	
			Stop work within 50 meters (165 feet) of uncovered resource and contact the Monterey County RMA - Planning Department and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.	Owner / Applicant/ Archaeologist	Ongoing	



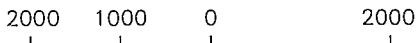
<i>Permit Cond. Number</i>	<i>Mitig. Number</i>	<i>Conditions of Approval and/or Mitigation Measures and Responsible Land Use Department</i>	<i>Compliance or Monitoring Actions to be performed. Where applicable, a certified professional is required for action to be accepted.</i>	<i>Responsible Party for Compliance</i>	<i>Timing</i>	<i>Verification of Compliance (name/date)</i>
5.		<b>PD007 - GRADING-WINTER RESTRICTION</b> No land clearing or grading shall occur on the subject parcel between October 15 and April 15 unless authorized by the Director of RMA - Building Services Department. <b>(RMA – Planning Department and Building Services Department)</b>	Obtain authorization from the Director of RMA - Building Services Department to conduct land clearing or grading between October 15 and April 15.	Owner / Applicant	Ongoing	
		<b>PD029 - HOURS OF OPERATION (NON-STANDARD)</b> Hours of operation shall be 7:00 am to 5:00 pm, Monday through Friday. In order to minimize the impacts of construction-related traffic and truck hauling operation on the local road system, the applicant shall utilize routes that will not adversely impact congestion. <b>(RMA – Planning Department)</b>	Demonstrate compliance with the hours of operation to the Director of RMA – Planning Department.	Owner / Applicant	Ongoing	
<b>Health Department Environmental Health Division</b>						
7.		<b>EHSP0001</b> - The Department of Toxic Substances Control (DTSC) and the California Environmental Protection Agency (Cal EPA) are the regulatory lead on this project, all plans for the remediation have been routed to these agency. ARCADIS on behalf of PG&E will be handling the remediation of the site. Monterey County Health Department HAZ MAT will receive summary report when project is completed. <b>(Environmental Health)</b>	DTSC lead agency for project, all plans for remediation will be routed to them.	CA Licensed Engineer /Owner/ Applicant	Completion of project	

**END OF CONDITIONS**

Rev. 07/29/2009



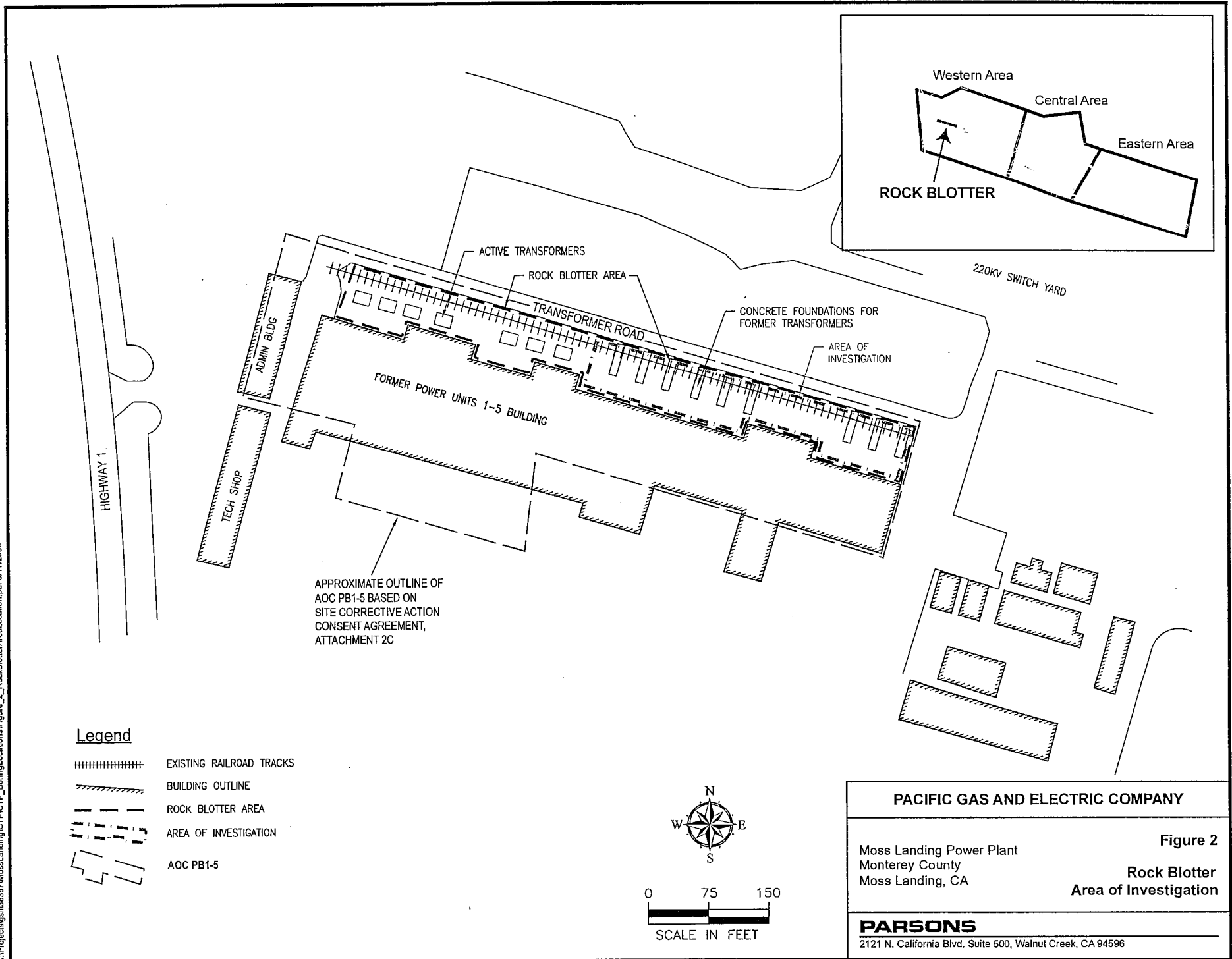
CALIFORNIA QUADRANGLE LOCATION



SCALE IN FEET

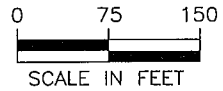
<b>PACIFIC GAS AND ELECTRIC COMPANY</b>	
Figure 1	
Moss Landing Power Plant Monterey County Moss Landing, CA	Site Location Map
<b>PARSONS</b>	
2121 N. California Blvd. Suite 500, Walnut Creek, CA 94596	

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**Legend**

- ===== EXISTING RAILROAD TRACKS
- BUILDING OUTLINE
- ROCK BLOTTER AREA
- AREA OF INVESTIGATION
- AOC PB1-5



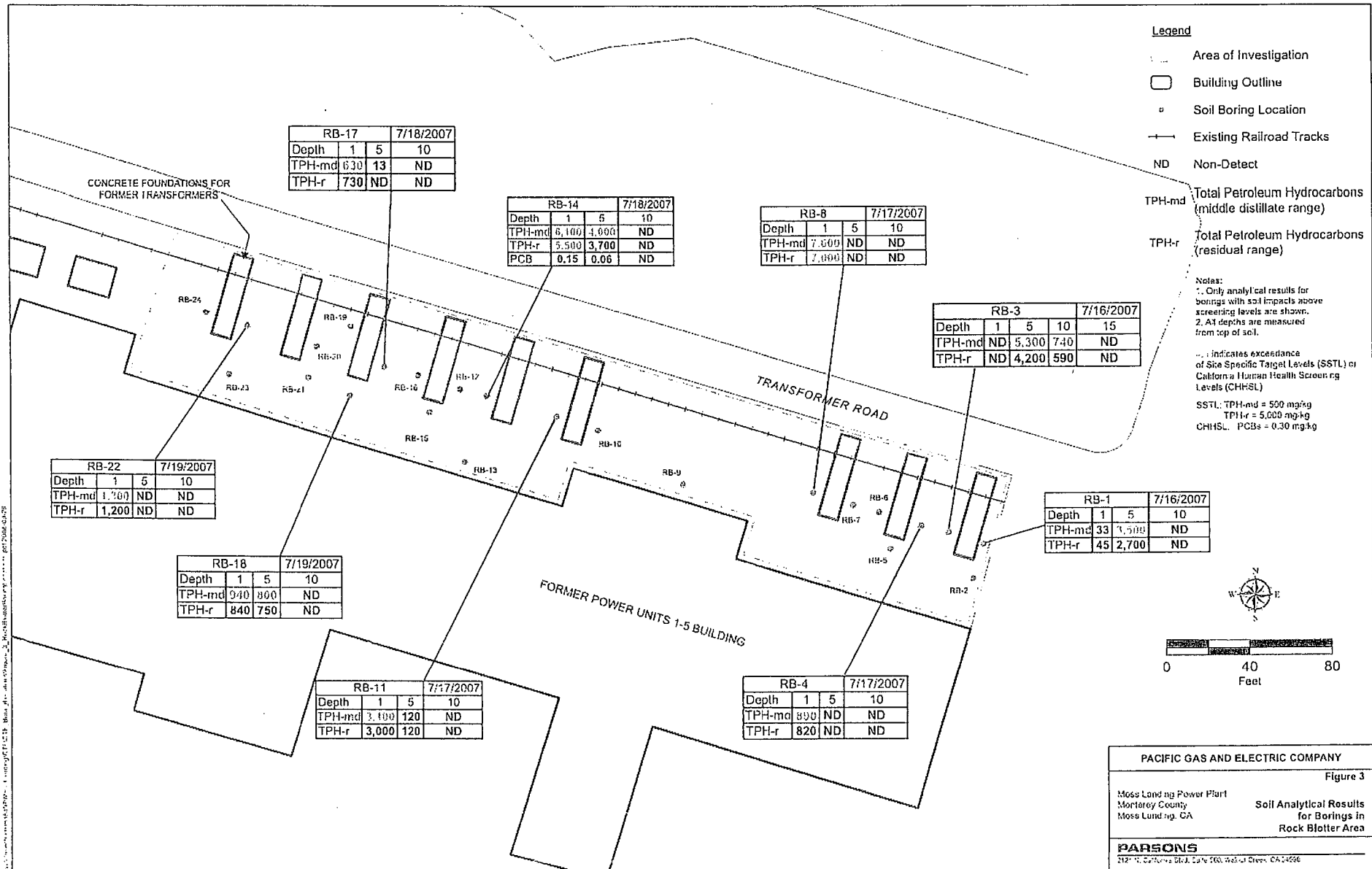
**PACIFIC GAS AND ELECTRIC COMPANY**

Moss Landing Power Plant  
Monterey County  
Moss Landing, CA

**Figure 2**  
**Rock Blotter**  
**Area of Investigation**

**PARSONS**

2121 N. California Blvd. Suite 500, Walnut Creek, CA 94596



RB-17				7/18/2007	
Depth	1	5	10		
TPH-md	630	13	ND		
TPH-r	730	ND	ND		

RB-14				7/18/2007	
Depth	1	5	10		
TPH-md	6,100	4,000	ND		
TPH-r	5,500	3,700	ND		
PCB	0.15	0.06	ND		

RB-8				7/17/2007	
Depth	1	5	10		
TPH-md	7,000	ND	ND		
TPH-r	7,000	ND	ND		

RB-3					7/16/2007	
Depth	1	5	10	15		
TPH-md	ND	5,300	740	ND		
TPH-r	ND	4,200	590	ND		

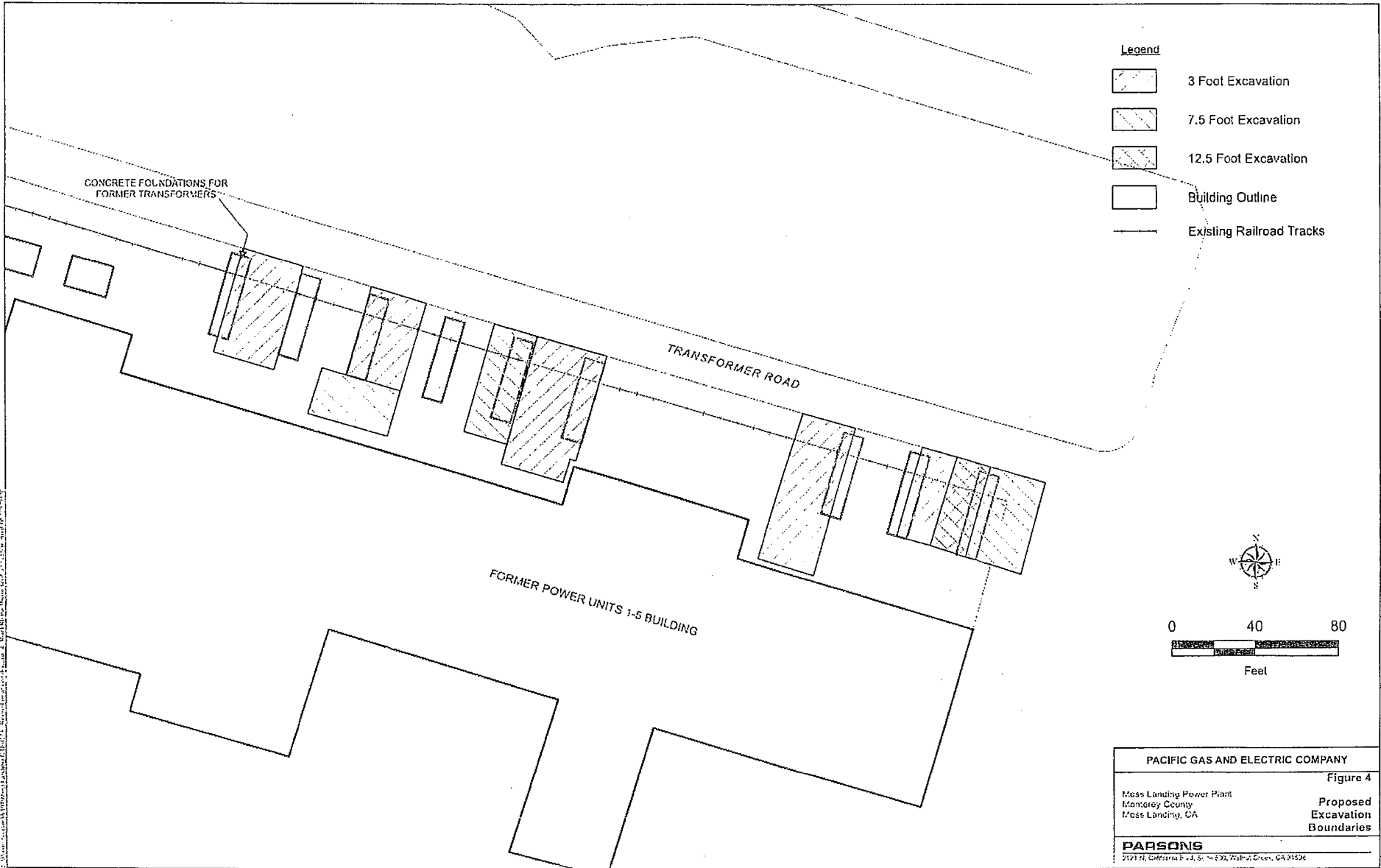
RB-22				7/19/2007	
Depth	1	5	10		
TPH-md	1,300	ND	ND		
TPH-r	1,200	ND	ND		

RB-18				7/19/2007	
Depth	1	5	10		
TPH-md	940	800	ND		
TPH-r	840	750	ND		

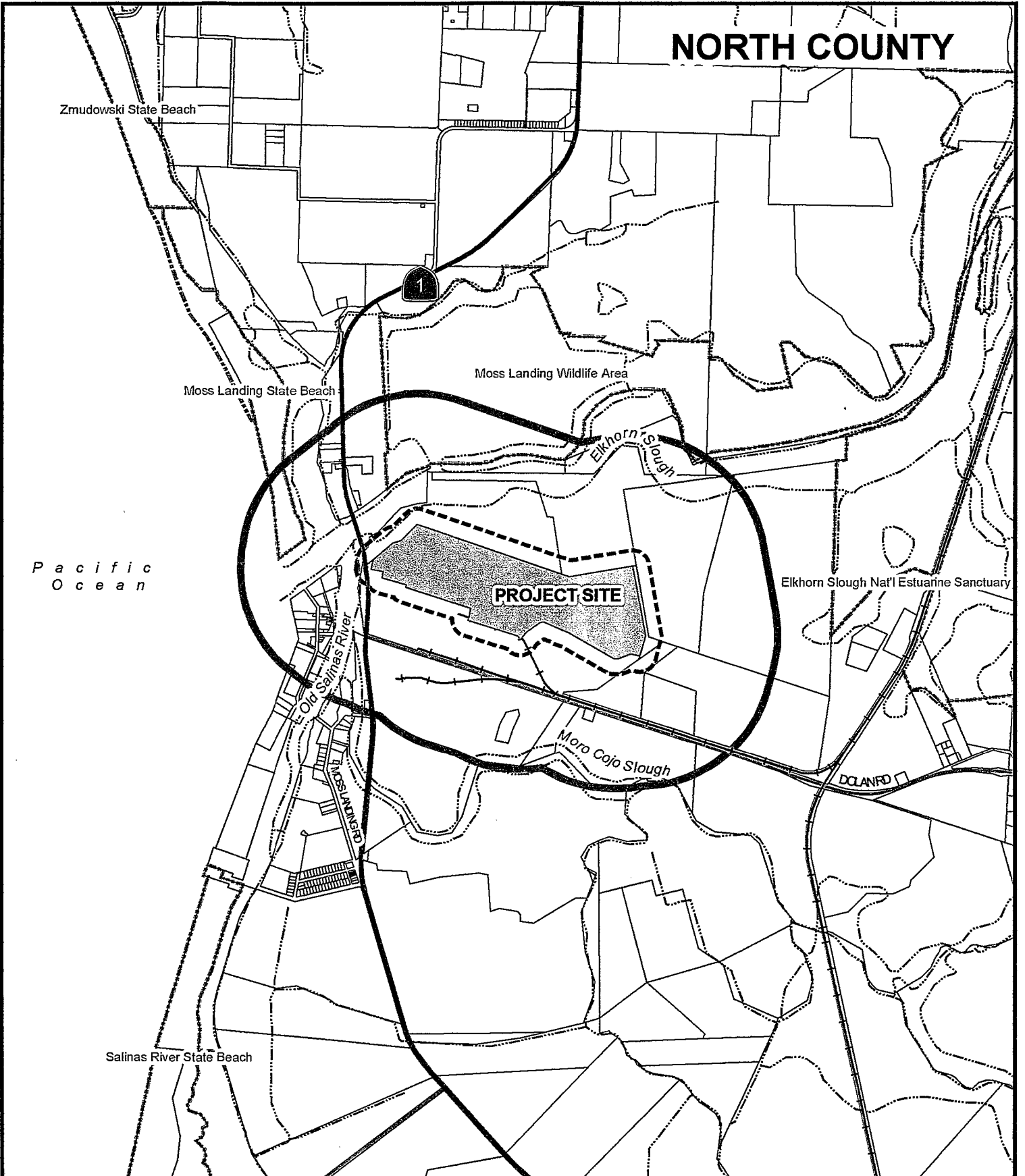
RB-11				7/17/2007	
Depth	1	5	10		
TPH-md	3,100	120	ND		
TPH-r	3,000	120	ND		

RB-4				7/17/2007	
Depth	1	5	10		
TPH-md	890	ND	ND		
TPH-r	820	ND	ND		

RB-1				7/16/2007	
Depth	1	5	10		
TPH-md	33	3,500	ND		
TPH-r	45	2,700	ND		






# NORTH COUNTY



APPLICANT: PACIFIC GAS & ELECTRIC CO

APN: 133-181-010-000

FILE # PLN090236

 300' Limit    2500' Limit    City Limits

