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BEFORE THE
SURFACE TRANSPORTATION BOARD

STB DOCKET FD 36899

THE PITTSBURG OWNER LPV, LLC

PETITION FOR DECLARATORY ORDER
CERTAIN RAILROAD TRACK IN PITTSBURG, CONTRA COSTA COUNTY, CALIFORNIA

ENTERED
Office of Chief Counsel
December 8, 2025
Part of
Public Record

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Representative for The Pittsburg Owner LPV, LLC

Dated: 4th December 2025

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PETITION FOR DECLARATORY ORDER
CERTAIN RAILROAD TRACK IN PITTSBURG, CONTRA COSTA COUNTY, CALIFORNIA

The Pittsburg Owner LPV, LLC, (“TPO”) hereby petitions the Surface Transportation Board (“Board”) for a declaratory order establishing that – (1) certain railroad track in Pittsburg, Contra Costa, California (the “TPO Track” – as described below) is not a railroad line subject to the Board’s regulatory oversight; and (2) as such, the TPO Track may be abandoned, dismantled and disposed of without the need for Board authorization.

This petition outlines the rationale that, subject to 49 U.S.C. Subtitle IV Part A 109 § 10906, the Board does not have authority over the TPO Track, which is comprised of industrial, spur and sidetracks. This petition is made pursuant to 5 U.S.C. § 554(e) and 49 U.S.C. § 1321.

The requested declaratory order will support future planning and redevelopment efforts by removing any controversy or uncertainty surrounding the status of the TPO track.

INTRODUCTION

The TPO Property

TPO is the owner of property at 696 West 10th Street in Pittsburg, Contra Costa County, California, 94565, (the “TPO Property”). The property includes a permanently closed power plant, previously known as the Pittsburg Power Plant, which ceased operations in 2017. Power plant demolition is underway.

TPO is currently assessing significant redevelopment options for the TPO Property. TPO has invested several years in studies and coordination with local government officials. The TPO Property development represents an important expansion of land adjacent to Pittsburg. Development options include residences, commercial development, parks, and conservation of significant areas of wetlands. It is TPO’s aim to generate significant benefits to the local community at a site that has been under-utilized and largely vacant for many years.

TPO acquired the TPO Property on March 10, 2021, pursuant to Grant Deeds by GenOn Delta, LLC, and GenOn California North, LLC, both Delaware limited liability companies. (collectively, “GenOn”). GenOn, as the ultimate successor-in-interest to Southern Energy Delta, L.L.C., acquired the TPO Property in 1999 from Pacific Gas and Electric Company, a California corporation (“PG&E”). PG&E built the Pittsburg Power Plant in the early 1950s.

TPO is not a common carrier by railroad subject to 49 U.S.C Subtitle IV, Chapter 105. TPO is the sole owner of the rail lines, associated equipment and spurs, and underlying land rights for which the declaratory order is sought, all of which is on the TPO Property.

The TPO Track

The TPO Track consists of two separate rail segments: (1) the former Sacramento Northern Railroad (“SNR”) East-West Segment (approximately 2.2 miles long); and (2) the Power Plant Segment (approximately 1.1 miles long), the southern portion of which was formerly operated by a predecessor to the Burlington Northern Santa Fe Railway (“BNSF”). The TPO Track also includes small inactive private spurs from these two rail segments to access different areas of the private and permanently closed Pittsburg Power Plant.

These rail segments have been operationally abandoned, and neither have seen rail traffic for over thirty years. They have fallen into significant disrepair and are obsolete. The tracks are now severed from and therefore isolated from the external rail network and are not currently viable for use.

Figure 1 – STB Docket FD 36899 – Railroad Segments On TPO Property.



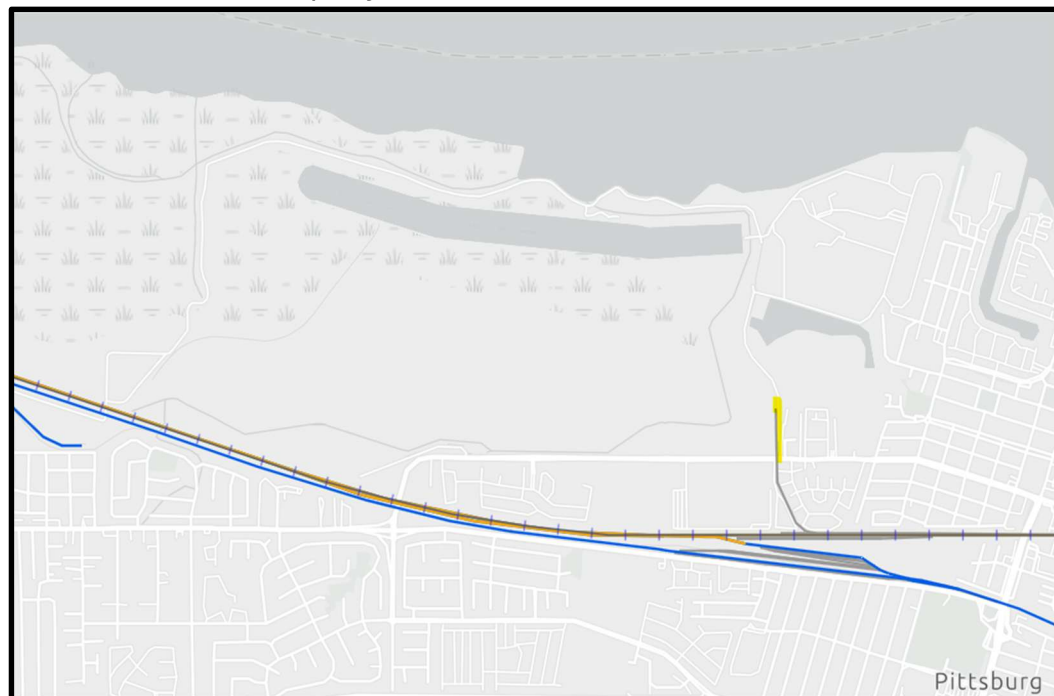
The East-West Segment was originally part of a significantly longer off-site rail line that was historically operated by SNR, a predecessor company to the Union Pacific Railroad. The line extended approximately five miles to the west to Port Chicago Station and approximately a mile east to Pittsburg. The westward extension is no longer in use and, where still in existence, is in a dilapidated condition. The eastward extension has been largely removed and repurposed, mainly for local road expansion.

The Power Plant segment connects to an off-site track that continues 0.3 miles south of the TPO property to a BNSF rail line. Sections of this offsite track are in a rundown state; a section is missing having been repurposed for a road junction, and the switchgear connection to BNSF has been removed.

The off-site continuations of both segments are not a part of this declaratory order request as TPO does not own the land they sit on.

On the Board's National Rail Network Map only a small element of the track, a portion of the Power Plant Segment, is shown, highlighted in yellow on the map below. It should be noted that the map shows the rail continuing south and connecting with the BNSF main line. The rail switch that previously made the connection has been removed.

Figure 2 – STB Docket FD 36899 – National Rail Network Map Image Showing TPO Property, Extracted 4th November 2025.



For completeness, it should be noted that a third north-south trending rail line referred to as the SNR Mallard Slip Segment is also not included in this request. In 1955, the Interstate Commerce Commission approved abandonment of this segment as part of a larger abandonment request including the ferry and track continuation to the north. The slipway itself was condemned by the Coast Guard and later demolished, leaving only the remains of the old pilings.

Previous railroad operators abandoned use and maintenance of these rail lines decades ago, which triggered reversion clauses that terminated their easements (and associated access and use rights) on the TPO Property. Consequently, TPO is the sole owner of the dilapidated rail lines and associated land on the TPO Property.

Argument For a Declaratory Order

The Board has discretionary authority under 5 U.S.C. § 554(e) and 49 U.S.C. § 1321 to issue a declaratory order to eliminate controversy or remove uncertainty, including regarding its jurisdiction over private rail tracks.

Under 5 U.S.C. § 554(e) and 49 U.S.C. Subtitle IV Part A 109 § 10906, notwithstanding Section 10901 and Subchapter II of chapter 113, The Board does not have authority over construction, acquisition, operation, abandonment, or discontinuance of spur, industrial, team, switching, or sidetracks.

TPO submits that the rail segments: (1) the former SNR East-West Segment and (2) the Power Plant Segment are private industrial tracks and meet selected criteria for the unregulated § 10906 exemption. Consequently, TPO requests that the Board issue a declaratory order establishing that (1) the “TPO Track” is not a railroad line subject to the Board’s regulatory oversight; and (2) as such, the TPO Track may be abandoned, dismantled, and disposed of without the need for Board authorization. The rationale is summarized below.

The SNR East-West Segment

- TPO acquired the TPO Property on March 10, 2021, and the track can be classified as private track. TPO is the sole owner of railroad lines, associated equipment and spurs, and underlying land rights. No other companies, including common carrier railroads, have access to or may operate over the track.
- The TPO track for many years prior to its operational abandonment was solely used for industrial traffic. Built in 1913, passenger services ceased in 1941 due to lack of ridership. After that time, the track was exclusively used for intermittent industrial service until approximately 1992, when the nearby industrial customers closed and

traffic ceased. Therefore, for eighty-four years, fifty-one of them in operation, the track was only used for industrial purposes.

- The segment is not shown on the Board's National Rail Network Map, indicating that the Board is currently not considering the track subject to Board jurisdiction pursuant to 49 U.S.C. § 10501.

The Power Plant Segment

- TPO acquired the TPO Property on March 10, 2021, and the track can be classified as private track. TPO is the sole owner of the rail lines, associated equipment and spurs, and underlying land rights. No other companies, including common carrier railroads, have access to or may operate over the track.
- Built in 1954 as an exclusively private siding during construction of the Pittsburg Power Plant, the line was used intermittently to move heavy equipment and supplies until approximately 1993, when traffic ceased. No passenger services have ever operated on the track and therefore for its entire operational existence the track has only been used for private industrial purposes that ceased over 30 years ago.
- The construction of the line was as a classic spur line, off the BNSF main line (that is still active) located south of the TPO property. A rail switch out, now removed, was constructed from the BNSF line and the track went directly into the Power Plant. The track had no other entrance or exit.
- The omission of all but a very small segment on the Board's National Rail Network Map indicate that, even before receiving the factual background with this application for a declaratory order, the Board is currently not considering the majority of the track as regulated.

CONCLUSION

The requested declaratory order will support future planning and redevelopment efforts by removing any controversy or uncertainty surrounding the status of the TPO track. This includes TPO's contracted title company who have confirmed that a declaratory order by the Board will enable them to update the property title to reflect that outcome. TPO is currently assessing significant redevelopment options for the TPO Property. Property redevelopment offers significant growth opportunities for Pittsburg and the wider Contra Costa County.

TPO respectfully submits that the evidence it has garnered through extensive research demonstrates that the TPO Tracks are, and have been, private industrial spurs and sidetracks, meeting the criteria 49 U.S.C. Subtitle IV Part A 109 § 10906. We request that the Board issue a declaratory order for all TPO Tracks and clarify that the TPO Track is not a railroad line subject to the Board's regulatory oversight and as such, the TPO Track may be abandoned, dismantled, and disposed of without the need for Board authorization.

Three exhibits are submitted with this application to provide additional information to the Board as follows:

- Exhibit 1. Property Description supported by (A) Legal Property Description and (B) Reversion of Easements.
- Exhibit 2. Photos.
- Exhibit 3. Filing Payment Notice.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J.M. Elton'.

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2302 Hartman Drive,
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Representative for The Pittsburg Owner LPV, LLC

Dated: 4th December 2025

EXHIBIT 1 – TPO PROPERTY

This Exhibit 1 presents a description of The Pittsburg Owner, LPV, LLC property (TPO Property), and provides the background as to how the railroad tracks became part of the property.

Property Description

The TPO Property is located at 696 West 10th Street, Pittsburg, California. It is identified by Contra Costa County Assessor's Parcel Numbers (APNs) 096-100-015-5, 096-100-20-10, 096-100-27-5, 096-100-028-10, 096-100-029-6, 096-100-031-2, 096-100-032-0, 096-100-033-8, and 096-100-034-6. The property consists of approximately 1,050 acres, shown in the attached Figure 1-1, and as more particularly described in Exhibit 1-A.

Reversion of Easements

Attached in Exhibit 1-B is a memorandum prepared by the Applicant's counsel, Rutan and Tucker, LLP, in connection with this application under STB Docket FD 36899. In support of the STB Application, this Memorandum describes the deeds and easements for railroad purposes that have been recorded against the TPO Property, and the abandonment language within such deeds and easements. Based on Rutan & Tucker detailed analysis of the deeds and easements, and the Applicant's review, it appears that all of the subject railroad tracks and improvements on the property have been operationally abandoned, and the easement interests have reverted to TPO pursuant to the terms of the applicable deeds and easements.

FIGURE 1.1 – TPO PROPERTY

The map below depicts the property owned by TPO.



EXHIBIT 1-A
TPO PROPERTY LEGAL DESCRIPTION
(First American Title)

Order Number: 627973ala (tc)

LEGAL DESCRIPTION

Real property in the City of Pittsburg, County of Contra Costa, State of California, described as follows:

PARCEL ONE:

ALL THAT REAL PROPERTY BEING A PORTION OF PROJECTED SECTIONS 1 AND 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN, AND A PORTION OF PROJECTED SECTIONS 7 AND 8, TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE RANCHO LOS MEDANOS, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND BEING A PORTION OF LOT 1 OF THAT CERTAIN LOT LINE ADJUSTMENT NO. LL 98-0040, RECORDED APRIL 12, 1999 AS DOCUMENT NO. 99-0097770-00, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, SAID REAL PROPERTY BEING DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF WILLOW PASS ROAD, BEING 60.00 FEET WIDE, SAID POINT BEING THE EASTERLY TERMINOUS OF THAT CERTAIN COURSE LABELED AS "S 88°51'42" E 5125.45' ", AND AS EVIDENCED BY A 3-1/2" BRASS DISK STAMPED "PGE LS 3322", SAID COURSE AND DISK BEING SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED OCTOBER 13, 1977 IN BOOK 63 OF LICENSED SURVEY MAPS AT PAGES 15 THROUGH 27 IN THE OFFICE OF THE RECORDER OF SAID COUNTY, SAID POINT ALSO BEING THE SOUTHEASTERLY CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL 2 IN THE DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED DECEMBER 31ST, 1951 IN BOOK 1872 AT PAGE 189, OFFICIAL RECORDS OF SAID COUNTY; THENCE WESTERLY ALONG SAID RIGHT-OF-WAY LINE NORTH 88°51'32" WEST 1640.11 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG LAST SAID LINE NORTH 88°51'32" WEST 3485.70 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, AND HAVING A RADIUS OF 439.28 FEET; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 28°51'15", AN ARC DISTANCE OF 221.22 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 76°42'52" WEST 218.89 FEET) TO AN ANGLE POINT IN THE SOUTHERLY BOUNDARY LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM DOUGLAS OIL COMPANY OF CALIFORNIA TO PACIFIC GAS AND ELECTRIC COMPANY, RECORDED APRIL 27, 1971 IN BOOK 6368 AT PAGE 120, OFFICIAL RECORDS OF SAID COUNTY; THENCE LEAVING SAID RIGHT OF WAY LINE AND ALONG SAID SOUTHERLY BOUNDARY LINE THE FOLLOWING FOUR (4) COURSES: 1) NORTH 27°42'45" WEST 15.10 FEET; 2) NORTH 71°18'02" WEST 1487.64 FEET; 3) SOUTH 15°49'25" WEST 671.01 FEET; AND 4) NORTH 71°17'46" WEST 1831.72 FEET TO THE

WESTERLY BOUNDARY LINE OF SAID RANCHO LOS MEDANOS; THENCE ALONG LAST SAID LINE NORTH 00°02'38" EAST 1313.56 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1025.37 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 24°26'05" WEST; THENCE LEAVING SAID WESTERLY BOUNDARY LINE, EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°28'18", AN ARC DISTANCE OF 527.43 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 80°18'04" EAST 521.63 FEET); THENCE SOUTH 82°48'42" EAST 7454.98 FEET; THENCE SOUTH 15°24'34" EAST 382.45 FEET; THENCE SOUTH 16°04'09" WEST 52.60 FEET; THENCE SOUTH 67°05'17" WEST 191.86 FEET; THENCE SOUTH 84°22'10" WEST 384.70 FEET; THENCE NORTH 81°52'18" WEST 319.70 FEET; THENCE SOUTH 11°47'28" WEST 442.66 FEET TO THE POINT OF BEGINNING.

SAID LAND ALSO BEING KNOWN AS "ADJUSTED PARCEL FOUR" PURSUANT TO PARCEL MAP WAIVER FOR A LOT LINE ADJUSTMENT (PMW 12-01), RECORDED JULY 12, 2012 AS DOCUMENT NO. 2012- 0164627-00, OFFICIAL RECORDS OF SAID COUNTY.

APN: 096-100-031

PARCEL TWO:

PROPERTY LEGAL DESCRIPTION ALL THAT REAL PROPERTY BEING A PORTION OF PROJECTED SECTIONS 1 AND 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN, AND A PORTION OF PROJECTED SECTIONS 7 AND 8, TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE RANCHO LOS MEDANOS, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND BEING A PORTION OF LOT 1 OF THAT CERTAIN LOT LINE ADJUSTMENT NO. LL 98-0039, RECORDED APRIL 12, 1999 AS DOCUMENT NO. 99-00977 69-00, AND A PORTION OF LOT 1 OF THAT CERTAIN LOT LINE ADJUSTMENT NO. LL 98-0040, RECORDED APRIL 12, 1999 AS DOCUMENT NO. 99-0097770-00, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, SAID REAL PROPERTY BEING DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE WESTERLY BOUNDARY LINE OF SAID RANCHO LOS MEDANOS, SAID POINT ALSO BEING THE SOUTHWESTERLY CORNER OF THE LAND DESCRIBED IN THE DEED FROM DOUGLAS OIL COMPANY OF CALIFORNIA TO PACIFIC GAS AND ELECTRIC COMPANY, RECORDED APRIL 27, 1971 IN BOOK 6368 AT PAGE 120, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID BOUNDARY LINE NORTH 00°02'38" EAST 1313.56 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID BOUNDARY LINE NORTH 00°02'38" EAST 384.62 FEET TO THE SOUTHWESTERLY CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL 38 IN THE DEED FROM CALIFORNIA WATER SERVICE COMPANY TO CONTRA COSTA COUNTY WATER DISTRICT RECORDED FEBRUARY 17, 1961 IN BOOK 3807 AT PAGE 369, OFFICIAL RECORDS, OF SAID COUNTY; THENCE ALONG THE SOUTHERLY BOUNDARY LINES OF SAID PARCEL 38 AND PARCEL 39 OF LAST SAID DEED SOUTH 82°49'16" EAST 603.86 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL 39; THENCE ALONG THE EASTERLY BOUNDARY LINES

OF SAID PARCELS 38 AND 39 NORTH 00°02'38" EAST 2264.61 FEET TO A MEANDER LINE WHICH REPRESENTS THE SOUTHERLY WATERS EDGE OF SUISUN BAY AS ESTABLISHED BY A LAND SURVEY ON NOVEMBER 9, 1998; THENCE ALONG SAID MEANDER LINE THE FOLLOWING 23 COURSES: 1) NORTH 69°21'01" EAST 465.83 FEET; 2) NORTH 83°22'58" EAST 358.62 FEET; 3) SOUTH 77°53'18" EAST 792.45 FEET; 4) SOUTH 69°20'52" EAST 440.37 FEET; 5) NORTH 88°18'22" EAST 224.90 FEET; 6) SOUTH 63°46'54" EAST 316.48 FEET; 7) SOUTH 59°07'51" EAST 135.66 FEET; 8) SOUTH 67°11'40" EAST 280.74 FEET; 9) SOUTH 71°40'32" EAST 457.25 FEET; 10) SOUTH 84°58'23" EAST 452.22 FEET; 11) NORTH 72°36'26" EAST 702.63 FEET; 12) NORTH 89°43'58" EAST 236.34 FEET; 13) SOUTH 78°31'46" EAST 126.60 FEET; 14) SOUTH 44°28'36" EAST 86.96 FEET; 15) SOUTH 49°13'34" EAST 257.84 FEET; 16) SOUTH 68°01'36" EAST 325.24 FEET; 17) NORTH 50°01'12" EAST 197.80 FEET; 18) NORTH 58°10'48" EAST 256.74 FEET; 19) NORTH 88°20'14" EAST 47.60 FEET; 20) SOUTH 46°43'58" EAST 176.09 FEET; 21) SOUTH 75°55'12" EAST 271.01 FEET; 22) NORTH 82°22'52" EAST 172.66 FEET; AND 23) SOUTH 86°56'54" EAST 62.96 FEET TO THE NORTHERLY PROLONGATION OF THE WESTERLY BOUNDARY LINE OF THE PARCEL OF LAND DESCRIBED IN THE QUITCLAIM DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED OCTOBER 28TH, 1952 IN BOOK 2015 AT PAGE 530, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG LAST SAID LINE SOUTH 12°20'44" WEST 22.35 FEET TO THE WESTERLY TERMINOUS OF THE TRUE BOUNDARY LINE OF THE ORDINARY HIGH WATER MARK AS ESTABLISHED IN THAT CERTAIN AGREEMENT DATED OCTOBER 24, 1961 BY AND BETWEEN THE STATE OF CALIFORNIA AND PACIFIC GAS AND ELECTRIC COMPANY, RECORDED SEPTEMBER 20, 1962 IN BOOK 4206 AT PAGE 55, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID LINE THE FOLLOWING FOUR (4) COURSES: 1) NORTH 87°34'56" EAST 1686.64 FEET; 2) NORTH 70°38'14" EAST 1113.96 FEET; 3) NORTH 72°16'36" EAST 527.06 FEET; AND 4) SOUTH 88°52'52" EAST 312.15 FEET; THENCE SOUTH 14°20'52" EAST 55.95 FEET; THENCE SOUTH 82°38'25" EAST 82.82 FEET; THENCE SOUTH 21°36'37" EAST 73.92 FEET; THENCE SOUTH 33°34'11" EAST 111.83 FEET; THENCE SOUTH 71°27'32" EAST 47.30 FEET; THENCE SOUTH 17°28'49" WEST 67.32 FEET; THENCE SOUTH 23°48'53" WEST 15.00 FEET; THENCE SOUTH 17°36'50" WEST 234.35 FEET; THENCE NORTH 72°19'27" WEST 741.91 FEET; THENCE SOUTH 17°39'00" WEST 481.48 FEET; THENCE NORTH 72°19'27" WEST 212.87 FEET; THENCE SOUTH 17°39'00" WEST 411.16 FEET TO THE NORTHERLY BOUNDARY OF THAT CERTAIN PARCEL DESCRIBED AS ADJUSTED LOT 2 IN THAT CERTAIN LOT LINE ADJUSTMENT LL 98-0039 RECORDED APRIL 12, 1999 AS DOCUMENT NUMBER 99-0097769, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE NORTHERLY, WESTERLY, SOUTHERLY AND EASTERLY LINES OF SAID ADJUSTED LOT 2 THE 15 FOLLOWING SIX (6) COURSES: 1) NORTH 72°21'00" WEST 302.18 FEET; 2) NORTH 47°31'19" WEST 399.86 FEET; 3) SOUTH 41°49'25" WEST 269.93 FEET; 4) SOUTH 17°36'30" WEST 1003.18 FEET; 5) SOUTH 72°23'30" EAST 1552.22 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 948.71 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 36°23'50" EAST; AND 6) NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 24°02'40", AN ARC DISTANCE OF 398.13 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 41°34'50" EAST 395.21 FEET); THENCE SOUTH 60°26'30" EAST 39.00 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF

987.71 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 60°26'30" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°20'28", AN ARC DISTANCE OF 178.27 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 34°43'44" WEST 178.03 FEET); THENCE SOUTH 41°14'35" WEST 46.32 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 987.71 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 47°24'48" EAST; THENCE SOUTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 9°56'29", AN ARC DISTANCE OF 171.38 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 47°33'27" WEST 171.16 FEET) TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHERLY, HAVING A RADIUS OF 145.00 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 32°32'05" WEST; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 50°08'34", AN ARC DISTANCE OF 126.90 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 82°32'13" WEST 122.89 FEET); THENCE NORTH 72°23'30" WEST 1303.96 FEET; THENCE SOUTH 18°46'21" WEST 363.52 FEET; THENCE NORTH 71°46'04" WEST 199.66 FEET; THENCE SOUTH 18°46'21" WEST 65.97 FEET; TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, AND HAVING A RADIUS OF 525.00 FEET; THENCE SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 64°14'14", AN ARC DISTANCE OF 588.60 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 13°20'46" EAST 558.26 FEET); THENCE SOUTH 45°27'53" EAST 251.75 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 450.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 46°39'23", AN ARC DISTANCE OF 366.44 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 22°08'12" EAST 356.40 FEET); THENCE SOUTH 01°11'30" WEST 849.00 FEET; THENCE NORTH 88°51'32" WEST 90.00 FEET; THENCE NORTH 01°08'28" EAST 35.00 FEET; THENCE SOUTH 88°51'32" EAST 28.03 FEET; THENCE NORTH 01°11'30" EAST 740.06 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 550.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 46°39'23", AN ARC DISTANCE OF 447.87 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 22°08'12" WEST 435.60 FEET); THENCE NORTH 45°27'53" WEST 194.14 FEET TO THE BEGINNING OF A CURVE, CONCAVE NORTHEASTERLY, AND HAVING A RADIUS OF 575.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 31°07'54", AN ARC DISTANCE OF 312.43 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 29°53'56" WEST 308.60 FEET); THENCE SOUTH 75°18'30" WEST 40.23 FEET; THENCE SOUTH 07°37'41" WEST 54.90 FEET; THENCE SOUTH 72°03'21" WEST 348.37 FEET; THENCE SOUTH 15°24'34" EAST 486.58 FEET; THENCE NORTH 82°48'42" WEST 7454.98 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1025.37 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 05°02'14" EAST; THENCE WESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 29°28'18", AN ARC DISTANCE OF 527.43 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 80°18'04" WEST 521.63 FEET) TO THE POINT OF BEGINNING.

TOGETHER WITH: THE STRIP OR STRIPS OF LAND, IF ANY, LYING NORTHERLY OF SAID MEANDER LINE AND SOUTHERLY OF THE LAST NATURAL ORDINARY MEAN HIGH WATER MARK OF SAID SUISUN BAY.

EXCEPTING THEREFROM: THE STRIP OR STRIPS OF LAND, IF ANY, LYING SOUTHERLY OF SAID MEANDER LINE AND NORTHERLY OF THE LAST NATURAL ORDINARY MEAN HIGH WATER MARK OF SAID SUISUN BAY.

SAID LAND ALSO BEING KNOWN AS "ADJUSTED PARCEL FIVE" PURSUANT TO PARCEL MAP WAIVER FOR A LOT LINE ADJUSTMENT (PMW 12-01), RECORDED JULY 12, 2012 AS DOCUMENT NO. 2012- 0164627-00, OFFICIAL RECORDS OF SAID COUNTY.

APN: 096-100-032

PARCEL THREE:

ALL THAT REAL PROPERTY BEING A PORTION OF PROJECTED SECTIONS 7 AND 8, TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE RANCHO LOS MEDANOS, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, SAID REAL PROPERTY BEING DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE NORTHERLY BOUNDARY OF THAT CERTAIN PARCEL DESCRIBED AS ADJUSTED LOT 2 IN THAT CERTAIN LOT LINE ADJUSTMENT LL 98-0039 RECORDED APRIL 12, 1999 AS DOCUMENT NUMBER 99-097769, OFFICIAL RECORDS OF SAID COUNTY, SAID POINT BEING THE WESTERLY TERMINOUS OF THAT CERTAIN COURSE LABELED "N72°21'00"W 603.53'"; THENCE ALONG THE NORTHERLY LINE OF SAID ADJUSTED LOT 2 SOUTH 72°21'00" EAST 302.18 FEET TO THE POINT OF BEGINNING; THENCE, LEAVING LAST SAID LINE, NORTH 17°39'00" EAST 411.16 FEET; THENCE SOUTH 72°19'27" EAST 212.87 FEET; THENCE NORTH 17°39'00" EAST 481.48 FEET; THENCE SOUTH 72°19'27" EAST 741.91 FEET; THENCE NORTH 17°36'50" EAST 18.63 FEET; THENCE SOUTH 72°19'27" EAST 44.45 FEET; THENCE SOUTH 17°39'53" WEST 1528.90 FEET; THENCE SOUTH 29°33'30" WEST 111.53 FEET; THENCE NORTH 60°26'30" WEST 39.00 FEET TO THE GENERAL EASTERLY LINE OF SAID ADJUSTED LOT 2; THENCE ALONG THE GENERAL EASTERLY AND GENERAL NORTHERLY LINES OF SAID LOT THE FOLLOWING FOUR (4) COURSES: 1) NORTH 18°03'41" WEST 795.05 FEET; 2) NORTH 72°21'00" WEST 172.21 FEET; 3) NORTH 17°39'00" EAST 73.61 FEET; AND 4) NORTH 72°21'00" WEST 301.35 FEET TO THE POINT OF BEGINNING.

SAID LAND ALSO BEING KNOWN AS "ADJUSTED PARCEL SIX" PURSUANT TO PARCEL MAP WAIVER FOR A LOT LINE ADJUSTMENT (PMW 12-01), RECORDED JULY 12, 2012 AS DOCUMENT NO. 2012- 0164627- 00, OFFICIAL RECORDS OF SAID COUNTY.

APN: 096-100-033

PARCEL FOUR:

ALL THAT PORTION OF THAT CERTAIN 103.16 ACRE PARCEL OF LAND COMMONLY KNOWN AS "TORMEY ISLAND" (ALSO, SOMETIMES REFERRED TO "MALLARD ISLAND"), DESCRIBED IN THE DEED DATED APRIL 4, 1907, FROM A.H. PAYSON, TRUSTEE, TO SANTA FE LAND IMPROVEMENT COMPANY, AND RECORDED AUGUST 17, 1907, IN BOOK 127 OF DEEDS, PAGE 46, RECORDS OF SAID COUNTY, LYING EASTERLY OF THE EASTERLY LINE OF THAT CERTAIN PARCEL OF LAND DESCRIBED IN THE DEED DATED FEBRUARY 1, 1915, FROM SANTA FE LAND IMPROVEMENT COMPANY TO OAKLAND, ANTIOCH AND EASTERN RAILWAY, AND RECORDED OCTOBER 5, 1916, IN BOOK 277 OF DEEDS, PAGE 217, RECORDS OF SAID COUNTY.

EXCEPT:

ANY PORTION OF THE ABOVE DESCRIBED PARCEL LYING BELOW THE MEAN LOW WATER MARK.

ALSO EXCEPTING THEREFROM:

THAT PORTION OF SAID LAND, ALL OIL, GAS AND OTHER HYDROCARBON AND MINERAL SUBSTANCES LYING NOT LESS THAN FIVE HUNDRED FEET BELOW THE SURFACE OF SAID LAND, PROVIDED THAT GRANTOR, ITS SUCCESSORS AND ASSIGNS, SHALL NOT HAVE THE RIGHT TO GO UPON THE SURFACE OF LAND FOR THE PURPOSE OF EXTRACTING SAID OIL, GAS OR OTHER HYDROCARBON AND MINERAL SUBSTANCES, NOR FOR ANY PURPOSE IN CONNECTION THEREWITH, BUT SHALL HAVE THE RIGHT TO EXTRACT "AND REMOVE SAID OIL, GAS AND OTHER HYDROCARBON AND MINERAL SUBSTANCES BY MEANS OF SLANT-DRILLED WELLS LOCATED ON ADJACENT OR NEARBY LAND, OR BY ANY OTHER MEANS WHICH SHALL NOT REQUIRE ENTRY UPON THE SURFACE OF SAID LAND", AS RESERVED IN THE DEED FROM SANTA FE LAND IMPROVEMENT COMPANY, A CALIFORNIA CORPORATION, RECORDED AUGUST 8, 1961, IN BOOK 3926, PAGE 290, OFFICIAL RECORDS OF SAID COUNTY.

APN: A PORTION OF 096-100-015

PARCEL FIVE:

THE TRACT OF LAND KNOWN AS SURVEY NUMBER 77, SWAMP AND OVERFLOWED LANDS OF CONTRA COSTA COUNTY, TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN, SECTION 12, BEING THE FRACTIONAL WEST 1/2 OF SAID SECTION AND MORE PARTICULARLY DESCRIBED IN THE FIELD NOTES OF SAID SURVEY, AS FOLLOWS: BEGINNING AT A POINT WHICH IS 37.75 CHAINS NORTH FROM THE CORNER OF SECTION 11, 12, 13 AND 14, IN TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN AS STATION NO. 1; THENCE EAST 18.77 CHAINS TO STATION ON THE WEST BOUNDARY OF NEW YORK RANCHO;

THENCE NORTH 40 CHAINS FOLLOWING THE BOUNDARY LINE OF THE NEW YORK RANCHO TO A SLOUGH; THENCE WEST 18.77 CHAINS ALONG THE SLOUGH TO A STATION ON SECTION LINE BETWEEN SECTIONS 11 AND 12; THENCE SOUTH 40 CHAINS ALONG SECTION LINE TO POINT OF BEGINNING.

EXCEPTING THEREFROM:

PARCEL THREE ALL THAT PORTION THEREOF LYING WITHIN A STRIP OF LAND CONVEYED TO DOW CHEMICAL COMPANY, A DELAWARE CORPORATION, BY DEED DATED AUGUST 31, 1949, RECORDED NOVEMBER 7, 1949, IN BOOK 1458, PAGE 506, OFFICIAL RECORDS OF CONTRA COSTA COUNTY.

ALSO EXCEPTING THEREFROM: PARCEL THREE, THAT PORTION, IF ANY LYING WITHIN LOCATION 3471 SWAMP AND OVERFLOWED LANDS IN CONTRA COSTA COUNTY, DESCRIBED IN THE PATENT DATED AUGUST 10, 1905, RECORDED APRIL 1, 1908, IN BOOK 4 OF PATENTS, PAGE 487, CONTRA COSTA COUNTY RECORDS.

APN: 096-100-027

PARCEL SIX:

ALL THAT CERTAIN REAL PROPERTY DESCRIBED AS PARCEL TWO IN THE DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED APRIL 27, 1971 IN BOOK 6368 AT PAGE 120, OFFICIAL RECORDS OF THE COUNTY OF CONTRA COSTA, ALSO A PORTION OF TRACT B FIRSTLY DESCRIBED, IN THE DEED FROM C.A. HOOPER & CO. TO THE OAKLAND, ANTIOCH AND EASTERN RAILWAY, RECORDED AUGUST 24, 1912 IN BOOK 183 AT PAGE 224 OF DEEDS OF SAID COUNTY; AND ALSO A PORTION OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM ALLIED PROPERTIES, A CORPORATION, V.P. BAKER, KARL B. RODI AND A.J. WEST TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED JULY 26, 1972 IN BOOK 6708 AT PAGE 381, OFFICIAL RECORDS OF SAID COUNTY, SAID REAL PROPERTY LYING IN SECTION 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN IN SAID COUNTY, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE WESTERLY LINE OF SAID SECTION 12 WITH THE 18 NORTHERLY RIGHT OF WAY LINE OF THE ATCHISON, TOPEKA AND SANTA FE RAILWAY; THENCE ALONG SAID WESTERLY LINE NORTH 02°04'26" EAST 576.44 FEET TO THE SOUTHERLY BOUNDARY LINE OF THE PARCEL OF LAND DESCRIBED AS PARCEL 37 IN THE DEED FROM THE CALIFORNIA WATER SERVICE COMPANY TO CONTRA COSTA COUNTY WATER DISTRICT RECORDED FEBRUARY 17, 1961 IN BOOK 3807 AT PAGE 369, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE SOUTHERLY BOUNDARY LINE OF SAID PARCEL 37 NORTH 84°26'28" EAST 882.88 FEET TO THE SOUTHEASTERLY CORNER OF LAST SAID PARCEL AND THE BEGINNING OF A NON-TANGENT

CURVE CONCAVE SOUTHEASTERLY HAVING A RADIUS OF 1005.37 FEET AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 46°40'34" WEST, THENCE NORTHWESTERLY ALONG THE SOUTHEASTERLY BOUNDARY LINE OF LAST SAID PARCEL AND SAID CURVE THROUGH A CENTRAL ANGLE OF 03°18'26" AN ARC DISTANCE OF 58.03 FEET TO THE SOUTHERLY BOUNDARY LINE OF THE TRACT OF LAND KNOWN AS SURVEY NUMBER 77, SWAMP AND OVERFLOWED LANDS OF CONTRA COSTA COUNTY, LAST SAID TRACT BEING ALSO DESCRIBED AS PARCEL TWO IN THE DEED FROM SANTA FE LAND IMPROVEMENT COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED IN BOOK 6756 AT PAGE 639, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID SOUTHERLY BOUNDARY LINE SOUTH 87°48'19" EAST 266.26 FEET TO THE WESTERLY BOUNDARY LINE OF THE RANCHO LOS MEDANOS; THENCE ALONG LAST SAID WESTERLY BOUNDARY LINE SOUTH 00°02'38" WEST 1100.68 FEET TO SAID NORTHERLY RIGHT OF WAY LINE; THENCE ALONG LAST SAID RIGHT OF WAY LINE NORTH 71°17'46" WEST 1273.06 FEET TO THE POINT OF BEGINNING.

APN: 096-100-029

PARCEL SEVEN:

A NON-EXCLUSIVE EASEMENT AND RIGHT OF INGRESS TO AND EGRESS FROM SAID REAL PROPERTY OVER THE FOLLOWING DESCRIBED ROADS:

AN EASEMENT FOR ROAD PURPOSES LYING IN LOT 2 OF LOT LINE ADJUSTMENT NO. LL98-0039 AND RECORDED AS INSTRUMENT NO. 99-0097769-00, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, SAID LOT BEING A PORTION OF THE RANCHO LOS MEDANOS, TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT AN ANGLE POINT IN THE NORTHERLY BOUNDARY LINE OF SAID LOT 2, SAID POINT BEING THE NORTHERLY TERMINUS OF THAT CERTAIN COURSE CITED AS "NORTH 16°46'45" WEST 73.61 FEET" IN SAID LOT LINE ADJUSTMENT; THENCE SOUTHERLY ALONG LAST SAID LINE SOUTH 17°39'00" WEST 73.61 FEET; THENCE LEAVING SAID LAST SAID LINE AT A RIGHT ANGLE NORTH 72°21'00" WEST 25.00 FEET; THENCE AT A RIGHT ANGLE NORTH 17°39'00" EAST 73.61 FEET TO SAID NORTHERLY BOUNDARY LINE; THENCE EASTERLY ALONG LAST SAID LINE SOUTH 72°21'00" EAST 25.00 FEET TO THE POINT OF BEGINNING.

ACCESS ROAD 2:

A 40.00 FOOT WIDE EASEMENT FOR ROAD PURPOSES LYING LOT 2 OF LOT LINE ADJUSTMENT NO. LL98-0039 AND RECORDED AS INSTRUMENT NO. 99-0097769-00, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, SAID LOT BEING A PORTION OF THE RANCHO LOS MEDANOS,

TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, THE CENTERLINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF LOT 2 OF SAID LOT LINE ADJUSTMENT; THENCE EASTERLY ALONG THE SOUTHERLY BOUNDARY LINE OF SAID LOT 2 SOUTH 72°23'30" EAST 360.93 FEET TO THE POINT OF BEGINNING; THENCE LEAVING SAID SOUTHERLY BOUNDARY LINE NORTH 06°27'00" EAST 25.37 FEET; THENCE NORTH 01°11'46" EAST 733.20 FEET; THENCE NORTH 17°21'54" WEST 28.60 FEET; THENCE NORTH 38°20'38" WEST 44.21 FEET; THENCE NORTH 47°10'08" WEST 105.94 FEET TO THE WESTERLY BOUNDARY OF SAID LOT 2.

THE SIDE LINES OF SAID EASEMENT ARE TO BE LENGTHENED OR SHORTENED SO AS TO BEGIN AT SAID SOUTHERLY BOUNDARY LINE OF LOT 2 AND TERMINATE AT SAID WESTERLY BOUNDARY OF LOT 2.

PARCEL EIGHT:

A NON-EXCLUSIVE EASEMENT FOR AN EXISTING PIPE LINE AND APPURTENANT FACILITIES FOR TRANSMISSION OF GAS TOGETHER WITH THE RIGHT TO REPLACE (OF THE INITIAL OR ANY OTHER SIZE), MAINTAIN AND USE THE SAME FOR THE TRANSMISSION OF GAS, AND ALSO THE RIGHT TO EXCAVATE FOR, INSTALL, REPLACE (OF THE INITIAL OR ANY OTHER SIZE), MAINTAIN AND USE SUCH ADDITIONAL PIPE LINES AND APPURTENANT FACILITIES, AS GRANTEE SHALL FROM TIME TO TIME ELECT FOR THE TRANSMISSION OF GAS, WITH PROPER VALVES AND OTHER APPLIANCES AND FITTINGS, AND DEVICES FOR CONTROLLING ELECTROLYSIS FOR USE IN CONNECTION WITH SAID PIPE LINE AND APPURTENANT FACILITIES, TOGETHER WITH ADEQUATE PROTECTION THEREFOR, AND ALSO A RIGHT OF WAY AND EASEMENT, WITHIN EASEMENT AREA ONE DESCRIBED AS FOLLOWS:

EASEMENT AREA 1:

A 50.00 FOOT WIDE EASEMENT FOR GAS LINE PURPOSES LYING IN LOT 2 OF LOT LINE ADJUSTMENT NO. LL98-0039 AND RECORDED AS INSTRUMENT NO. 99-0097769-00, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, SAID LOT BEING A PORTION OF THE RANCHO LOS MEDANOS, TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, THE CENTER LINE OF WHICH IS DESCRIBED AS FOLLOWS:

COMMENCING AT THE MOST WESTERLY CORNER OF LOT 2 OF SAID LOT LINE ADJUSTMENT; THENCE EASTERLY ALONG THE SOUTHERLY BOUNDARY LINE OF SAID LOT 2, SOUTH 72°23'30" EAST 78.05 FEET TO THE POINT OF BEGINNING; THENCE NORTH 17°31'26" EAST 699.40 FEET; THENCE NORTH 08°06'05" WEST 149.15 FEET; THENCE NORTH 72°23'30" WEST 12.32 FEET TO THE WESTERLY BOUNDARY OF SAID LOT 2.

THE SIDE LINES OF SAID EASEMENT ARE TO BE LENGTHENED OR SHORTENED SO AS TO BEGIN AT SAID SOUTHERLY BOUNDARY LINE OF LOT 2 AND TERMINATE AT THE WESTERLY BOUNDARY OF SAID LOT 2.

PARCEL NINE:

ALL THAT REAL PROPERTY BEING A PORTION OF PROJECTED SECTIONS 1 AND 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN, AND A PORTION OF PROJECTED SECTIONS 7 AND 8, TOWNSHIP 2 NORTH, RANGE 1 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE RANCHO LOS MEDANOS, COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA, AND BEING A PORTION OF LOT 1 OF THAT CERTAIN LOT LINE ADJUSTMENT NO. LL 98-0039, RECORDED APRIL 12, 1999 AS DOCUMENT NO. 99-009769-00, AND A PORTION OF LOT 1 OF THAT CERTAIN LOT LINE ADJUSTMENT NO. LL 98-0040, RECORDED APRIL 12, 1999 AS DOCUMENT NO. 99-0097770-00, OFFICIAL RECORDS OF CONTRA COSTA COUNTY, SAID REAL PROPERTY BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF WILLOW PASS ROAD, BEING 60.00 FEET WIDE, SAID POINT BEING THE EASTERLY TERMINOUS OF THAT CERTAIN COURSE LABELED AS "S 88°51'42" E 5125.45'", AND AS EVIDENCED BY A 3-1/2" BRASS DISK STAMPED "PGE LS 3322", SAID COURSE AND DISK BEING SHOWN ON THAT CERTAIN RECORD OF SURVEY FILED OCTOBER 13, 1977 IN BOOK 63 OF LICENSED SURVEY MAPS AT PAGES 15 THROUGH 27 IN THE OFFICE OF THE RECORDER OF SAID COUNTY, SAID POINT ALSO BEING THE SOUTHEASTERLY CORNER OF THE PARCEL OF LAND DESCRIBED AS PARCEL 2 IN THE DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED DECEMBER 31ST, 1951 IN BOOK 1872 AT PAGE 189, OFFICIAL RECORDS OF SAID COUNTY; THENCE WESTERLY ALONG SAID RIGHT-OF-WAY LINE NORTH 88°51'32" WEST 1640.11 FEET; THENCE LEAVING LAST SAID LINE NORTH 11°47'28" EAST 442.66 FEET; THENCE SOUTH 81°52'18" EAST 319.70 FEET; THENCE NORTH 84°22'10" EAST 384.70 FEET; THENCE NORTH 67°05'17" EAST 191.86 FEET; THENCE NORTH 16°04'09" EAST 52.60 FEET; THENCE NORTH 15°24'34" WEST 869.03 FEET; THENCE NORTH 72°03'21" EAST 348.37 FEET; THENCE NORTH 07°37'41" EAST 54.90 FEET; THENCE NORTH 75°18'30" EAST 40.23 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHEASTERLY, HAVING A RADIUS OF 575.00 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 75°40'01" WEST; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 31°07'54", AN ARC DISTANCE OF 312.43 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 29°53'56" EAST 308.60 FEET); THENCE SOUTH 45°27'53" EAST 194.14 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 550.00 FEET; THENCE SOUTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 46°39'23", AN ARC DISTANCE OF 447.87 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 22°08'12" EAST 435.60 FEET); THENCE SOUTH 01°11'30" WEST 740.06 FEET; THENCE NORTH 88°51'32" WEST 28.03 FEET; THENCE SOUTH

01°08'28" WEST 35.00 FEET; THENCE SOUTH 88°51'32" EAST 90.00 FEET; THENCE NORTH 01°11'30" EAST 849.00 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHWESTERLY, AND HAVING A RADIUS OF 450.00 FEET; THENCE NORTHWESTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 46°39'23", AN ARC DISTANCE OF 366.44 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 22°08'12" WEST 356.40 FEET); THENCE NORTH 45°27'53" WEST 251.75 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, AND HAVING A RADIUS OF 525.00 FEET; THENCE NORTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 64°14'14", AN ARC DISTANCE OF 588.60 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 13°20'46" WEST 558.26 FEET); THENCE NORTH 18°46'21" EAST 65.97 FEET; THENCE SOUTH 71°46'04" EAST 199.66 FEET; THENCE NORTH 18°46'21" EAST 363.52 FEET; THENCE SOUTH 72°23'30" EAST 1303.96 FEET; TO THE BEGINNING OF A CURVE, CONCAVE NORTHERLY AND HAVING A RADIUS OF 145.00 FEET; THENCE EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 50°08'34", AN ARC DISTANCE OF 126.90 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 82°32'13" EAST 122.89 FEET) TO THE BEGINNING OF A COMPOUND CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 987.71 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 37°28'19" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 9°56'29", AN ARC DISTANCE OF 171.38 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 47°33'27" EAST 171.16 FEET); THENCE NORTH 41°14'35" EAST 46.32 FEET TO THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE NORTHWESTERLY, HAVING A RADIUS OF 987.71 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS SOUTH 50°06'02" EAST; THENCE NORTHEASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 10°20'28", AN ARC DISTANCE OF 178.27 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 34°43'44" EAST 178.03 FEET); THENCE NORTH 29°33'30" EAST 111.53 FEET; THENCE NORTH 17°39'53" EAST 1528.90 FEET; THENCE NORTH 72°19'27" WEST 44.45 FEET; THENCE NORTH 17°36'50" EAST 215.42 FEET; THENCE NORTH 23°48'53" EAST 15.00 FEET; THENCE NORTH 17°28'49" EAST 67.32 FEET; THENCE NORTH 71°27'32" WEST 47.30 FEET; THENCE NORTH 33°34'11" WEST 111.83 FEET; THENCE NORTH 21°36'37" WEST 73.92 FEET; THENCE NORTH 82°38'25" WEST 82.82 FEET; THENCE NORTH 14°20'52" WEST 55.95 FEET TO THE TRUE BOUNDARY LINE OF THE ORDINARY HIGH WATER MARK AS ESTABLISHED IN THAT CERTAIN AGREEMENT DATED OCTOBER 24, 1961 BY AND BETWEEN THE STATE OF CALIFORNIA AND PACIFIC GAS AND ELECTRIC COMPANY, RECORDED SEPTEMBER 20, 1962 IN BOOK 4206 AT PAGE 55, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID LINE THE FOLLOWING TWO (2) COURSES: 1) SOUTH 88°52'52" EAST 788.76 FEET; AND 2) SOUTH 72°22'21" EAST 91.94 FEET TO THE EASTERLY BOUNDARY LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED OCTOBER 31, 1952 IN BOOK 2018 AT PAGE 234, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE EASTERLY AND SOUTHERLY LINES THEREOF THE FOLLOWING TWO (2) COURSES: 1) SOUTH 17°38'18" WEST 760.32 FEET; AND 2) NORTH 72°26'00" WEST 26.94 FEET TO THE EASTERLY BOUNDARY LINE OF THE PARCEL OF LAND DESCRIBED IN THE DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED SEPTEMBER 26, 1951 IN BOOK 1826 AT PAGE 478, OFFICIAL RECORDS OF SAID COUNTY; THENCE

ALONG LAST SAID LINE THE FOLLOWING FOUR (4) COURSES: 1) SOUTH 17°37'15" WEST 1713.16 FEET; 2) NORTH 72°22'45" WEST 498.73 FEET; 3) SOUTH 04°12'24" EAST 868.26 FEET TO THE BEGINNING OF A CURVE, CONCAVE WESTERLY, AND HAVING A RADIUS OF 1298.57 FEET; AND 4) SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 21°47'00", AN ARC DISTANCE OF 493.70 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 06°41'06" WEST 490.74 FEET) TO THE NORTHERLY BOUNDARY LINE OF THE STRIP OF LAND DESCRIBED AND DESIGNATED AS TRACT A IN THAT CERTAIN DEED FROM C.A. HOOPER AND COMPANY TO THE OAKLAND, ANTIOCH AND EASTERN RAILWAY, RECORDED AUGUST 24, 1912 IN BOOK 183 AT PAGE 224 OF DEEDS OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG SAID LINE THE FOLLOWING TWO (2) COURSES: 1) SOUTH 82°48'42" EAST 149.93 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, AND HAVING A RADIUS OF 5799.65 FEET; AND 2) EASTERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 5°23'37", AN ARC DISTANCE OF 545.96 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 80°06'53" EAST 545.76 FEET) TO THE WESTERLY RIGHT OF WAY LINE OF BAY SIDE DRIVE (FORMERLY MONTEZUMA AVENUE), BEING 50.00 FEET WIDE; THENCE ALONG LAST SAID LINE SOUTH 17°32'26" WEST 100.38 FEET TO THE SOUTHERLY BOUNDARY LINE OF SAID TRACT A AND THE BEGINNING OF A NON-TANGENT CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 5699.65 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 12°29'41" EAST; THENCE WESTERLY ALONG SAID CURVE AND SAID BOUNDARY LINE THE FOLLOWING TWO (2) COURSES: 1) THROUGH A CENTRAL ANGLE OF 5°18'23", AN ARC DISTANCE OF 527.87 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING NORTH 80°09'30" WEST 527.68 FEET); AND 2) NORTH 82°48'42" WEST 1617.23 FEET TO THE NORTHEAST CORNER OF THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL 2 IN THE DEED FROM C.A. HOOPER AND COMPANY TO PACIFIC GAS AND ELECTRIC COMPANY RECORDED DECEMBER 31ST, 1951 IN BOOK 1872 AT PAGE 189, OFFICIAL RECORDS OF SAID COUNTY; THENCE ALONG THE EASTERLY BOUNDARY LINE THEREOF THE FOLLOWING THREE (3) COURSES: 1) SOUTH 07°15'32" WEST 1.04 FEET TO THE BEGINNING OF A CURVE, CONCAVE EASTERLY, HAVING A RADIUS OF 537.00 FEET, AND TO WHICH BEGINNING A RADIAL LINE BEARS NORTH 82°40'05" WEST; 2) SOUTHERLY ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 6°04'08", AN ARC DISTANCE OF 56.88 FEET (SAID CURVE BEING SUBTENDED BY A CHORD BEARING SOUTH 04°17'51" WEST 56.85 FEET); AND 3) THENCE SOUTH 01°11'30" WEST 695.82 FEET TO THE POINT OF BEGINNING.

SAID LAND ALSO BEING KNOWN AS "ADJUSTED PARCEL SEVEN" PURSUANT TO PARCEL MAP WAIVER FOR A LOT LINE ADJUSTMENT (PMW 12-01), RECORDED JULY 12, 2012 AS DOCUMENT NO. 2012- 0164627-00, OFFICIAL RECORDS OF SAID COUNTY.

EXCEPTING THEREFROM:

THAT PORTION INCLUDED WITHIN THE LAND CONDEMNED BY THE CITY OF PITTSBURG IN FINAL ORDER OF CONDEMNATION RECORDED JUNE 26, 2006 AS DOCUMENT NO. 2006-0202159-00 OF OFFICIAL RECORDS.

APN: 096-100-034

PARCEL TEN:

LOCATION NO. 3471 SWAMP AND OVERFLOWED LANDS, IN CONTRA COSTA COUNTY, TOWNSHIP NO. 2 NORTH, RANGE NO. 1 WEST AND 1 EAST, MOUNT DIABLO BASE AND MERIDIAN; SECTIONS NO. 1, 2, 6, 7 AND 12, AND MORE PARTICULARLY DESCRIBED IN THE FIELD NOTES OF SAID LOCATION, AS FOLLOWS:

BEGINNING AT SOUTHWEST CORNER OF SECTION 12, TOWNSHIP 2 NORTH, RANGE 1 WEST, MOUNT DIABLO BASE AND MERIDIAN, IN CENTER OF BAY POINT COUNTY ROAD; THENCE NORTH 1° 23' EAST, AT 20 FEET LEAVE ROAD AND RUN ALONG FENCE BETWEEN SECTIONS 11 AND 12, 27.30 CHAINS TO STATION FENCE POST IN GATE IN NORTHERLY LINE OF THE RIGHT OF WAY OF THE ATCHISON, TOPEKA & SANTA FE RAILWAY COMPANY; THENCE NORTH 4° 52' WEST, 53.94 CHAINS TO STATION IN CENTER OF BRIDGE AND ON NORTHERLY BANK OF MALLARD SLOUGH, THE POINT OF BEGINNING OF SWAMP LAND SURVEY; THENCE MEANDERING ALONG THE NORTHERLY AND EASTERLY BANKS OF MALLARD SLOUGH, AS FOLLOWS: VARIATION 17-1/4° EAST; THENCE NORTH 21-1/4° WEST, 6.60 CHAINS TO STATION; NORTH 14-1/2° EAST, 5.60 CHAINS TO STATION; NORTH 39-3/4° EAST, 3.70 CHAINS TO STATION; NORTH 48-3/4° EAST, 4.85 CHAINS TO STATION AT MOUTH OF SLOUGH ON SOUTHERLY SHORE OF SUISUN BAY; THENCE RUNNING ALONG SHORE OF SUISUN BAY AND MEAN HIGH WATER LINE, AS FOLLOWS: SOUTH 74-1/2° EAST, 13.20 CHAINS TO STATION; SOUTH 80° EAST, 5.81 CHAINS TO STATION; NORTH 84-3/4° EAST, 7.02 CHAINS TO STATION; SOUTH 86-3/4° EAST, 5.08 CHAINS TO STATION; SOUTH 70° 50' EAST, 6.35 CHAINS TO STATION; SOUTH 81° 10' EAST, 6.90 CHAINS TO STATION; SOUTH 72-1/2° EAST, 5.24 CHAINS TO STATION; SOUTH 55-3/4° EAST, 5.45 CHAINS TO STATION; SOUTH 89° EAST, 10.56 CHAINS TO STATION; SOUTH 65-1/4° EAST, 6.53 CHAINS TO STATION; NORTH 18-1/2° EAST, 2.43 CHAINS TO STATION; SOUTH 83-3/4° EAST, 3.14 CHAINS TO STATION; SOUTH 72-1/4° EAST, 7.09 CHAINS TO STATION; SOUTH 77-1/4° EAST, 6.31 CHAINS TO STATION; SOUTH 82° EAST, 8.25 CHAINS TO STATION AT MOUTH OF MALLARD SLOUGH; THENCE RUNNING ALONG WESTERLY BANK OF MALLARD SLOUGH, AS FOLLOWS: SOUTH 2-3/4° WEST, 42 LINKS TO STATION; SOUTH 61-3/4° WEST, 11.10 CHAINS TO STATION; SOUTH 74° WEST, 6.30 CHAINS TO STATION; NORTH 64-3/4° WEST, 13.05 CHAINS TO STATION; NORTH 75-1/2° WEST, 9.35 CHAINS TO STATION; NORTH 72° WEST, 5.80 CHAINS TO STATION; NORTH 76° WEST, 10.40 CHAINS TO STATION; SOUTH 82° WEST, 4.30 CHAINS TO STATION; SOUTH 76° WEST, 8.70 CHAINS TO STATION; SOUTH 64-1/4° WEST, 17.65 CHAINS TO STATION; SOUTH 80-1/4° WEST, 3.50 CHAINS TO STATION, NORTH 88-1/4° WEST, 5.00 CHAINS TO STATION; NORTH 73-1/2° WEST, 3.30 CHAINS TO STATION; NORTH 63-1/2° WEST, 3.15 CHAINS TO STATION, NORTH 50° WEST, 4.70 CHAINS TO PLACE OF BEGINNING.

EXCEPTING THEREFROM: PARCEL "40" AS DESCRIBED IN DEED FROM CALIFORNIA WATER SERVICE COMPANY, A CALIFORNIA CORPORATION, TO CONTRA COSTA COUNTY WATER DISTRICT, A PUBLIC CORPORATION OF THE STATE OF CALIFORNIA, BY DEED AND BILL OF SALE,

DATED FEBRUARY 15, 1961 AND RECORDED FEBRUARY 17, 1961, IN BOOK 3807, PAGE 369, OFFICIAL RECORDS OF SAID CONTRA COSTA COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THAT CERTAIN PARCEL OF LAND DESCRIBED AS PARCEL C IN THE DEED FROM SANTA FC LAND IMPROVEMENT COMPANY, A CALIFORNIA CORPORATION, TO CALIFORNIA WATER SERVICE COMPANY, A CALIFORNIA CORPORATION, RECORDED DECEMBER 27, 1929, IN BOOK 209 OF OFFICIAL RECORDS, PAGE 128, DESCRIBED AS FOLLOWS:

"ALSO ALL THAT PORTION OF TORMEY ISLAND INCLUDED BETWEEN THE WEST BOUNDARY OF RANCHO LOS MEDANOS EXTENDED NORTH AND A PARALLEL LINE 500 FEET EAST THEREFROM; SAID ISLAND BEING LOCATION 3471 OF S. & O. LANDS IN CONTRA COSTA COUNTY."

ALSO EXCEPTING THEREFROM: THAT PORTION CONVEYED IN THE DEED FROM SANTA FE LAND IMPROVEMENT COMPANY, A CALIFORNIA CORPORATION, TO DOUGLAS OIL COMPANY OF CALIFORNIA, DATED JULY 28, 1961, RECORDED AUGUST 8, 1961, IN BOOK 3926, PAGE 290, OFFICIAL RECORDS OF CONTRA COSTA COUNTY.

APN: 096-100-028 AND PORTIONS OF 096-100-015 & 096-100-020

EXHIBIT 1.B – MEMORANDUM ON DEED & EASEMENTS FOR RAILROAD PURPOSES

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ORANGE COUNTY
PALO ALTO
SAN FRANCISCO
SCOTTSDALE

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

MEMORANDUM

TO: The Pittsburg Owner LPV, LLC (“TPO”)
FROM: Audrey Yue
DATE: April 23rd, 2025
RE: Railroad Abandonment

I. INTRODUCTION.

This memorandum (this “*Memorandum*”) has been prepared in connection with that certain STB Application under STB Docket FD 36899, (the “*STB Application*”). In support of the STB Application, this Memorandum intends to discuss certain deeds and easements for railroad purposes that have been recorded against the TPO Property (as defined in the STB Application), and the abandonment language within such deeds and easements. Based on our review of such deeds and easements, it appears that several railroad tracks and improvements on the property have been abandoned, and the easement interests have reverted back to the fee owner, pursuant to the terms of the applicable deeds and easements.

I. BACKGROUND OF THE TPO PROPERTY AND THE RECORDED RAILROAD EASEMENTS.

TPO acquired the TPO Property on March 10, 2021, pursuant to that certain Grant Deed recorded in the Contra Costa County Recorder Office (the “*Official Records*”) under Document Number 2021-0072453, by GenOn Delta, LLC, a Delaware limited liability company (“*GenOn Delta*”) and that certain Grant Deed recorded in the Official Records under Document Number 2021-0072454, by GenOn California North, LLC, a Delaware limited liability company (“*GenOn California*” and collectively with GenOn Delta, “*GenOn*”).

GenOn, as the ultimate successor-in-interest to Southern Energy Delta, L.L.C., acquired the TPO Property in 1999 from Pacific Gas and Electric Company, a California corporation (“*PG&E*”) pursuant to that certain Grant Deed recorded in the Official Records under Document Number 99-0103318-00.

Certain railroads were constructed on the TPO Property, for the purposes of PG&E's and/or its predecessors' operation of the Pittsburg Power Plant and related improvements. However, as discussed in the STB Application in further detail, it is TPO's understanding that the railroads have not been in use since GenOn's acquisition of the TPO Property in 1999 and the Pittsburg Power Plant over the TPO Property has been retired. Such railroads have continued to be unused during TPO's ownership of the TPO Property.

Based on a title search from Fidelity National Title Company and First American Title Company, the following easements for railroad purposes were recorded against the TPO Property:

- a. That certain deed from C.A. Hooper & Co. to the Oakland, Antioch and Eastern Railway, as the predecessor-in-interest to Sacramento Northern Railway ("*SNR*"), recorded August 24, 1912 in Book 183 at Page 224 of the Official Records (the "*Easement 1 Document*").
- b. That certain deed from Santa Fe Land Improvement Company to Oakland, Antioch and Eastern Railway, as the predecessor-in-interest to SNR, recorded October 5, 1916, in Book 277 of Deeds at Page 217 of the Official Records (the "*Easement 2 Document*").
- c. That certain easement for railroad and related purposes granted to SNR, recorded May 26, 1952 under Book 1938 at Page 161 of the Official Records (the "*Easement 3 Document*").
- d. That certain easement for railroad and related purposes granted to The Atchison, Topeka and Santa Fe Railway Company, as the predecessor-in-interest to Burlington Northern and Santa Fe Railway ("*BNSF*"), recorded on October 11, 1953, under Book 2238 at Page 303 of the Official Records (the "*Easement 4 Document*").
- e. That certain easement for railroad and related purposes granted to The Atchison, Topeka and Santa Fe Railway Company, as the predecessor to BNSF, recorded on March 17, 1954, under Book 2286 at Page 498 of the Official Records (the "*Easement 5 Document*").

Pursuant to the terms within each applicable easement document, as further described and analyzed in Section III below, the easement interests above have been abandoned and/or terminated, and the easement interests have reverted back to the fee owner, TPO.

II. ANALYSIS ON ABANDONMENT AND REVERTED EASEMENTS.

a. Easement 1 Document – Abandonment and Reversion Analysis.

Pursuant to the Easement 1 Document, Oakland, Antioch and Eastern Railway, as the predecessor-in-interest to SNR, was granted certain land subject to certain restrictions. The Easement 1 Document, explicitly states that the "DEED AND CONVEYANCE IS MADE AND ACCEPTED SUBJECT TO THE FOLLOWING EXPRESS CONDITIONS, TERMS AND RESERVATIONS, TO-WIT" and then subsequently, as one of the conditions to such grant, lists

out “SECOND: . . . if the railroad shall not be in daily operation along and over the strips of land hereby granted in each direction between Oakland and Antioch within eighteen (18) calendar months from the date hereof; or, if at any time after the construction or operation in whole or in part, of said railroad, or any railroad, along said strips or tracts of land hereby conveyed or any of them within the time herein limited any such railroad, or any part thereof, ***be abandoned along said strips or tracts of land herein granted, or any of them, for a period of six (6) calendar months***; or if said strips or tracts of land hereby conveyed or any portion of them, ***be used for any other purposes than the maintenance and operation of a railroad or for purposes directly incidental thereto***, THEN THIS CONVEYANCE shall become void and the entire estate, title and interest in and to said lands and premises hereby conveyed and crested ***shall forthwith cease and terminate, and the title in and to said land and premises shall thereupon at once revert to and vest in the party of the first part, its successors and assigns forever, without any action at law or suit in equity to adjudge such reversion or forfeiture.***” (emphasis added).

Further, the Easement 1 Document continues and states that in the case of such reversion or forfeiture, “the party of the first part, its successors and assigns, shall thereupon have the right to reenter upon the premises and remove and ***expel therefrom said party of the second part, its successors and assigns, and any person or persons claiming by, through or under said party of the second part or its successors or assigns***, provided however, that in the case of abandonment the provisions herein as to reversion and forfeiture shall apply only to the portion or portions of said lands abandoned it being understood that said provisions for reversion and forfeiture shall not be deemed limited in any way except as herein expressly set forth in case of abandonment.” (emphasis added). We note that the “party of the first part” is in reference to the fee owner and grantor and the “party of the second part” was the railroad company and grantee.

Since the railroads have not been in use since GenOn’s acquisition in 1999, and, at the very least, not during TPO’s ownership of the TPO Property since 2021, then pursuant to the terms of the Easement 1 Document which states that any portion of the railroad that has not been in use for at least six (6) calendar months will cease and terminate and revert back to the fee owner, it is clear that the interests of SNF, as successor in interest to Oakland, Antioch and Eastern Railway, under this Easement 1 Document, have long reverted back to TPO, as the owner of the TPO Property.

b. Easement 2 Document – Abandonment and Reversion Analysis.

Pursuant to the Easement 2 Document, Santa Fe Land Improvement Company granted to Oakland, Antioch and Eastern Railway, as the predecessor-in-interest to SNR, a certain right of way, subject to the conditions that “the Railway Company will construct its line of railway upon said right of way within two years from and after the date of the execution hereof and will thereafter maintain and operate said line of railway over said right of way” and that “if at any time hereafter the ***railway company shall cease to use the said right of way for the purpose of maintaining and operating its line of railway thereon, then and in either event all rights hereby conveyed to the railway company shall cease and determine and whatever title to said right of way is hereby conveyed will revert to the [fee owner] the same as though this indenture had never been executed.***” (emphasis added).

Accordingly, since the railroad and right of way have not been in operation for years, and since SNR or any other successor railroad company has not maintained the railroad or right of way

over the TPO Property, pursuant to the terms of the Easement 2 Document, the interests granted to the railway company therein have ceased and the title to the right of way has reverted back to TPO as the fee owner.

c. Easement 3 Document – Abandonment and Reversion Analysis.

Pursuant to the Easement 3 Document, PG&E granted to SNR a right to use a certain strip of land for railroad purposes, provided, however, that in the event SNR “shall abandon the use of said strip of land for railroad purposes (*and failure to maintain a railroad track thereon for a continuous period of three years at any time hereafter shall be conclusive evidence of such abandonment*) then the rights hereby granted shall automatically revert to [PG&E], its successors or assigns, and [SNR] shall thereupon at its own risk and expense remove all facilities and appurtenances placed by or for [SNR] upon said strip of land hereunder and shall restore said strip of land as nearly as possible to the same state and condition it was prior to the installation of said facilities and appurtenances.” (emphasis added).

Further, the Easement 3 Document provides that “[u]pon reversion to [PG&E] . . . [SNR] shall execute, acknowledge and deliver to [PG&E] a good and sufficient quitclaim deed to said rights within thirty (30) days after receipt of a written demand therefor.”

As stated above, the railroads have been unused and not maintained for far longer than three years, and by the terms of the Easement 3 Document, the railroad easement and rights under the Easement 3 Document should be deemed to revert back to the fee owner. Further, we note that the Easement 3 Document places an affirmative obligation upon SNR to remove its facilities and restore the land upon abandonment and to provide a quitclaim deed of its rights if demanded by the fee owner. Thus, there is an explicit affirmative covenant of SNR and any successor and assigns to actually remove any remaining railroads on the property and provide a quitclaim of its rights if requested by the owner. For avoidance of doubt, regardless of whether there is a quitclaim or not, the Easement 3 Document makes it clear that the abandonment of the easement and reversion back to the fee owner is *automatic* after three years of non-use and a lack of a quitclaim has no bearing on whether SNR has rights under this Easement 3 Document.

d. Easement 4 Document – Abandonment and Reversion Analysis.

Pursuant to the Easement 4 Document, SNR granted to Atchison, Topeka and Santa Fe Railway Company, as the predecessor-in-interest to BNSF, an easement for railroad purposes over a certain portion of SNR’s right of way. We note that unlike the other easements analyzed herein, the grantor under this Easement 4 Document is *not* the then-fee owner, but instead SNR. At the time the Easement 4 Document was granted in 1953, it appears that SNR’s rights to the TPO Property only derive from what was granted to SNR under the Easement 1 Document, the Easement 2 Document and the Easement 3 Document, and that the aforementioned right of way to which SNR was granting an easement over is, in fact, the same right of way set forth in the Easement 1 Document, the Easement 2 Document and/or the Easement 3 Document.

A party cannot grant more than the existing rights and interest they have. SNR’s rights under the Easement 1 Document, the Easement 2 Document and the Easement 3 Document are subject to the reverter clauses therein. As such, BNSF’s rights granted by SNR in this Easement 4

Document are, in kind, also subject to the same reverter clauses in the Easement 1 Document, the Easement 2 Document and the Easement 3 Document. Therefore, in the same way that SNR's rights should be deemed terminated and reverted back to the fee owner under the Easement 1 Document, the Easement 2 Document and the Easement 3 Document for the reasons set forth in subsection a through c above, so too should BNSF's rights under this Easement 4 Document be deemed to be terminated and reverted back to the fee owner.

e. Easement 5 Document – Abandonment and Reversion Analysis.

Similar to the Easement 4 Document, pursuant to the Easement 5 Document, PG&E granted to The Atchison, Topeka and Santa Fe Railway Company, as the predecessor-in-interest to BNSF, a right to use a certain strip of land for railroad purposes, provided, however, that such grant of rights to BNSF appears to be subject to the same set of conditions as the Easement 3 Document. The Easement 5 Document's language appears to parallel the Easement 3 Document's language, with one of the only differences being that the railroad rights have been granted to BNSF's predecessor-in-interest as opposed to SNR. Therefore, for the same reasons set forth in subsection c in relation the Easement 3 Document, the rights of BNSF under the Easement 5 Document have reverted back to the fee owner.

IV. CONCLUSION

For the reasons stated above, each of the easements set forth in the Easement 1 Document, Easement 2 Document, Easement 3 Document, Easement 4 Document and Easement 5 Document have (1) all been abandoned and terminated and the rights to such easements by any railroad company have ceased to exist; and (2) reverted back to the fee owner, which is TPO as of the date hereof.

EXHIBIT 2 – PHOTOS
PETITION FOR DECLARATORY ORDER

STB Docket FD 36899

1 East-West Segment, 2023 looking past the abandoned private industrial spur that served local factories until they closed in 1992. Now permanently closed power plant in the background. Photo credit David Harnish	
2 East-West Segment, 2024, looking west on abandoned private industrial spur that served local factories until they closed in 1992. Trees now growing through the tracks. Photo credit David Harnish	

3 Power Plant Segment, 2024, looking north on private industrial spur that served the now permanently closer power plant planned for demolition. Photo credit David Harnish	
4 Power Plant Segment, 2024, looking south on private industrial spur that served the now permanently closer power plant planned for demolition. Photo credit David Harnish	