Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application by Lodi Gas Storage, L.L.C. (U-912-G) for a Certificate of Public Convenience and Necessity for Construction and Operation of Gas Storage Facilities.	Application 05-07-018 (Filed July 25, 2005)

DECISION GRANTING CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY TO CONSTRUCT AND OPERATE THE KIRBY HILLS NATURAL GAS STORAGE FACILITY

I. Summary

This decision grants a certificate of public convenience and necessity (CPCN) to applicant Lodi Gas Storage, L.L.C. (LGS) to construct and operate a gas storage facility in Solano County, California that will be known as the Kirby Hills Natural Gas Storage Facility (Kirby Hills Facility or Facility). In order to build the Facility, LGS will be reconditioning and enhancing an old gas production reservoir that was first discovered by the Shell Oil Corporation (Shell) in 1945 then used for gas storage during the 1970s and 1980s.

The proposed Facility will have three principal components. The first is a natural gas storage and withdrawal field, which includes a compressor/dehydration station and injection/withdrawal wells. This area is located within the Kirby Hills Gas Field and includes several pads for producing gas wells.

The second component of the Facility will be a 5.9-mile pipeline running from the compressor/dehydration station in the gas storage field area to a remote metering station and interconnection site, where the Facility will interconnect with Line 400 owned by Pacific Gas and Electric Company (PG&E).

The third component is the remote monitoring station and interconnection site near PG&E's Line 400. This third component is located on a 0.75 acre site on which LGS now holds a long-term lease.

As part of its application, LGS has requested that it be authorized to charge market-based prices for the storage and hub services that will be supplied by the Facility. Because such authority would be consistent with the pricing authority for LGS's existing facilities near Lodi, and also with the policies we have followed since Decision (D.) 93-02-013 to promote competitive gas storage facilities, we will grant the market-based pricing authority that LGS requests.

As part of its application, LGS has also requested that the Commission find, pursuant to the California Environmental Quality Act (CEQA), that the Facility either (1) has no significant environmental impacts, or (2) that any potentially significant environmental impacts can be mitigated to less-than-significant levels through the mitigation and monitoring measures that LGS has proposed. As part of our decision today, we accept and approve the Final Initial Study/Mitigated Negative Declaration (Final IS/MND) our staff has prepared in connection with the Facility. The Final IS/MND concludes that there are several potentially significant environmental effects associated with the Facility, but that these effects can be reduced to less-than-significant levels through implementation of the mitigation measures set forth in the Final IS/MND. As a condition of granting the authority sought in the application, we will require LGS to implement each of the mitigation measures required by the Final

IS/MND, and to abide by the Mitigation Monitoring Plan set forth in Section C thereof.

II. Procedural History

A. The Responses to the Application

The 30-day protest period for the application expired on August 25, 2005. No protests were filed, but three responsive pleadings were submitted on the due date. The first was a petition to intervene filed by Wild Goose Storage, Inc. (Wild Goose). After pointing out the Commission decisions that had authorized Wild Goose to build its own gas storage facilities,[1] Wild Goose noted that it, along with LGS and PG&E, are competitors for natural gas storage in Northern California, and that LGS's "plan to increase its storage capabilities will as a matter of course impact the competitive natural gas storage market in the region."

The second responsive pleading was filed by Duke Energy North America, LLC and Duke Energy Marketing America, LLC (collectively, Duke) in support of the application. Duke's response noted that "as one of the largest consumers and transporters of natural gas in California," it recognized the value of gas storage for balancing and cost control purposes. Pointing out that "the Commission has encouraged electric generators to use storage to ensure that gas is available during times of peak electric demand," Duke asserted that the expansion of LGS facilities represented by the Kirby Hills Facility would be "consistent with this goal."

The third pleading consisted of a response and comments filed by PG&E.

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[1] Wild Goose was originally granted a CPCN in D.97-06-091, and was later authorized to expand the capacity of its storage facilities in D.02-07-036.

In its response, PG&E requested that a hearing be held on the application in the event LGS and PG&E could not resolve their differences over PG&E's position that issuance of a CPCN for Kirby Hills should be conditioned upon (1) making LGS responsible for all costs of interconnecting the Kirby Hills Facility with PG&E's Line 400, and (2) limiting the Kirby Hills Facility to only one point of interconnection with PG&E's facilities so as to eliminate any risk of bypass. PG&E's response also noted that it was conducting "good faith negotiations" with LGS over these issues, and that "although PG&E is requesting an evidentiary hearing on these issues in this docket, PG&E proposes that the Commission hold the evidentiary hearing in abeyance pending the outcome of these settlement negotiations." (PG&E Comments, p. 7.)

B. The Adequacy of the Proponent's Environmental Assessment

Under Rule 17.1(d) of the Commission's Rules of Practice and Procedure, an applicant proposing to construct a project such as the Kirby Hills Facility is required to submit, as a separate exhibit to the application, a Proponent's Environmental Assessment (PEA). Moreover, as the agency responsible for certification of the Kirby Hills Facility, the Commission is required under § 15100 of CEQA to assess the completeness of the application, including the PEA.

In its PEA, LGS asserted that the Kirby Hills Facility would either have no significant effect upon the environment, or that any effects it might have could be reduced to insignificant levels through the implementation of certain mitigation measures known as Applicant Proposed Measures, or APMs.

After an initial review of the application including the PEA, the Commission's Energy Division sent LGS a letter on August 23, 2005 stating that necessary information was missing, and that the application could not, therefore, be deemed complete. LGS responded to the deficiency letter on August 31, 2005,

but on September 23, 2005, the Energy Division sent LGS a second deficiency letter outlining additional information that would be needed before the application could be deemed complete. LGS responded to this letter on October 7, 2005. On October 21, 2005, the Energy Division sent LGS a letter noting LGS's "comprehensive response" to the second deficiency letter, and concluding that, as supplemented, the application could now be considered complete.

Pursuant to CEQA, the Energy Division then commenced its initial study of the project to determine whether an MND could be issued, or whether a full Environmental Impact Report (EIR) would be required. On January 17, 2006, the Energy Division issued for 30 days of public review and comment a Draft IS/MND. The Draft IS/MND concluded that through implementation of the APMs proposed by LGS, along with other mitigation measures set forth in the Draft IS/MND, the Kirby Hills Facility's effects upon the environment could be reduced to less-than-significant levels.

The comments received in response to the Draft IS/MND are discussed in Section V.C of this decision. The Final IS/MND for the Facility was issued on February 24, 2006.

C. LGS's Settlement with PG&E

As noted above, while PG&E requested hearings on the application, its request was conditional, with PG&E stating that hearings were unlikely to be necessary if its settlement negotiations with LGS proved successful.

On September 30, 2005, PG&E filed a Further Response in this docket, which stated that PG&E's differences with LGS had been resolved and that PG&E was therefore withdrawing its request for hearings and for imposing the two conditions described above on the CPCN for Kirby Hills.

At the request of the assigned Administrative Law Judge (ALJ), LGS filed, on October 5, 2005, a settlement agreement reflecting its negotiations with PG&E. The settlement agreement has three principal sections. The first governs interconnection costs and provides:

> "LGS agrees to pay PG&E in full as Special Facilities per PG&E's Rule 2 all documented costs of designing, engineering, installing, and commissioning metering facilities, necessary appurtenant control valves, communication equipment, permits and fees, and associated costs of a hot tap interconnection of the Kirby Hills facility with Line 400, and a temporary interconnection to Line 182, plus the applicable tax gross-up."

The second provision requires LGS to pay PG&E the full "documented costs of adjusting its computer system and modeling program to take into account the addition of the Kirby Hills facility, up to $200,000."

The third provision deals with the question of whether the Kirby Hills Facility should be limited to one point of interconnection with PG&E's Line 400 and states in full:

> "PG&E and LGS agree that the addition of the Kirby Hills facility will neither expand nor contract LGS's current or future ability to directly interconnect with storage customers. Any resolution of interconnection issues emanating from [Rulemaking] 04-01-025 or any other proceeding will apply equally to LGS's existing storage facilities and the Kirby Hills facility. In the event that no resolution of these issues is arrived at in that docket, the parties reserve their rights to advocate their respective positions in any appropriate forum or proceeding."

III. Description of LGS and the Proposed Kirby Hills Facility

A. Description of Applicant

As noted above, LGS is a provider of competitive natural gas storage and

withdrawal facilities. It was first granted a CPCN by this Commission (for its Lodi facility) in D.00-05-048.[2]

LGS is a wholly-owned subsidiary of Lodi Holdings, L.L.C. (Lodi Holdings). In D.05-12-007, we recently approved the transfer of a 50% interest in Lodi Holdings from Western Hub Properties L.L.C. to WHP Acquisition Company II, L.L.C. (WHP Acquisition II), a Delaware limited liability company that is a wholly-owned subsidiary of ArcLight Energy Partners Fund II, L.P. (ArcLight Fund II).[3] Both ArcLight Fund II and its affiliate, ArcLight Fund I, are passive investors in the power and energy industries, and both are managed by ArcLight Capital Partners L.L.C., an investment management firm headquartered in Boston, Massachusetts. The practical effect of the transfer approved in D.05-12-007 was to bring Lodi Holdings under unified management and control, and to facilitate the expansion of LGS's gas storage and withdrawal facilities that is the subject of this application.

B. Description of the Proposed Kirby Hills Facility

The gas storage portion of the proposed Kirby Hills Facility will be located in Solano County at the western edge of the Montezuma Hills, about 12 miles west of the City of Rio Vista (Rio Vista) and seven miles southeast of the City of Fairfield (Fairfield). All of the surface facilities except for the remote meter and

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[2] LGS's CPCN for the Lodi facility was subsequently amended in D.03-08-048, D.04-05-034, and D.04-05-046.

[3] The other 50% interest in Lodi Holdings is held by WHP Acquisition Company, which in turn is a wholly-owned subsidiary of ArcLight Energy Partners Fund I, L.P. (ArcLight Fund I). We approved WHP Acquisition Company's acquisition of this 50% interest in D.03-02-071.

PG&E interconnection facilities (which are at the other end of the 5.9 mile pipeline) will be located on land leased by Lodi Holdings, the parent company of LGS, from Kirby Hills Associates, a California limited liability company. In March 2005, Lodi Holdings entered into a 50-year Gas Storage and Lease Agreement (Lease Agreement) with Kirby Hills Associates covering all of the Project's subsurface storage reservoirs and the surface facilities (except for the pipeline, remote metering and PG&E interconnection facilities). The Lease Agreement has been assigned by Lodi Holdings to LGS.

The actual gas storage will take place in the Kirby Hills Domengine Gas Reservoir (Reservoir), which comprises approximately 128 acres lying within the boundaries of the leased property near the Montezuma Hills. The Reservoir was discovered by Shell in 1945 and was operated as a natural gas production field by Shell between 1945 and 1964. In 1972 Shell sold the relevant leases, which were acquired by Dow Chemical Corporation (Dow) in 1975. Dow then converted the reservoir to natural gas storage and conducted active gas storage operations there from 1977 to 1993 in support of a proprietary pipeline system. Dow's leases expired in 1997.[4]

The gas storage reservoir is known as the Domengine Sand. It varies in thickness from 90 feet to 200 feet and exists at a depth between 1900 and 2200 feet from mean sea level. The Domengine Sand is capped by a dome-shaped layer of hard shale, which is what actually traps the gas. LGS proposes that this

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[4] The application notes that "because of their age, capacity, and design pressures, the existing pipeline and metering facilities [from the Dow era] are not expected to be materially useful in the proposed Facility. The existing wells may be useful for gas injection/withdrawal or as observation wells after being reconditioned or worked over." (Application, p. 3.)

underground reservoir be accessed through up to four well pad sites that will be located on the 128-acre property. LGS plans to drill up to 10 new injection/withdrawal wells from the well pads into the storage formation below.

The proposed facility will have a total storage capacity of up to seven billion cubic feet (Bcf), of which about 5.5 Bcf would be working capacity and 1.5 Bcf would be cushion gas. The firm injection and withdrawal capacity for the initial phase of the project is proposed to be 50 million cubic feet per day (MMcf/d). As market conditions dictate, LGS proposes to add compression and wells to increase firm injection and withdrawal capacity up to 100 MMcf/d, which is the maximum capacity that LGS seeks in the CPCN requested here.

At the eastern edge of the underground storage site, less than a mile from the well pads, LGS proposes to locate a compressor/dehydration station. This station will be located on a 10-acre site, and the heart of it will be a building approximately 200 feet long by 35 feet wide housing up to four natural gas engines coupled to reciprocating compressors. The four engines would have a combined output of approximately 7,200 horsepower. Initially, one or two compressor units will be installed, with additional units added as market conditions dictate. In addition to the engines and compressors, the station will include dehydration units with a capacity of up to 100 MMcf/d. The Kirby Hills Facility's maintenance and operations buildings will also be located on the 10-acre site. The injection/withdrawal wells will be connected to the compressor/dehydration station by means of a flow line with a diameter of up to 12 inches.

As noted in the Summary, the second major component of the proposed Facility is a 5.9-mile pipeline, which will run east from the Kirby Hills compressor/dehydration station to milepost 286.65 on PG&E's Line 400 on the Redwood Pipeline System. LGS's pipeline will be bi-directional, made of steel,

have a diameter of up to 16 inches, and be buried to a minimum depth of 48 inches. For a good portion of its route, the new pipeline will run parallel to Calpine's existing Montezuma pipeline. The proposed route will require right-of-way easements through nine parcels of land held by six different landowners (excluding Kirby Hills Associates). The application states that LGS holds easements or easement options with all private landowners along the pipeline right-of-way.

As noted in the Summary, the third and final component of the Project is the remote metering and PG&E interconnection site. LGS states that it has acquired a long-term lease for approximately three-quarters of an acre where the metering and interconnection site will be located. The site is agricultural land that is currently used for cattle grazing. The application states that the site will contain low-lying facilities including a 16-inch valve and bypass manifold, a pig launcher/receiver, and a metering station to measure volume, pressure and temperature parameters. When constructed, the site will be graveled and fenced to control unauthorized access. It will also have a radio tower less than 13 feet in height that will convey data and allow remote operation of facilities at the Kirby Hills storage site.

LGS estimates that construction of the above facilities will take six to eight months. (Application, p. 22.) While the facilities are under construction, LGS proposes to construct a temporary gas injection system. LGS states that the temporary system can be constructed and made operational in a relatively short time after a CPCN is granted, and that "by injecting gas during construction of the permanent facilities, the Kirby Hills Facility will be ready to provide storage services once the permanent facilities are complete." (*Id.* at 12.)

LGS states that the temporary system will be designed to inject up to 10 MMcf/d of gas into the reservoir. The temporary system will include (1) a

temporary interconnection with PG&E Line 182 on the storage site, (2) a temporary skid-mounted meter, (3) a four inch, 1.35 mile temporary gas injection pipeline from the temporary PG&E interconnection to Well Site S-2, and (4) a temporary skid-mounted, natural gas-fired compressor unit of up to 1,000 horsepower located on Well Site S-2 that will connect to Well Sites S-1 and S-2. LGS states that the temporary meter and compressor will be removed after the permanent facilities are put into service, and that the segment of the temporary gas injection pipeline from the PG&E interconnection to the permanent compressor station will be abandoned in place after the permanent facilities become operational.

IV. Need for the Kirby Hills Facility

LGS asserts that under D.93-02-013, the so-called Storage Decision,[5] "a traditional showing of need [is] no longer critical to an analysis of competitive storage projects" like Kirby Hills, because the owners of such projects operate at their own financial risk. (*Id*. at 18, citing 48 CPUC2d at 118-119.) Nonetheless, LGS argues that the current situation in California demonstrates the need for the additional gas storage that the Kirby Hills Facility will provide. After noting that a "key action" identified in the June 2005 Draft Energy Action Plan II is the "encourage[ment of] the development of additional in-state natural gas storage to enhance reliability and mitigate price volatility,"[6] LGS argues that the Kirby Hills Facility will serve this goal:

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[5] 48 CPUC2d 107.

[6] The final version of *Energy Action Plan II* adopted by this Commission and the California Energy Commission (CEC) in October 2005 retains this language (at page 13) as Key Action No. 4 under the discussion of Natural Gas Supply, Demand and Infrastructure.

"Capacity at the Lodi Facility is currently fully subscribed through a combination of short-term and long-term contracts with a variety of market participants. In May of this year LGS conducted an open season for up to 5 Bcf of additional working capacity with 100 MMcf/d of firm injection and withdrawal capacity . . . At the end of [the open season,] Bid Response Forms from 6 market participants with indications of demand for 7.3 Bcf of storage capacity were received and LGS is in the process of negotiating storage services agreements with those parties.

"In addition to this direct expression of market interest for incremental storage capacity, there are also other indications that the energy market in California, and especially in Northern California, has a need for incremental gas storage capacity. In March [2005,] PG&E filed [A.]05-03-001 wherein it proposes to add incremental firm core storage capacity to meet a 1-day-in-10-year peak standard. Adoption by the Commission of this reliability standard would add approximately 100 MMcf/d of storage withdrawal capacity and 2-3 Bcf of storage capacity.

"[In March 2005] PG&E [also] issued a Request for Offers for up to 2200 megawatts of dispatchable capacity between 2008 and 2010. A requirement for this capacity is that firm physical delivery of the generation must be accomplished within the north of Path 15 region as presently designated by the California Independent System Operator. The increase in regional generating capacity, much of it natural gas fired requiring swing gas supplies, will add to the demands placed on California's existing natural gas infrastructure. The draft Energy Action Plan II notes this factor when it calls on the State to promote infrastructure enhancements, including 'increased use of intrastate storage.' Increasing load area high-performance gas storage infrastructure enhances the ability to efficiently and cost-effectively use the existing utility gas infrastructure in a time of rising natural gas demand, particularly swing demand." (*Id*. at 19-20; footnotes omitted.)

V. Environmental Review of the Kirby Hills

Facility

A. Overview of Environmental Issues

Although the proposed Kirby Hills Facility obviously entails a substantial amount of construction, LGS has asserted in its application that the proposed project will not have a significant effect upon the environment, because the gas storage field, pipeline, and remote metering/interconnection station will all be located in agricultural areas far away from residences, and that any potentially significant environmental effects can be mitigated. Before turning to a detailed consideration of the IS/MND prepared by our Energy Division, we summarize briefly the application's characterizations about where and how the proposed new facilities will be constructed, and why applicant expects no environmental effects that cannot be mitigated to less-than-significant levels.

With respect to the 128-acre gas storage field, LGS states that "there are no identified sensitive environmental areas impacted by [the] surface facilities," because the surface area "is predominantly non-native grassland currently used for cattle grazing." LGS also states that no sensitive environmental areas will be impacted by pipeline construction on this site, and that the pipeline will be installed through conventional trenching methods, as will the flowline connecting the proposed well pad sites with the compressor/dehydration station. (*Id*. at 8, 11.)

With respect to the compressor and dehydration station located at the eastern end of the gas storage field, LGS states that "the site is in a valley between Kirby Hill to the west and a low hill to the east and will generally be screened from view." LGS also notes that the closest residence is 0.83 miles away.

The biggest potential environmental effects with respect to the compressor and dehydration station are noise and air emissions, but LGS asserts that these

effects are also less than significant. With respect to noise, LGS notes that under the 1977 Solano County General Plan, industrial facilities cannot exceed a Community Noise Equivalent Level (CNEL) of 50 dbA as measured at the nearest residential property. LGS states that under a noise impact analysis performed for it by Hoover & Keith Inc. (which is attached as Appendix E to both the Draft and Final IS/MNDs), the compressor/dehydration station would be below this threshold even when operated at full load for gas injection. With respect to air emissions, the compressor/dehydration station will be designed to meet the standards set by the Bay Area Air Quality Management District (BAAQMD), which require use of the best available control technology.

With regard to the 5.9 mile pipeline, LGS notes that for much of its route, it will run along existing roads and rights of way. Accordingly, LGS states, "for most of the proposed route the pipeline will be installed using traditional trenching techniques. Horizontal boring will be used for the rail line and creek crossing, and in areas around sensitive seasonal wetland complexes." (*Id. a*t 11-12.)

The final portion of the proposed new Facility is the remote metering and interconnection site near PG&E's Line 400. The application notes that this 0.75-acre site is agricultural land used for cattle grazing, and that the various surface facilities located there will be "low lying." As noted previously, there will also be a radio tower of less than 13 feet to allow remote operation. (*Id. a*t 12.)

B. The Draft IS/MND

As noted above, as the lead agency on the proposed Kirby Hills Facility, the Commission has the responsibility under CEQA to prepare an Initial Study (IS) of the Facility to determine whether a full-fledged Environmental Impact

Report (EIR) is necessary, or whether potential environmental effects identified by the IS can reduced to less-than-significant levels through the adoption of conditions set forth in a Mitigated Negative Declaration (MND).

In this case, the Draft IS/MND was issued for 30 days of public review and comment on January 17, 2006. As explained below, only five sets of comments were submitted in response to the Draft IS/MND, none of which necessitated any changes to its conclusions or to the conditions it proposes to impose on the applicant. In the comments it submitted on February 1, 2006, LGS stated that it will accept without condition the Mitigation Monitoring Plan (which includes both the APMs proposed by LGS and additional Mitigation Measures proposed by our staff) set forth in Section C of the Draft IS/MND. The Final IS/MND was issued on February 24, 2006.

As indicated below, both the Draft and Final IS/MNDs agree with LGS's assertion that the proposed facility will have a limited number of potentially significant effects upon the environment, and that these effects can be reduced to less-than-significant levels by implementing the APMs proposed by LGS, as well as the additional Mitigation Measures specified in the Draft IS/MND.

Because the Draft and Final IS/MNDs are very lengthy documents, we discuss here only those sections outlining potentially significant environmental impacts that can be reduced to less-than-significant levels by implementing specified mitigation measures.

1. Air Quality

Even though the entire Kirby Hills Facility is located in Solano County, it falls under the jurisdiction of two air agencies. The western portion of the Facility, including the 128-acre gas storage field and the compressor/dehydration station, falls under the jurisdiction of the BAAQMD.

The eastern portion, where the Facility will interconnect with PG&E's Line 400, falls under the jurisdiction of the Yolo-Solano Air Quality Management District (Y-SAQMD). The two agencies have somewhat differing sets of standards. Most of the air emissions discussed in the Draft and Final IS/MNDs will occur during construction; the operating emissions from the compressor/dehydration station do not violate the applicable BAAQMD standards.

Dust emissions during construction are a concern in both air districts. The western portion of the Facility subject to BAAQMD is located in a windy area (near the Shilog I Wind Plant); there, the IS/MND will require the use of ultra-low sulfur diesel fuel and off-road equipment during construction. In the eastern portion of the Facility subject to Y-SAQMD (where the remote metering and interconnection station will be built), the IS/MND requires implementation of all of the following measures:

a. During high winds (i.e., sustained gusts of over 25 mph), construction areas with visible dust emissions will be watered at least hourly, and construction activity within one-half mile of any downwind residence will be discontinued when dust plumes remain visible for more than 50 feet past their point of origin.

b. All diesel construction equipment will use fuel meeting the ultra-low sulfur diesel fuel specifications (15 ppm max) of the California Air Resources Board (CARB).

c. All diesel-fueled off-road construction equipment with engines of 50 hp or larger will be required to meet USEPA/CARB Tier I engine standards, unless the equipment has been permitted by the applicable local air quality district or is certified through CARB's statewide portable equipment registration program.

d. In the eastern area subject to Y-SAQMD jurisdiction,

> pipeline construction, metering station construction and overhead power line construction shall be completed so that no more than one of these types of construction is active on the same day. (Final IS/MND, p. B-68.)

2. Biological Resources

As noted above, the proposed Facility is located in an agricultural area now used mainly for dry farming and cattle grazing. However, a large number of plants and animals can occur in this area, and some of them are so-called "special status" species. Among the special-status animal species with a moderate or high potential for occurrence in the area are the San Joaquin pocket mouse, the white-tailed kite, the Northern Harrier, the Ferruginous Hawk, the California horned lark, the Loggerhead Shrike, and the Conservancy, Midvalley and vernal pool fairy shrimps.[7] (*Id.*, pp. B-75 to B-87.) The Final IS/MND concludes that implementation of APMs B-1 through B-6 proposed by LGS would reduce any potential impacts to these species to less-than-significant levels. (*Id.* at B-87-88.)

The main concern with respect to biological resources in the area is the potential impact on wetlands. The Draft IS/MND noted that the proposed 5.9 mile pipeline when it runs along Shiloh Road would cross an unnamed seasonal drainage area that the Army Corps of Engineers would consider waters of the United States. In addition, some potential wetland features were observed near the pipeline route and the Kirby Hills access road. To protect these areas and reduce the impact of construction to a less-than-significant level, Mitigation Measure BIO-1 specifies that the construction specifications must require that a

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[7] Among plant species, Parry's Tarweed and the bearded popcorn-flower have a high potential for occurrence in the area.

qualified biologist trained to conduct wetland delineations identify sensitive biological habitat on site and identify areas to avoid during construction. (*Id. a*t B-88.)

3. Geology and Soils

The site for the Kirby Hills Facility lies within the San Francisco Bay Area region, which is seismically active. Nine active faults are considered to be within the vicinity of the project, including the Kirby Hills-Montezuma Hills Fault (which passes through the proposed well field) and the Rio Vista Fault (which is six miles east of the metering station site). The Final IS/MND summarizes the risks posed by the proximity of these faults as follows:

> "[T]he compressor station would be located approximately one mile east of the seismically active Kirby Hills-Montezuma Hills Fault, which passes through the project well field. Other active and historically active faults within 25 miles of the project area have a history of surface rupture associated with large earthquakes . . . Surface fault rupture in the well field and flow line area is possible. If project facilities are compromised by fault rupture, an uncontrolled release of flammable natural gas could result. Ignition of released gases could further damage project facilities and threaten personnel safety.
>
> "Modern buried welded steel pipelines constructed in accordance with [Title] 49 [Code of Federal Regulations, Part] 192 have generally performed well during seismic events. At fault crossings, however, pipeline ruptures have occurred where the pipeline has been placed in compression. Where the pipe has crossed the fault, placing the pipe in tension, significant displacements have been experienced without rupture. Mitigation Measure HZ-1 is proposed . . . , which would ensure proper pipeline design at any fault crossings, areas subject to liquefaction, and adequate pipe wall design to withstand the combined pipe stresses, including those caused by ground shaking. Implementation of Mitigation Measure HZ-1 would reduce potentially significant impacts to less than

significant levels." (*Id.* at B-97.)

Mitigation Measure HZ-1 requires that there be an independent, third-party review of LGS's construction drawings and specifications, and that project construction also be independently monitored to ensure compliance with all applicable laws, ordinances, regulations and standards. (*Id.* at B-103-104.) Footnote 5 of the Initial Study also suggests that this Commission may want to consider the CEC's practice of hiring (at the applicant's expense) an independent third party to act as the Commission's Deputy Chief Building Official to conduct the plan checks and perform the construction inspections. (*Id.* at B-104.) [8]

4. Hazards and Hazardous Materials

As part of its application, LGS submitted a Phase I Environmental Site Assessment (ESA) of the Kirby Hills property it is leasing. This assessment demonstrated that there are a number of "Recognized Environmental Conditions," or RECs, that may have resulted from the gas drilling and production operations previously conducted in the Kirby Hills Gas Field. These RECs include the presence of unknown hydrocarbons in the soil and several potential sumps. The Phase I ESA recommended that a Phase II ESA be conducted prior to construction to document whether releases of hazardous materials into the soil have occurred, so as to better protect construction workers and the public during construction of the Facility. Mitigation Measure HZ-2 (MM HZ-2) requires that this Phase II study be conducted "within the portion of the land west of Shiloh Road leased by LGS that will be disturbed by

[8] Mitigation Measure HZ-1 also provides that "these design review and construction observation services shall not in any way relieve the applicant of its responsibility and liability for the design, construction, operation, maintenance, and emergency response for these facilities."

construction activity." MM HZ-2 also requires that samples be taken at the locations identified in the Phase I study and analyzed for VOCs and petroleum hydrocarbons following standard EPA protocols. MM HZ-2 also states:

> "If the Phase II investigation sampling program finds environmental impacts on the LGS leased land, additional research shall be conducted to verify if other unrecorded sumps were used within the particular impacted LGS leased land. If other sumps are discovered within the particular LGS leased land, additional Phase II soil sampling activities shall be conducted to delineate the extent of contamination and recommend appropriate action." (*Id.* at B-104.)

5. Transportation and Traffic

LGS has stated that about 90 people will be working in the project area during peak periods of construction, and that about 27 daily truck trips and 120 vehicle trips per day can be expected during these peak periods. The Final IS/MND notes that even with the county permits LGS will be required to obtain and the Construction Traffic Plan it has promised to prepare pursuant to APM T-1, there is a potential for significant traffic congestion in the area. Although "local roadways in the project area have relatively low traffic volumes," so that congestion on them caused by construction would be minimal and limited to the duration of construction, there is a potential for congestion on other area roads:

> "However, the roadways in the area that provide regional access (e.g., [State Route, or SR] 12) are often congested with traffic during peak commute hours. Therefore, project related trips that would occur during the peak commute hours along SR 12 could result in additional traffic congestion of SR 12. This would result in a potentially significant impact." (*Id.* at B-133.)

To alleviate this impact and reduce it to less-than-significant levels, the Final IS/MND recommends Mitigation Measure TRA-1, which requires LGS and

its construction contractor to schedule all construction traffic to avoid peak commute hours along SR 12. The measure also requires LGS and its contractor to encourage carpooling among construction workers.

6. Mandatory Findings of Significance

The Final IS/MND points out that the portion of the Kirby Hills Facility west of Shiloh Road is within the Secondary Management Area (SMA) for the Suisun Marsh. The SMA is intended to serve as a buffer between the Primary Management Area (PMA) for Suisun Marsh and developed land. The Suisun Marsh Protection Plan permits natural gas production, storage and transportation within the SMA provided facilities are designed and constructed to avoid impacts to the PMA. The Final IS/MND concludes that by incorporating Mitigation Measure BIO-1 (which requires that a qualified biologist trained to conduct wetland delineations must be on site and identify areas to avoid during construction), the impacts on wetlands can be reduced to less-than-significant levels. The Final IS/MND also concludes that implementation of the APMs set forth in Table B.1 on Cultural Resources will ensure that impacts on archaeological resources are less than significant. (*Id.* at B-138-139.)

C. Comments on the Draft IS/MND

As noted above, the Draft IS/MND was issued for 30 days of public review and comment on January 17, 2006. The following six parties submitted comments on or before the February 16, 2006 due date:

1. Central Valley Regional Water Quality Control Board
2. LGS
3. Yolo-Solano Air Quality Management District
4. Wild Goose

5. California Department of Transportation
6. Solano County

With one exception, these comments pointed out minor technical or typographical errors in the Draft IS/MND, such as failure to note certain agencies that must also issue permits in connection with the proposed construction. The Final IS/MND issued on February 24, 2006 sets forth the comments and responses thereto in Section D and makes the necessary minor corrections to the text.

The one exception is a comment submitted by Solano County that raises the issue whether undergrounding should be required of a distribution power line that would extend less than one-quarter mile from an existing PG&E line to the northern edge of the compressor station boundary. The Final IS/MND notes that this new line would be within the Suisun March SMA, that a Marsh Development Permit would be required in connection with it, and that Solano County's policies in connection with Suisun Marsh require that new distribution lines be installed underground "unless undergrounding would have a greater adverse environmental effect on the Marsh than above-grounded construction."

The Final IS/MND concludes that requiring undergrounding in this instance would have a greater adverse environmental effect, because it would result in more ground disturbance than above-ground construction, with consequent effects on surface water runoff and groundwater flow. In addition, the Final IS/MND concludes that constructing the new distribution line above ground does not raise a significant bird strike issue, because bird strikes tend to happen where there are large, tall transmission towers with multiple lines. (Final IS/MND, p. D-20.)

VI. Pub. Util. Code § 1002 Factors Raised by the Application

In addition to the factors it is required to consider under Pub. Util. Code § 1001 before granting a CPCN, the Commission is required to consider the following additional factors under §1002(a):[9]

1. Community values;
2. Recreational and park areas;
3. Historical and aesthetic values; and
4. Influence on the environment.

In D.90-09-057, *Re Southern California Edison Company*, we pointed out that § 1002 imposes upon the Commission a "responsibility *independent of CEQA* to include environmental influences and community values in our consideration of a request for a CPCN." (37 CPUC2d 413, 453; emphasis added.) In this case, LGS asserts that the proposed Kirby Hills Facility is consistent with all four of

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[9] Pub. Util. Code § 1002(a) provides in pertinent part:

> "The commission, as a basis for granting any certificate pursuant to Section 1001 shall give consideration to the following factors:
>
> 1. Community values.
> 2. Recreational and park areas.
> 3. Historical and aesthetic values.
> 4. Influence on environment, except that in the case of any line, plant, or system or extension thereof located in another state which will be subject to environmental impact review pursuant to the National Environmental Policy Act of 1969 . . . or similar state laws in the other state, the commission shall not consider influence on the environment unless any emissions or discharges therefrom would have a significant influence on the environment of this state."

the factors set forth in § 1002(a).

With respect to community values, LGS points out that it has secured all the necessary rights from private landowners to construct the Facility (including the 5.9-mile pipeline), and that it has briefed local agencies and officials on the project, including the affected Assembly member and county supervisor and relevant city officials. LGS also points out that the proposed Facility will create considerable economic benefits for Solano County, including 90 construction jobs, other construction spending, and approximately $200,000 per year in additional county tax revenues to support schools, libraries, parks and local government. (Application, pp. 21-22.)

With respect to recreation and park areas, LGS emphasizes that the Facility's design is such that it will have no significant long-term impact on either parks or recreation areas, inasmuch as all facilities will be located either along a county road or on private lands that are remote from parks and recreation areas. (*Id.* at 22.)

With respect to historical and aesthetic values, LGS notes that the proposed Facility is consistent with the "extensive gas production that has occurred in this area" since Shell discovered the Kirby Hills gas field in 1945. As to aesthetics, LGS notes that while there will be some effects on the agricultural character of the area while the Facility is being built, "following construction, all lands impacted by the pipeline construction will, to the maximum extent possible, be returned to their pre-construction condition." Finally, LGS points out that the local terrain will shield the well and compressor facilities from public view, and that the low-lying facilities associated with the metering station and PG&E interconnection will be similar in visual impact to the Calpine dehydration station located nearby. (*Id.* at 23.)

Finally, with respect to influence on the environment, LGS points out that

the mitigation and monitoring plan set forth in its PEA will ensure that any potential environmental effects are reduced to less-than-significant levels:

> "Key design parameters to mitigate environmental impacts of the Facility to less than significant levels include: (1) directional drilling for railroad and creek crossings; (2) avoidance of sensitive habitats or areas; (3) construction of the compressor and dehydration station at a remote site to eliminate or reduce visual and noise impacts; (4) site reclamation measures of all right-of-ways to pre-construction conditions; (5) construction scheduling to minimize impacts on surrounding communities; and (6) compliance with all federal, state, and local codes and requirements. All significant impacts requiring mitigation to less than significant levels occur during the construction phase of the Facility. During operations, the Kirby Hills Facility will have an insignificant impact on the surrounding environment." (*Id.* at 23-24.)

LGS concludes that these mitigation and monitoring measures, along with the excellent safety record at its Lodi facility since the latter began operation in 2002,[10] satisfies the fourth factor set forth in Pub. Util. Code § 1002(a).

VII. Discussion

In view of the lack of protests to the application, the thorough analysis of

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[10] With respect to this safety record, LGS states:

> "Detailed attention to investment in maintenance and facility upgrades insures that the Lodi Facility remains a state-of-the-art gas storage facility that is both safely operated and sensitive to the local environment. Investments and updates in its training programs, and monitoring and control systems ensure a facility that is consistent with LGS' commitment to the local community to safely operate the Lodi Facility in an environmentally sensitive manner. *LGS makes this same commitment to the local communities that are neighbors of the Kirby Hills Facility.*" (*Id.* at 24; emphasis added.)

the potential environmental effects of the Kirby Hills Facility reflected in the Draft and Final IS/MNDs, the conclusion in the Final IS/MND that these potential effects can be reduced to less-than-significant levels, and the support for the proposed Facility by affected landowners and elected officials, we have decided to grant the CPCN for the Kirby Hills Facility requested by LGS.

As noted in Section II.A, the only party that raised any substantive issues about the proposed Facility was PG&E. However, even if PG&E's August 25, 2005 comments could be considered a conditional protest, the issues raised therein have been resolved by the settlement agreement that LGS filed on October 5, 2005. We consider the terms of this settlement (as described in Section II.C) to be reasonable, and we will approve them.

We also agree that the Kirby Hills Facility is needed. As LGS points out, its Lodi Facility is fully subscribed, yet the recent open season demonstrated that there is a significant demand in Northern California for additional gas storage. Moreover, the recently-adopted *Energy Action Plan II* makes clear that both this Commission and the CEC consider additional in-state gas storage desirable in order to enhance reliability and mitigate price volatility.

Under the Gas Storage decision (D.93-02-013) and its progeny, LGS –- not ratepayers -- will be fully at risk if the expected demand for storage and withdrawal capacity at the Kirby Hills Facility fails to materialize. Thus, it is reasonable to grant LGS's request for authority to charge market-based rates for the gas storage, withdrawal and related services at the new Facility. Granting such authority is also consistent with the manner in which we have treated LGS's Lodi facility.

As the previous sections of this decision demonstrate, the issues that have consumed the most energy in connection with this application have been the environmental ones. We commend our Energy Division and its contractor for

their diligence in preparing and issuing the Draft IS/MND once LGS had submitted enough additional information so that its application could be deemed complete.

We think that the Final IS/MND -- which is virtually identical, except for the response to comments, to the Draft IS/MND -- represents a thorough, careful analysis of the environmental issues raised by the application and the PEA. Accordingly, we will approve it and receive it (along with the Draft IS/MND) into the record. We agree with the Final IS/MND that implementation of the APMs suggested by LGS, along with the additional Mitigation Measures discussed in Section B of the Final IS/MND, will reduce the potentially significant environmental effects that have been identified to less-than-significant levels. As a condition of the authority granted in this decision, LGS will be required to comply with each and every provision of the Mitigation Monitoring Plan set forth in Section C of the Final IS/MND.

We also conclude that LGS has made a satisfactory showing with respect to the four factors relevant to a CPCN that are identified in Pub. Util. Code § 1002(a). With respect to the first of these factors, community values, we noted in D.00-05-048 that in determining whether a proposed project is compatible with community values, the Commission "give[s] considerable weight to the views of the local community. In addition, we acknowledge the positions of the elected representatives of the area because we believe they are also speaking on behalf of their constituents." (D.00-05-048, *mimeo.* at 28.)

In this case, several of the elected representatives for the affected area have written to us to express their support for the Kirby Hills Facility. Assemblywoman Lois Wolk, who represents the Eighth Assembly District, states in her August 23, 2005 letter, for example, that LGS "has a strong safety and environmental record in Northern California." In his August 3, 2005 letter,

Supervisor Michael J. Reagan of Solano County, who represents the district "encompass[ing] all of the proposed project facilities," states that after reviewing materials relating to the Facility, he believes "its construction and operation are consistent with the character and community values in this area." The Commission has also received letters of support from landowners whose property would be crossed by the proposed pipeline. In view of these statements of support, and the lack of any apparent opposition to the project, we are satisfied that the proposed Kirby Hills Facility is consistent with community values.

We reach a similar conclusion with respect to recreational and park areas, historical and aesthetic values, and influence on the environment, the other three factors identified in § 1002(a). As LGS points out, the proposed facilities are in remote areas, far away from recreation and park areas. The proposed gas storage operations are consistent with how the Kirby Hills Field was used for nearly 50 years, and all of the project's above-ground facilities will either be low-lying or not visible due to topography. As to environmental factors, the Mitigation Monitoring Plan set forth in the Final IS/MND will require LGS to undertake a broad array of measures designed to minimize the effects upon the environment, and LGS has agreed to engage in the same upgrading of facilities and training of its staff that has produced the good safety record at its Lodi Facility.

In D.03-02-071, in which we approved the transfer of a 50% interest in LGS's parent, Lodi Holdings, to WHP Acquisition Company, we emphasized that the market for gas storage and injection services in both Northern California and statewide was highly concentrated. (*Mimeo.* at 16.) Although these concerns were reduced in LGS's case because of the passive nature of the investment by WHP Acquisition Company and ArcLight Fund I, we nonetheless imposed the

following restrictions on the transfer:

> "So that we may better monitor the evolving natural gas market, and as a condition of our approval of the change of ownership (with continued market-based rate authority), we will impose the same reporting requirements on LGS that we have imposed on Wild Goose. Specifically . . . we will prohibit LGS from engaging in any storage or hub services transactions with its ultimate parents, Western Hub and ArcLight (or their successors) or any other affiliate owned or controlled by either of those entities. In addition, we will direct LGS to promptly inform the Commission of the following changes in status that would reflect a departure from the characteristics the Commission has relied upon in approving market-based pricing: LGS' own purchase of other natural gas facilities, transmission facilities, or substitutes for natural gas, like liquefied natural gas facilities; an increase in the storage capacity or in the interstate or intrastate transmission capacity held by affiliates of its parents or their successors; or, merger or other acquisition involving affiliates of its parents, or their successors, and another entity that owns gas storage or transmission facilities or facilities that use natural gas as an input, such as electric generation." (*Id.* at 17-18.)

Nothing in the application here suggests that the gas storage injection and withdrawal markets are any less concentrated today than they were when D.03-02-071 was decided. Accordingly, we place LGS on notice that it remains subject to the restrictions quoted above. We will also require LGS to make periodic reports to the Energy Division concerning both the short-term and long-term contracts it has entered into for the Kirby Hills Facility.

VIII. Categorization and Need for Hearing

In Resolution ALJ 176-3157, dated August 25, 2005, we preliminarily determined that this proceeding should be categorized as ratesetting, and that a hearing was necessary. Ultimately, no hearing was held in this matter.

IX. Comments on Draft Decision

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Rule 77.7(f)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment was reduced to allow comments within one (1) day of the electronic posting of the Draft Decision (DD), with no provision for reply comments.

Pursuant to this schedule, LGS submitted comments on the DD on the morning of March 1, 2006.

X. Assignment of Proceeding

John A. Bohn is the Assigned Commissioner, and A. Kirk McKenzie is the assigned ALJ in this proceeding.

Findings of Fact

1. The application is unopposed.
2. A hearing is not necessary.
3. The terms of the settlement with PG&E that LGS filed in this docket on October 5, 2005 are reasonable.
4. LGS is a wholly-owned subsidiary of Lodi Holdings, 50% of which is owned by WHP Acquisition Company, and 50% of which is owned by WHP Acquisition II.
5. The proposed Facility consists of three parts, the first of which is a gas storage field and compressor/dehydration station located on a 128-acre parcel near the western edge of the Montezuma Hills, about 12 miles west of Rio Vista and seven (7) miles southeast of Fairfield.

6. The second part of the proposed Facility is a 5.9-mile pipeline that will run from the compressor/dehydration station east to a remote metering station and interconnection facility.

7. The third part of the proposed Facility consists of the remote metering station and interconnection facility, which will be located near milepost 286.65 on PG&E's Line 400.

8. LGS seeks authority for a gas storage and withdrawal facility with a total storage capacity of seven Bcf. The firm injection and withdrawal capacity of the initial phase of the Facility would be 50 MMcf/d. As market conditions dictate, LGS proposes to add compressors and wells to increase the firm injection and withdrawal capacity of the Facility up to a maximum of 100 MMcf/d.

9. As part of the authority sought here, LGS requests permission to charge market-based rates for the gas injection, withdrawal and related services that will be offered by the Kirby Hills Facility.

10. During the six to eight months necessary to construct the permanent facilities, LGS proposes to construct a temporary gas injection system that could inject up to 10 MMcf/d into the gas reservoir. The temporary system would include a temporary interconnection with PG&E's Line 182, a temporary meter, a temporary 4-inch pipeline running from this interconnection to Well Site S-2, and a temporary gas-fired compressor unit of up to 1,000 horsepower. Once the permanent facilities are operational, LGS proposes to remove the temporary meter and compressor, and to abandon the temporary gas injection pipeline in place.

11. The Lodi Facility operated by LGS is fully-subscribed.

12. As stated in *Energy Action Plan II*, the proposed Facility is needed to provide additional natural gas storage facilities in Northern California so as to enhance reliability and mitigate price volatility.

13. As part of the environmental review required by CEQA, the Commission staff (through the Energy Division) prepared a Draft IS/MND, which was issued for 30 days of public review and comment on January 17, 2006.

14. The Final IS/MND, which responds to the comments received on the Draft IS/MND, was issued on February 24, 2006.

15. The Final IS/MND reflects the independent judgment of this Commission.

16. The Final IS/MND conforms to the requirements of CEQA.

17. The Final IS/MND identifies no significant environmental effects of the proposed Kirby Hills Facility that cannot be avoided or reduced to less-than-significant levels by implementing the Mitigation Monitoring Plan set forth in Section C of the Final IS/MND.

18. The Commission has considered the Final IS/MND in deciding to grant the authority requested in the instant application.

19. Based upon the mitigation measures set forth in the Mitigation Monitoring Plan contained in the Final IS/MND, the Kirby Hills Facility will not have a significant effect upon the environment.

20. In order to construct and operate the proposed Kirby Hills Facility, LGS must obtain various permits from local, state and federal agencies, as well as Solano County.

21. The Commission has considered community values, recreational and park areas, historical and aesthetic values and influence on the environment in deciding to grant the authority requested by LGS in this application, and concludes that granting LGS authority to construct and operate the Kirby Hills Facility would not be inconsistent with them.

22. To continue the necessary monitoring of the natural gas storage and injection market, the reporting requirements concerning short-term and long-

term transactions that were imposed on LGS in D.03-02-071 should also be incorporated here.

Conclusions of Law

1. Wild Goose's August 25, 2005 petition to intervene in this proceeding should be granted.

2. The terms of the settlement with PG&E that LGS filed in this proceeding on October 5, 2005 are reasonable and should be approved.

3. LGS's July 25, 2005 motion for leave to file under seal its audited financial statements dated December 31, 2004, which financial statements are included as Exhibit 6 to the application, should be granted.

4. LGS has provided the showing required by Pub. Util. Code §§ 1001 and 1002 as a condition of granting a CPCN.

5. Because ratepayers will not be at risk if expected demand for the Facility's gas storage and withdrawal services fails to materialize, it is appropriate to grant LGS the authority it has requested to charge market-based rates for the gas storage, withdrawal and related services that will be offered by the Kirby Hills Facility.

6. The Final IS/MND has been completed in compliance with the requirements of CEQA.

7. The Draft IS/MND and the Final IS/MND should be received into the record of this proceeding.

8. Permits from various state, federal, and local agencies, as well as from Solano County, will be necessary before the Kirby Hills Facility can be constructed.

9. LGS's application for authority to construct and operate the Kirby Hills Facility should be granted, subject to full compliance by LGS and each of its

employees, agents and contractors with each and every condition set forth in the Mitigation Monitoring Plan that comprises Section C of the Final IS/MND.

10. LGS's application for authority to construct and operate the Kirby Hills Facility should be granted, subject to the condition that LGS comply with the reporting requirements concerning short-term and long-term transactions set forth in D.03-02-071.

11. In order to allow construction of the Kirby Hills Facility to proceed expeditiously, this order should be effective immediately.

O R D E R

IT IS ORDERED that:

1. The August 25, 2005 petition of Wild Goose Storage, Inc. to intervene in this proceeding is granted.

2. The terms of the settlement with Pacific Gas and Electric Company (PG&E) that applicant Lodi Gas Storage, L.L.C. (LGS) filed in this proceeding on October 5, 2005 are hereby approved.

3. LGS's motion for leave to file confidential materials under seal, filed July 25, 2005, is granted with respect to the audited financial statements for LGS dated December 31, 2004, which financial statements comprise Exhibit 6 to the application. The aforesaid materials should be placed under seal for a period of two years from the effective date of this decision, through and including March 2, 2008, and during that period the material so protected shall not be made accessible or disclosed to anyone other than Commission staff except upon the further order or ruling of the Commission, the Assigned Commissioner, the assigned Administrative Law Judge (ALJ), or the ALJ then designated as Law and Motion Judge. If LGS believes that further protection of the aforesaid

materials is needed after March 2, 2008, then LGS may file a motion stating the justification for further withholding of these materials from public inspection, or for such other relief as the Commission's rules may then provide. Such a motion shall explain with specificity why the designated materials still need protection in light of the passage of time involved, and shall attach a clearly-identified copy of the ordering paragraphs of this decision to the motion. Such a motion shall be filed at least 30 days before expiration of the protective order set forth in this paragraph.

4. LGS's application to construct and operate the Kirby Hills Natural Gas Storage Facility, as described in the application, is approved pursuant to Pub. Util. Code § 1001, subject to the terms and conditions set forth in the following Ordering Paragraphs (OPs).

5. The authority granted in OP 4 is conditioned upon compliance by LGS and each of its employees, agents and contractors with each and every condition set forth in the Mitigation Monitoring Plan that comprises Section C of the Final Mitigated Negative Declaration and Supporting Initial Study (Final IS/MND) issued in connection with this application on February 24, 2006.

6. LGS shall make the disclosures required by this OP to the Director of the Commission's Energy Division. Competitively sensitive, confidential information may be submitted under seal in accordance with General Order 66-C and Pub. Util. Code § 583. LGS shall:

a. Provide, for transactions to be completed within one year or less (short-term transactions), true copies of all service agreements for such transactions within 30 days after commencement of the short-term service, to be followed by quarterly transaction summaries of specific sales. If LGS enters into multiple service agreements within a 30-day period, LGS may file these service agreements together so as to conserve the resources of both LGS and the Commission.

The quarterly summary of transactions shall list, for all tariffed services, the purchaser, the transaction period, the type of service (*e.g.,* firm, interruptible, balancing, etc.), the rate, the applicable volume, whether there is an affiliate relationship between LGS and the customer, and the total charge to the customer.

b. Provide, for transactions that will not be completed within one year (long-term transactions), true copies of all service agreements for such transactions within 30 days after commencement of the long-term service. To ensure the clear identification of filings, and in order to facilitate the orderly maintenance of the Commission's records, service agreements for long-term transactions shall not be filed with summaries of short-term transactions.

7. No hearing was held in this proceeding.

8. The authority granted herein shall expire if not exercised within one year of the date of this order.

9. This proceeding is closed

This order is effective today.

Dated _____, at San Francisco, California.