

APPENDIX A. RESPONSES TO COMMENTS

The project's SMND and associated Initial Study were circulated for public review From April 10, 2000 through May 19, 2000. During the review period, comments could be submitted in the form of either a letter, facsimile (fax), electronic mail (e-mail), or verbal message (voicemail). Email and voicemails received during the review period were limited to procedural inquiries such as Internet access to the Initial Study and the location of specific project elements. No comments regarding the content or technical adequacy of the Initial Study were received via e-mail or voicemail. Written comments on the Initial Study were received via U.S. Mail, overnight delivery, and fax.

Written comment letters received are listed in Table A-1, below. They have been organized and numbered in the following sequence: comments submitted by State agencies; comments submitted by local agencies (County then City); and, comments submitted by the public. These letters are presented in the first section of this Appendix. Each comment contained within a letter that required response is indicated by a vertical line and number. The first digit of the number indicates the comment letter number; the second digit of the number represents the comment number within the letter itself. The second section of this Appendix provides the CPUC's responses to these comments. The responses cross-reference the comment number. To avoid redundancy, some responses contain references to information contained in the Initial Study. Similarly, in some cases a response makes reference to a previous response, again, to avoid unnecessary duplication.

Following receipt of some comment letters, it was considered appropriate to follow up with the commenter to address the issues raised in the letter. These follow-ups continued following closure of the review period. Several of the issues addressed in these comment letters were subsequently resolved. In these instances, the response indicates the nature of the resolution (including subsequent correspondence), and any modifications to the Initial Study that resulted from these discussions.

Table A-1 Written Comments on the Initial Study

Letter Number	Commenter	Page
1	California State Department of Conservation, Office of Governmental and Environmental Relations, Division of Oil, Gas and Geothermal Resources	A-3
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11	Strong Planning Services San Luis Obispo, California	A-41

Following are the responses to the comments presented on pages A-3 through A-44 of the Appendix.

Letter Number 1:

California State Department of Conservation
Office of Governmental and Environmental Relations
Division of Oil, Gas and Geothermal Resources

- 1-1** Comment noted. Should construction-related activities encounter any recorded or unrecorded oil, gas or injection wells, Level (3) will ensure that construction activities are immediately stopped or re-directed until such time that Level (3) has contacted the appropriate District of the Division of Oil, Gas and Geothermal Resources. Level (3) will ensure that all District recommended remedial actions are completed and approved by the District prior to continued construction in the vicinity of the subject well. This requirement will be incorporated into the Initial Study Mitigation Measure VI-1 (all sites) and would minimize the impacts associated with the discovery of a recorded or unrecorded well to a level of less than significant.

Letter Number 2:

California State Department of Transportation
Transportation Planning – MS 32

- 2-1** Comment noted. Should any elements of the project encroach into, on, or over Right-Of-Way (ROW) owned by the California State Department of Transportation (Caltrans), Level (3) will be responsible for acquiring all appropriate encroachment permits. Said permits will be identified in each element's site-specific Work or Line Book, as discussed in Section 2.6
- 2-2** Comment noted. As indicated in Section 2.5 of the Initial Study Project Overview, Level (3) has committed to avoid or minimize potential impacts to sensitive resources, including cultural resources. Level (3) will be responsible for ensuring that all necessary monitoring for cultural resources will be undertaken, as appropriate. In the event of the unearthing of archaeological sites or human remains, Level (3) will ensure that construction is immediately stopped until all agencies, public interest groups, and local communities have been notified and consulted. Level (3) will not re-commence construction in the vicinity of the discovery until qualified individuals complete all actions recommended and approved by the above-referenced parties.
- 2-3** Comment noted. As noted in Section 2.6, Level (3) is currently preparing a Hazardous Materials Handling Plan. Following completion, Level (3) will be responsible for submitting the Plan to Caltrans for review and approval for any portion of the project that encroaches into, on or over Caltrans' ROW. Level (3) will be responsible for ensuring that the Plan is implemented, as necessary, during construction of the project.
- 2-4** Comment noted. Level (3) will identify all necessary permits for each project element, and list these permits in each site-specific Work or Line Book, as described in Section 2.6. Level (3) will ensure that all necessary permits and approvals are acquired prior to construction.
- 2-5** The term "On-ROW" refers to any public utility ROW, including ROWs other than telecommunications ROW. These ROWs are approved and in compliance with either/both the California Public Utilities Commission (CPUC) policies and local zoning ordinances and land use plans. The term "Off-ROW" refers to any project related component that does not occur

with an existing public utility ROW. The project elements that are the subject of this environmental review occur outside of public utility ROW.

Mitigation Measure A of the project's original Negative Declaration (Negative Declaration IX), requires Level (3) to file a petition to modify its existing Certificate of Public Convenience and Necessity (CPCN) for any project-related activity that occurs outside of existing public utility ROW. The measure also requires appropriate environmental review of the petition to identify both potential environmental impacts and any measures that may be necessary to mitigate them. Level (3) is responsible for ensuring full implementation of all the measures prescribed by both Negative Declaration IX, this Initial Study and its associated Subsequent Mitigated Negative Declaration (SMND), and the environmental commitments described in Section 2.5 to ensure the protection of environmental resources for all off- and on-ROW project elements.

Letter Number 3:

California State Department of Fish and Game:
Central Coast Region

- 3-1** The exact design and construction plans for the Cuesta Grade Workaround (Site 10) were not known at the time that its corresponding Initial Study was prepared; the analysis of the Initial Study assumed implementation of directional boring and the other environmental commitments made by Level (3) as part of project design (i.e. 100 meter setbacks from the edge of riparian vegetation, etc.).

Pursuant to CEQA Guideline Section 15063(a)(3), an Initial Study is neither intended nor required to include the level of detail included in an Environmental Impact Report (EIR). Two of the purposes of an Initial Study are to: (1) facilitate environmental assessment early in the design of a project; and (2) identify potential environmental effects and briefly explain the evidence supporting impact conclusions (CEQA Guidelines Sections 15063(c)(4) and 15063(d)(3), respectively). Following these Guidelines, it is the opinion of CPUC staff that the level of technical detail necessary for the evaluation of environmental impacts at an Initial Study level is technically adequate.

It is noted, however, that in preparing for construction, Level (3) prepares a series of "Line Books" for each ROW segment and a series of "Work Books" are prepared for each element-specific support facility (i.e. ILA stations, 3-R D-Node stations, etc.) These Line and Work Books provide site-specific detail and construction drawings (see Section 2.6 for more information regarding these books). Should the California Department of Fish and Game (CDFG) require the Cuesta Grade Line Book during its permitting of this project, Level (3) will be responsible for providing them to appropriate CDFG personnel.

- 3-2** As described in Section IV (Biological Resources) of the Summary Initial Study Checklist, it is highly unlikely that any listed, candidate, sensitive, or special status plant or animal species would occur within 500 meters of any of the proposed project elements addressed in this environmental review document. This is primarily due to: (1) local disturbances and insufficient habitat; and, (2) Level (3)'s proposal to directionally bore the proposed Workarounds in such a manner that the bore's entry and exit shall be placed 100 meters away from the edge of any riparian habitat to avoid impacts.

Because all impacts to biological resources are anticipated to be less than significant, no mitigation measures have been proposed in this Initial Study or its associated SMND. As such, no Mitigation Monitoring and Reporting Plan for biological resources has been developed. However, it is noted that the project does include a suite of documents and procedures for environmental inspection and monitoring. These components of the project are outlined in Section 2.6. The CPUC's environmental monitoring program will include monitoring of the 21 project elements addressed in this Initial Study even though there are no formal mitigation measures recommended for adoption by the Commission.

In addition to the above, Level (3) has developed a "Frac-Out Contingency Plan" (May, 2000). The Plan has been reviewed and approved by the CDFG; it addresses the possible release of bore drilling fluids to the surface through frac-outs. Because drilling muds consist largely of a bentonite clay-water mixture, they are generally considered non-toxic. However, in the event of a frac-out, cleanup efforts may result in increased disturbances of the ground surface, stream channel banks, channel bed, riparian areas, and instream/wetland habitat due to the equipment, machinery, and personnel that would need to enter the release zone.

The specific objectives of the "Frac-Out Contingency Plan" are to:

- Minimize the potential for a frac-out associated with horizontal directional drilling activities;
- Provide for the timely detection of frac-outs;
- Protect areas that are considered environmentally sensitive (streams, wetlands, other biological resources, cultural resources);
- Ensure an organized, timely, and "minimum-impact" response in the event a frac-out and release of drilling mud occur; and,
- Ensure that all appropriate notifications are made to the CPUC and environmental monitors immediately, and to appropriate regulatory agencies within 24 hours and that documentation is completed.

Section 4 of the "Frac-Out Contingency Plan" stipulates design protocols and measures to be implemented for the protection of sensitive cultural and biological resources. Design protocols require a geotechnical engineer or qualified geologist to make recommendations regarding the suitability of the formations to be bored to minimize the potential for frac-out conditions. Level (3) is responsible for informing appropriate regulatory agencies if a planned boring site is known to have a higher than normal chance to frac-out or if the substrate is known to have fractures. If sensitive resources are present at the site, Level (3) will develop an Emergency Response Plan prior to the start of construction, and contractors will be responsible for implementing the Plan should a frac-out. Details regarding the Emergency Response Plan are provided in Section 4.2 of the "Frac-Out Contingency Plan."

Level (3) will be responsible for identifying all sensitive resources in the Workarounds' Line Books. Prior to construction, sensitive biological resources will be flagged for avoidance. Additional measures stipulated in the "Frac-Out Contingency Plan." for the protection of biological resources that Level (3) will be responsible for implementing, as appropriate, include:

- Construction of barriers (straw bales or sedimentation fences) between the bore site and a nearby sensitive resource prior to drilling, as appropriate, to prevent released material from reaching the resource;

- Conducting on-site briefings for the work crew to identify the location of sensitive resources at the site;
- Ensuring that all field personnel understand their responsibility for timely reporting of frac-out releases;
- Maintaining necessary response equipment on-site or at a readily accessible location and in good working order;
- Disallowing fill into waters of the United States unless proper permits have been obtained, and
- Monitoring of for the duration of drilling activities by a qualified biologist.

In addition, Level (3) will be responsible for implementation of the mitigation measures specified by CDFG in its “Agreement Regarding Proposed Project Activities Subject to CDFG Code Section 1603; Notification Number 6-003-00” (dated January 5, 2000), as well as any other CDGF requirements that are stipulated during it’s permitting of the Cuesta Grade Workaround (Site 10).

- 3-3** As indicated in a letter from Level (3) to CDFG dated June 6, 2000, Level (3) and Williams Communications are currently pursuing an agreement to co-locate between Cuesta County Park and Cuesta Pass. This would minimize construction-related disturbances along the Cuesta Grade Workaround. Should Level (3) take the lead for construction, Level (3) has committed to and will be responsible for conducting additional pre-construction surveys for listed species, and flag or fence areas associated with their occurrence to ensure avoidance. Level (3) has additionally committed to, and would be responsible for implementing, Williams Communications’ mitigation measures along this ROW segment. These measures are F1, B3, B4, B5, B40, and B42, as identified in Williams Communications, Inc. Fiber Optic Cable System Installation Project California Network Volume II Technical Studies (Application Number A98-12-037, State Clearing House Number 99082006). These measures are provided as Appendix C of this document.

Letter Number 4:

California Regional Quality Control Board:
Central Coast Region

- 4-1** As described in Initial Study 10, Section VIII (page 10-24), and Initial Study 11, Section VIII (page 11-23), Level (3) will be responsible for submitting Notices of Intent (NOIs) for the Cuesta Grade Workaround (Site 10) and San Luis Obispo 3R D-Node (Site 11). Accompanying each NOI will be a Storm Water Pollution Prevention Plan (SWPPP) that includes control measures consistent with the Statewide National Pollution Discharge Elimination System (NPDES) program’s General Permit for Discharge of Storm Water Associated with Construction Activity. Level (3) will be responsible for including the SWPPP in the element-specific Work and Line Books.
- 4-2** The Cuesta Grade Workaround (Site 10) requires and has received Section 404 authorization under the terms and conditions of U.S. Army Corps of Engineers (USACE) Nationwide Permit Number 12. Level (3) has received a waiver of Section 401 waste discharge requirements from the Central Coast RWCB. In addition, Level (3) has committed to applying for a 1603 Streambed Alteration Agreement for this project element. The San Luis Obispo 3R D-Node (Site 11) does not encroach on any stream or wetland area.

Letter Number 5:

Shasta County, California
Department of Resources Management

- 5-1** As discussed with the County of Shasta (County) since receipt of this letter, the Burney facility is in fact located within an existing public utility ROW. Consequently, the Burney facility environmental review was completed under the project's original Negative Declaration (Negative Declaration IX) and is not included in this Initial Study. This Initial Study and its associated SMND address off-ROW project elements. A letter confirming this error was sent to the CPUC by the County on June 15, 2000.
- 5-2** Representatives of Level (3) met with the County Department of Resources Management, Planning Division, on June 6, 2000 to address concerns regarding the Burney ILA facility. At this meeting, the County Planner responsible for processing of the Burney facility Use Permit application determined that no additional environmental review of the Burney facility was needed under CEQA. The County is satisfied that the environmental issues for the facility were adequately addressed in the CPUC's Opinion and Negative Declaration IX, as supplemented by the site-specific Workbook prepared for the facility. A letter to this effect was submitted to the CPUC by Shasta County on June 15, 2000.
- 5-3** Comment noted. Level (3) is responsible for complying with all conditions stipulated by the project's permits and approvals.
- 5-4** Comment noted. Should the County believe that a Use Permit is more appropriate for the Palo Cedro facility (Site 2), Level (3) will be responsible for acquiring said permit prior to construction-related activities.
- 5-5** Comment noted. Level (3) is responsible for complying with all conditions stipulated by the project's permits and approvals.
- 5-6** Development of the facility involves the removal of two existing, prefabricated aluminum buildings and the placement of up to four prefabricated transportable, modular amplification huts. The analysis of the Initial Study for the Palo Cedro facility concludes that "existing views of the site encompass an urban setting of commercial development, paved surfaces, and infrastructure. The proposed project would not substantially degrade the existing visual character or quality of the site or surroundings." Based on the conclusion that no substantial visual impacts would occur, no mitigation has been recommended. The findings of the Initial Study have not changed.
- However, should the County require Conditions 6, 10 and 13 as part of approval for the Palo Cedro ILA's (Site 2) Use Permit, Level (3) will be responsible for complying with them.
- 5-7** The analysis concludes that no impact would occur due to appropriately designed leak monitoring and spill containment features. The findings of the Initial Study have not changed. However, it is noted that if the County requires Conditions 26 and 34 as part of its approval for Palo Cedro ILA, Level (3) will be responsible for complying with them.
- 5-8** In addressing this comment it is first noted that that there was an error in paragraph 5 of page 2-26 of the Initial Study. The paragraph notes an 80 feet setback for the emergency generator,

which would create a maximum noise level of 51 dBA Leq at the boundary of the nearest receptor. The paragraph should read that the generator setback would be 50 feet thereby creating a maximum noise level of 55dBA at the boundary of the nearest receptor. This correction is consistent with the Level(3) site-specific commitments referenced on page 2-27 and has been changed in the Initial Study for the Palo Cedro ILA (see Section 4.4).

To further address this comment, it is additionally noted that the maximum noise level of the emergency generator (55 dBA) would exceed the County's 50 dB hourly Leq nighttime threshold at the property line. To address this issue the following additional mitigation measure has been incorporated into the project:

- Mitigation Measure 2-XI-1: Level (3) will restrict generator testing to the hours between 7:00 a.m. and 10:00 p.m.

The requested change from "Less Than Significant Impact" to "Less Than Significant With Mitigation Incorporated" has been made (see Section 4.4).

Should conditions either within or outside of Level (3)'s immediate control require use of the emergency generator between the hours of 10:00 p.m. and 7:00a.m., it would exceed the County's nighttime noise thresholds as specified in the Shasta County General Plan Noise Element. However, such use cannot be reasonably predicted and is considered too speculative to determine a level of impact. Given that such use would be random, as well as temporary and short-term, the following mitigation will be added to reduce potential impacts to "Less Than Significant With Mitigation Incorporated:"

- Mitigation Measure 2-XI-2: Level (3) shall take immediate corrective actions to minimize the noise level below the County's threshold if use of the emergency generator is necessary between the hours of 10:00 p.m. and 7:00 a.m.

Letter Number 6:

County of Fresno, California
Planning & Resource Management Department

(No comments).

Letter Number 7:

Imperial County, California
Planning/Building Department

- 7-1** The El Centro ILA (Site 24) is located within a new industrial development within the City of El Centro, California. The proposed facility does not encroach on any lands under Federal jurisdiction; as such, the Bureau of Land Management (BLM) has no regulatory responsibilities over the project and has not been consulted. However, as outlined in the Biological Resources analysis for the El Centro ILA Initial Study (Page 24-14), it is noted that the site has been entirely graded and is void of any vegetation or other natural habitat. Table 24-IV-1 (page 24-15) lists the burrowing owl (*Athene cunicularia*) as the only sensitive species that the site could potentially provide habitat for. The table notes that the site does not, in its current condition, provide potential forage or refuge habitat for the burrowing owl. Adjacent lands are similarly

disturbed. The analysis concludes that the burrowing owl is unlikely to inhabit any area within 500 meters of the proposed facility.

As referenced in the Cultural Resources analysis for the proposed facility's Initial Study (page 24-17), a records search by the California Historical Resources Information System, Southeast Information Center, Imperial Valley College Museum was completed for the project. No recorded cultural resources are present within one mile of the project site.

- 7-2** The proposed inner duct would connect to the facility via Industry Way. It is only this connection that deviates from the originally approved project; the remainder of the cable within Imperial County will be placed within existing public utility ROW. It is noted, however, that Level (3) is responsible for acquiring all permits necessary to make this connection prior to any construction-related activities; these permits will be listed in the facility's Work Book.

Letter Number 8:

Ventura County
Resource Management Agency

- 8-1** Comment noted. Level (3) will be responsible for ensuring that all demolition activities are in compliance with the Ventura County Air Pollution Control District's (VCAPCD) Rule 62.7 (Asbestos – Demolition and Renovation).
- 8-2** Comment noted. The text of the discussions relative to items III(c) of the Initial Studies for the Moorpark and Ventura ILA facilities (Sites 15 and 16) have been modified to note that the VCAPCD would not consider the ROC and NO_x emissions associated with simultaneous construction to be significant due to their temporary nature (see Section 4.4).
- 8-3** Comment noted. The text of the discussions relative to items III(a) of the Initial Studies for the Moorpark and Ventura ILA facilities (Sites 15 and 16) have been modified to note VCAPCD Rule 74.9 (see Section 4.4). The request to maintain records of engine operations and hourly readings on site does not appear to mitigate any impacts addressed in the Initial Studies, but rather assists with demonstrating compliance with VCAPCD's Rules and exemptions. As such, a mitigation measure to require documentation has not been incorporated into the Initial Studies. However, the text has been modified to note that VCAPCD requires documentation. Level (3) will be responsible for complying with all regulatory requirements applicable to construction and operation of the facility.

Letter Number 9:

City of San Diego, California
Planning and Development Review Department
Environmental Analysis Section

- 9-1** Comment noted. As addressed in Section 2.6, the overall project includes site-specific Work and Line Books for construction. Should the City of San Diego (City) wish to review these documents, Level (3) will be responsible for providing them to appropriate City personnel as requested.

Letter Number 10:

City of San Luis Obispo, California
Community Development
Planning Division

- 10-1** The Geology and Soils (Section VI) and Transportation/Traffic (Section XV) analyses for the Cuesta Grade Initial Study note, respectively, that: (1) soils within the project area have moderate erosion potential; and (2) construction activities will only require four workers commuting to the site for four to six weeks. Both analyses conclude that construction of the Workaround would not significantly affect either the condition of the access roads or erosion-related issues within the project area if appropriate construction techniques are employed. Operational inspections and maintenance are anticipated to be minimal. The findings of the Initial Study are considered to be appropriate and technically adequate; as such, the proposed mitigation measure has not been incorporated. However, it is noted that should either the County of San Luis Obispo, the Central Coast RWCB (see response 4-1), or the property owner (see response 11-1) believe that additional measures for erosion control and road maintenance are warranted, they may stipulate conditions similar to the one suggested as part of their project approval processes.
- 10-2** Comment noted. Issues related to erosion control and drainage will be addressed in detail in the proposed project's Line Book (see Section 2.6). Should the County of San Luis Obispo, the Central Coast Regional Water Quality Control Board (RWCB) (see response 41), or the property owner (see response 11-1) believe that additional measures for erosion control and drainage are warranted, they may stipulate conditions similar to the one suggested as part of their project approval processes. The findings of the Initial Study for the Cuesta Grade Workaround have not changed.
- 10-3** The analysis for the San Luis Obispo 3R DNode (Site 11) concludes that no impact would occur due to appropriately designed leak monitoring and spill containment features. The findings of the Initial Study have not changed. However, it is noted that if the City determines that the use of clarifier is warranted, it may require the action as part of its permitting for the facility. Level (3) will be responsible for complying with all conditions of approval stipulated for construction and operation of the facility.
- 10-4** Comment noted. Level (3) will be responsible for amending its existing approval for the facility to reflect the proposed parking plan presented in the Initial Study.

Letter Number 11:

Strong Planning Services (On behalf of property owner Mr. Harold Mioffi).
San Luis Obispo, California

- 11-1** Since receipt of this comment letter, Level (3) has coordinated with Mr. Mioffi and his representatives; they have resolved the issues addressed in this comment. In a letter dated June 6, 2000 from Strong Planning Services to the CPUC, it is noted that Level (3) has agreed to directionally bore those segments of the Cuesta Grade Workaround (Site 10) identified by Mr. Mioffi. In addition, Mr. Mioffi has stipulated construction techniques and restoration standards for the Cuesta Grade Workaround, which Level (3) has agreed to as part of its lease agreement for the Workaround.