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June 26, 2006

VIA FACSIMILE (925) 252-4814 AND MAIL

Ken Strelo  
Project Planner  
City of Pittsburg  
65 Civic Avenue  
Pittsburg, CA 94565

**RECEIVED**  
JUN 29 2006

PLANNING DIVISION  
PLANNING AND BUILDING DEPT  
CITY OF PITTSBURG

Re: Proposed Trans Bay Cable Project - Comments on the Draft  
Environmental Impact Report

Dear Mr. Strelo:

This office represents the owners of 570-588 West 10th Street (APN 085-270-018) in the City of Pittsburg (the "Property") in connection with the proposed Trans Bay Cable project, which consists of installation of a 57-mile long submarine cable in San Francisco Bay from a terminus in the City of Pittsburg to a terminus in the City and County of San Francisco (the "Project"). As illustrated in Figure 5.4-3 of the Draft Environmental Impact Report for the Proposed Trans Bay Cable Project (the "DEIR"), the Pittsburg West Tenth Street Converter Station Alternative 1, and the Pittsburg West Tenth Street Converter Station Alternative 2 both require utilization of the Property. Our clients strongly support the conclusion of the DEIR that the Pittsburg West Tenth Street Converter Station Alternative 1 is the environmentally preferable alternative; and, as such, should be selected by the City in approving the Project. To that end, this letter provides comments on the DEIR only with respect to the required construction in Pittsburg, and does not address the required cable installation in the Bay or the required construction in the City and County of San Francisco.

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As set forth in more detail below, because the Pittsburg West Tenth Street Converter Station Alternative 1 (the "Tenth Street Alternative 1") is a feasible alternative that would substantially lessen the various environmental impacts associated with the proposed Project, the Project may not be approved unless and until the alternative West Tenth Street location is selected as the location of the Pittsburg converter station. Accordingly, we respectfully request the City of Pittsburg to move forward with the Project only if the Pittsburg converter station is located at West Tenth Street.

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**1. The Pittsburg West Tenth Street Converter Station Alternative 1 Is Environmentally Superior To The Proposed Project And Should Therefore Be Selected As The Site For The Pittsburg Converter Station.**

As expressly set forth in the DEIR, and as stated by representatives of the URS Corporation during the June 14, 2006 public meeting, the Tenth Street Alternative 1 is environmentally preferable and superior to the siting of the required converter station at the "Standard Oil site," located in proximity to the former Standard Oil Avenue. (DEIR, p. 6-4.) Moreover, not only is the location of the Tenth Street Alternative 1 environmentally preferable, the alternative is feasible and must therefore be selected.

A fundamental policy goal of the California Environmental Quality Act (Pub. Resources Code, §§ 21000 et seq.; "CEQA") is to "take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state." (Pub. Resources Code, § 21001(a); see also 14 Cal. Code Regs., § 15002(a)(2) [stating that a basic purpose of CEQA is to "[p]revent significant, avoidable damage to the environment by requiring changes in projects through the use of alternatives or mitigation measures when the governmental agency finds the changes to be feasible."].) It is the further policy of the state that:

...public agencies should not approve projects as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen the significant environmental effects of such projects...

(Pub. Resources Code, § 21102.) "CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible." (14 Cal. Code Regs., § 15021(a).) The West Tenth Street Alternative 1 affords the City of Pittsburg the perfect opportunity to select a feasible alternative that will protect the environmental quality of the state by lessening the environmental effects associated with the proposed project.

**A. Siting The Converter Station On West Tenth Street Fully And More Satisfactorily Satisfies the Project Location Objectives.**

With respect to the location of the Pittsburg Converter Station site, the DEIR establishes the following objectives:

Locate the converter stations such that:

(1) they are in close proximity to existing, high capacity PG&E substations;

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(2) the converter station site in the East Bay provides access to a substation that supports local generation as well as being reinforced by diverse generation from outside the local area;

...(4) connecting the two converter stations sites with new transmission wires should create minimum short-term disruption to the areas and no long-term undesirable impacts;

...and (7) they possess long-term financeable real estate rights.

(DEIR, p. 2-3.) The DEIR further provides that the cable routes should involve minimal environmental impacts, and that “installation and final location of the cable should result in minimal short-term disruption to the public, ensure public safety, and provide an appreciable measure of long term security.” (DEIR, p. 2-4.)

The West Tenth Street Alternative 1 is clearly best suited to satisfy the above-referenced objectives. The West Tenth Street site is located in very close proximity to the existing PG&E substation, and is located much closer to the substation than the proposed Standard Oil site. (See, e.g., DEIR, Figures 3-1, 3-6, 4.4-5.) Utilization of the West Tenth Street site would also greatly reduce the length of the necessary cable, and would therefore create the least amount of disruption (both short-term and long-term) to the environment. (See *id.*) Lastly, as discussed in section 2 below, Trans Bay Cable, LLC has acquired long-term financeable real estate rights for the West Tenth Street location.

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**B. Potentially Significant Environmental Impacts Associated With The Pittsburg Converter Station Will Be Minimized Or Eliminated If The West Tenth Street Alternative 1 Is Selected.<sup>1</sup>**

**i. Air Quality.**

As set forth in the DEIR, locating the converter station at the West Tenth Street site will result in less emissions than would be associated with a converter station at the Standard Oil site. Notably, marine vessel emissions would be reduced because the length of cable required to be installed off-shore (across New York Slough and around Browns Island) would be substantially reduced.

**ii. Water Resources and Quality.**

With respect to water resources and water quality, the West Tenth Street site would again provide a more environmentally friendly and sensitive location for the converter station than the Standard Oil site. For example, stormwater from the presently developed West

<sup>1</sup> For a summary description of the potentially significant impacts associated with the Standard Oil site that are not applicable to the alternative Pittsburg West Tenth Street site, please see page 6-2 of the DEIR.

Tenth Street location would discharge into the existing City storm drain system. (DEIR, p. 5.4-5.) Given the demolition and construction associated with the project, it is reasonable to expect the level of stormwater discharge to remain approximately the same as under existing conditions. Because the Standard Oil site is presently undeveloped, and “[s]tormwater currently flows from the site to its natural water course and then discharges into Kirker Creek,” it will be necessary to fully construct and develop a stormwater capture and discharge system consistent with the requirements of the Contra Costa County NPDES Stormwater permit. It is extremely concerning that the DEIR states that during construction and after full buildout, “[m]ost stormwater from the [Standard Oil] converter station site would continue to flow along its natural watercourse into Kirker Creek,” especially given the DEIR’s further statement that “[p]roject construction could include oil leaked from heavy equipment and vehicles, grease, hydraulic fluid, fuel, construction materials and products, waste materials, landscaping runoff containing fertilizers, pesticides or weed killers, and erosion of disturbed soil.” (DEIR, pp. 4.4-23, 4.4-24.) Such discharges would fail to comply with the local NPDES stormwater permit.

As a practical matter, converting the barren Standard Oil site to a fully developed parcel (including required stormwater control facilities), will most certainly have greater and more significant environmental impacts than if the already developed West Tenth Street location is redeveloped as a converter station. The substantial increase in impervious surface (and all associated environmental impacts) can be avoided entirely if the West Tenth Street Alternative 1 is selected.

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### iii. Terrestrial Biological Resources.

The DEIR makes clear that, “[n]o sensitive terrestrial biological resources are present on [the alternative West Tenth Street] converter station site or the associated onshore facilities...” (DEIR, p. 5.4-6.) The fact that “[n]o impacts to natural communities, wetlands, or special-status species,” are expected to occur if the converter station is located at the West Tenth Street location is in stark contrast to the potential impacts associated with siting the converter station at the Standard Oil site.

As summarized in the DEIR:

Construction of [the] proposed Pittsburg Standard Oil Converter Station, including onshore cable route, proposed access road bridge construction, and laydown areas, has the potential to significantly impact wetlands and waters of the United States as well as special-status plant and animal species and the habitats that support them []. *Potentially impacted habitats include vernal pools, salt marsh, and Kirker Creek. Potentially present and impacts fauna include: salt marsh harvest mouse, Giant garter snake, western pond turtle, California clapper rail, California black rail, short-eared owl, salt marsh yellow throat, white-tailed kite, raptors, and vernal pool*

*shrimp. In addition, various special-status/rare plants could be impacted.*

(DEIR, p.1-6 [emph. added].) As a matter of good public policy, the Pittsburg West Tenth Street Converter Station Alternative 1 should be selected so that any potential impacts to natural communities can be entirely avoided.

**iv. Marine Biological Resources**

If selected, the alternative West Tenth Street Converter Station location would also significantly reduce the impacts on marine biological resources. The DEIR describes the reduction in impacts as follows:

The Pittsburg West Tenth Street Converter Station Alternative 1 would eliminate the need for the HVAC installation in the Bay, and would reduce the length of the HVDC installation by approximately 4 miles relative to the proposed standard oil site. No cable installation would be needed in the channel between Winter Island and Browns Island and no dredging would be needed to cross the channel where the cable routes cross New York Slough associated with the Standard Oil site [].

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(DEIR, p. 5.4-7.) If the project moves forward at the Standard Oil site, temporary disturbance of the seabed would occur, and localized turbidity would also likely result. Furthermore, mobile animals would likely be displaced. These impacts will be avoided if the West Tenth Street Converter Station Alternative 1 is selected.

**v. Marine Transportation and Commercial Fishing.**

The DEIR does not specifically address those marine transportation and commercial fishing impacts that will result from the construction of the converter station at the Standard Oil site. Notwithstanding this omission, the Alternatives section of the DEIR states that siting the converter station at the West Tenth Street location will “avoid local impacts to commercial marine transportation and commercial fishing vessel operation.” (DEIR, p. 5.4-12.) Selection of the West Tenth Street alternative “would also avoid the need to dredge the shipping channel in two locations on either end of New York Slough, thereby minimizing potential impacts relative to the proposed Standard Oil Converter Station site.” (DEIR, p. 5.4-12.) While it is clear that the West Tenth Street alternative is environmentally preferable and superior, we again note that, because an analysis is not set forth in the DEIR, we are unable to determine what specific marine transportation and commercial fishing impacts (and their associated level-of-significance) may be caused by siting the station at the Standard Oil site.

vi. **Traffic and Transportation.**

Perhaps one of the most remarkable differences between a converter station located at the Standard Oil site, and the alternative West Tenth Street converter station, is the requirement that a new two lane road and bridge be constructed over Kirker Creek for purposes of accessing the Standard Oil site. No such bridge – and its associated environmental impacts (and required permits) – is required to access the West Tenth street site. (DEIR, pp. 4.10-19, 5.4-14.)

2. **Trans Bay Cable, LLC Has Secured The Right To Use The West Tenth Street Property For Purposes Of Constructing the Converter Station.**

The DEIR indicates that in order for the Pittsburg West Tenth Street Converter Station Alternative 1 to be implemented, it will be necessary to lease or procure several parcels on West Tenth Street. Please be advised that since the time the Notice of Preparation was issued, Trans Bay Cable LLC acquired and currently holds an option to lease the Property for purposes of the project.

**Conclusion.** The selection of the West Tenth Street Alternative 1 as the Pittsburg converter site will allow the City, and the project proponent, to achieve the project objectives at the least environmental cost. Because CEQA establishes a duty for public agencies to avoid or minimize environmental damage where feasible, and because the other alternatives (including the Standard Oil site) have the potential to cause serious environmental harm, we urge the City to only approve the Project with the West Tenth Street Alternative 1.

Please contact the undersigned directly should you have any questions or require further clarification regarding these comments.

Very truly yours,

MILLER, STARR & REGALIA



Kristina D. Lawson

KDL:KDL

cc: Wilson F. Wendt