



**U.S. Fish and Wildlife Service**

Final Environmental Assessment  
for  
the Issuance of an Eagle Nest Take Permit  
for Pacific Gas and Electric Tree Removal

Prepared by  
U.S. Department of the Interior  
U.S. Fish and Wildlife Service  
Pacific Southwest Region  
2800 Cottage Way  
Sacramento, CA 95825

January 2023

## Table of Contents

Introduction.....	1
Purpose and Need.....	3
Authorities.....	3
Background.....	3
Scoping and Coordination.....	5
Tribal Coordination.....	5
Proposed Action and Alternatives .....	5
Alternative 1: No Action.....	5
Alternative 2: Proposed Action – Issuance of an Eagle Nest Take Permit.....	6
Alternatives Considered, but Eliminated .....	6
Relocate Eagle Nest.....	6
Affected Environment.....	6
Bald Eagle.....	8
Migratory Birds.....	11
Endangered Species.....	11
Environmental Consequences.....	11
Alternative 1 – No Action.....	12
Economic Impact to the Public.....	12
Public Safety.....	12
Bald Eagle.....	12
Migratory Birds & Threatened and Endangered Species .....	12

Alternative 2 - Proposed Action: Issuance of an Eagle Nest Removal Permit .....	13
Economic Impact to the Public.....	13
Public Safety.....	13
Bald Eagle.....	13
Migratory Birds .....	14
Endangered Species.....	14
Cumulative Effects .....	15
Mitigation and Monitoring.....	15
List of Acronyms and Abbreviations.....	15
List of Preparers.....	16
References.....	16
Personal Communications .....	17

## Appendix A: Public Comments and Responses

## Introduction

This Environmental Assessment (EA) has been prepared to analyze the environmental consequences of the U.S. Fish and Wildlife Service (Service) issuing a permit to remove an alternate bald eagle nest<sup>1</sup> associated with the Pacific Gas and Electric Company's (PG&E) proposed tree removal pursuant to the National Environmental Policy Act (NEPA; 42 United States Code [U.S.C.] §§ 4321–4347). Our issuance of an eagle nest take permit (permit) under the Bald and Golden Eagle Protection Act (Eagle Act; 16 U.S.C. §§ 668–668d and 50 Code of Federal Regulations [CFR] § 22.85<sup>2</sup>) constitutes a discretionary federal action that is subject to NEPA. This EA assists us in ensuring compliance with NEPA, and in deciding whether the proposed action is likely to have significant effects and is therefore appropriate for an Environmental Impact Statement (EIS) under 40 CFR § 1501.3. This EA evaluates the effects of alternatives for our decision whether to issue the permit.

The Eagle Act authorizes us to issue eagle take permits only when the take is compatible with the preservation of each eagle species (Service 2016a), defined in the Service's 2016 Programmatic EIS (PEIS) for the Eagle Rule Revision (Service 2016b) as “consistent with the goals of maintaining stable or increasing breeding populations in all eagle management units (EMUs) and the persistence of local populations throughout the geographic range of each species.” The PEIS analyzed the potential impacts on the human environment that may result from implementation of several eagle permit regulations that authorize take of bald and golden eagles and eagle nests pursuant to the Eagle Act.

The applicant, PG&E, is requesting Eagle Act take coverage for the take of one bald eagle nest. The nest exists in a dead tree on private property near an existing aboveground electric line servicing a single customer. PG&E must remove the dead tree to comply with state law that requires utilities to remove hazardous vegetation that poses a potential risk to electric lines or equipment. PG&E's removal of the tree would mitigate the fire-ignition threat posed by the tree

---

<sup>1</sup> As defined in 16 United States Code sections 668–668d and 50 Code of Federal Regulations section 22.6, *alternate nest* means one of potential several nests within a nesting territory that is not an in-use nest at the current time. When there is no in-use nest, all nests in the territory are alternate nests. *In-use nest* means a bald or golden eagle nest characterized by the presence of one or more eggs, dependent young, or adult eagles on the nest in the past 10 days during the breeding season.

<sup>2</sup> Effective February 7, 2022, 50 CFR 22.27 was renumbered to 50 CFR 22.85 (87 FR 876, Migratory Bird Permits: Administrative Updates).

to alleviate an existing safety emergency, ensuring health and safety for the public and the nesting eagles.

Department of Interior policy requires the Service to analyze the issuance of eagle permits under NEPA. Department of the Interior Departmental Manual Part 516, Chapter 8 (516 DM 8), titled *Managing the NEPA Process – U.S. Fish and Wildlife Service*, designates certain Service actions as categorical exclusions. A *categorical exclusion* (CatEx) is a category of actions that do not individually or cumulatively have a significant effect on the human environment and therefore do not require preparation of an EA or an EIS. One of the Service's categorical exclusions covers permitting actions where the permit would cause *no or negligible environmental effects* (516 DM 8.5(C)(1)).

For eagle take permits, this categorical exclusion applies when:

1. The tiering criteria are met without the need for compensatory mitigation (i.e., tiering to our 2016 Eagle Rule Revision PEIS);
2. The other environmental effects of the permit issuance are negligible (e.g., the required conservation measures do not have more than negligible environmental effects). Nonnegligible impacts that are fully mitigated would preclude application of the categorical exclusion because those effects are potentially significant before application of mitigation; AND,
3. The permitting action does not trigger any extraordinary circumstances in which a normally excluded action may have a significant environmental effect. A Departmental list of potential extraordinary circumstances can be found at 516 DM 2, Appendix 2.

This categorical exclusion applies to most one-time bald eagle disturbance permits and bald eagle nest take permits. However, given the public interest in the nest that is the subject of the proposed nest removal permit, we have decided to prepare this issue-driven and focused EA to assist our planning and decision making in consideration of this permit, as is our discretion under 40 CFR section 1501.5.

This EA evaluates whether issuance of the permit will have significant impacts on the potentially affected environment and the degree of the effects of the action. In considering this, 40 CFR section 1501.3 directs an agency to consider the affected area (national, regional, or local) and its resources. In evaluating the degree of the effects, we must also consider short-term, long-term, beneficial, and adverse effects; impacts on public health and safety; and compliance with other environmental protection laws.

This proposal conforms with and carries out the management approach analyzed in and adopted subsequent to the PEIS (Service 2016b). Accordingly, this EA tiers from the 2016 PEIS. We will consider project-specific information not considered in the PEIS in this EA as described below.

### Purpose and Need

Our purpose in considering the proposed action is to fulfill our authority under the Eagle Act and its regulations (50 CFR § 22.85). The need for this action is a decision on an eagle nest take permit application from PG&E. The decision must comply with all applicable regulatory requirements and be compatible with the preservation of eagles.

### Authorities

Our authorities are codified under multiple statutes that address management and conservation of natural resources from many perspectives, including, but not limited to the effects of land, water, and energy development on fish, wildlife, plants, and their habitats. This analysis is based on the Eagle Act (16 U.S.C. 668–668e) and its regulations (50 CFR § 22.85). The PEIS has a full list of authorities that apply to this action (Service 2016b: Section 1.6, pp. 7–12), which are incorporated by reference here.

### Background

PG&E contacted the Service on January 4, 2022, regarding a dead/dying Ponderosa pine (*Pinus ponderosa*) tree containing a bald eagle nest on private property approximately one quarter-mile northeast of the Van Arsdale Reservoir spillway on the Eel River in Mendocino County, California. The tree is next to an aboveground electric line servicing a single customer on private property and poses a fire-ignition risk due to its proximity to the electric line (Figure 1). PG&E sought to remove the hazard tree to comply with California Public Utilities Commission General Order 95, Rule 35, which specifies that “dead, rotten and diseased trees or portions thereof, that overhang or lean towards and may fall into a span, should be removed,” and Public Resource Code 4293, which requires a 4-foot minimum clearance to be maintained for power lines between 2,400 and 72,000 volts. PG&E requested advice and permissions from the Service on the removal of the nest contained in the hazard tree that was not in use by bald eagles at the time. PG&E was hoping to resolve the situation prior to the eagle nesting season that we formally recognize as beginning on January 15.

On January 13 and 14, 2022, multiple citizens and nongovernment organizations in the local community contacted us about the potential nest removal. Those opposing the nest removal noted that an adult bald eagle was documented at the nest on January 11, 2022, and that the nest had fledged young during several nesting periods since 2011. Others supported removing the

nest prior to it becoming occupied to mitigate the fire risk and minimize the adverse effect to the bald eagle breeding pair.

Given the local opposition for the hazard tree removal in January 2022, PG&E abandoned their plans to remove the tree on January 15, 2022. The bald eagle pair nested and successfully fledged young from the nest in the 2022 breeding season. By the end of summer, the nest tree's decay had further progressed, amplifying the safety and fire hazard it posed. On July 22, 2022, PG&E requested a nest take (i.e., removal) permit as needed to remove the hazard tree. On August 15, 2022, PG&E de-energized the electric line to mitigate the fire-ignition risk posed by the hazard.



Source: PG&E.

**Figure 1. Picture of Hazard Tree with Eagle Nest (January 2022)**

## Scoping and Coordination

This EA incorporates by reference the scoping performed for the PEIS (Service 2016b: Chapter 6, p. 175). A draft of the EA and a draft of the Finding of No Significant Impact was made public on the Service's Regional webpage<sup>3</sup> from December 13 to December 27, 2022 to solicit public comments. We hosted a public information meeting on December 20, 2022. We received five public comment letters on the draft EA and revisions were incorporated into the EA as a result of substantive comments, as appropriate. Public comments and responses are included in Appendix A.

## Tribal Coordination

We sent letters to federally-recognized tribal governments located within the vicinity of the Project, informing them of the application and that the draft EA and draft FONSI were available for review.

## **Proposed Action and Alternatives**

NEPA requires federal agencies to consider the purpose and need for the proposed action and, from that, “study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources.” As discussed in this EA, we have not identified any unresolved conflicts concerning alternative uses of available resources associated with PG&E's proposal. Therefore, in accordance with NEPA and its implementing regulations (40 CFR Parts 1500–1508), this EA considers the no-action alternative and proposed action.

### Alternative 1: No Action

Under the No Action Alternative, we would take no further action on PG&E's permit application, and, therefore, PG&E would not be able to legally remove the eagle nest by cutting down the hazard tree. There would be no disturbance of existing environmental conditions at the site, and there would be no new environmental protection, mitigation, or enhancement measures. Under the No Action Alternative, the project would not occur, there would be no project impacts on eagles or eagle nests requiring an eagle nest take permit, and we would not issue an eagle nest take permit to PG&E.

---

<sup>3</sup> <https://www.fws.gov/library/collections/pacific-southwest-region-nepa-documents-eagle-permits>



## Alternative 2: Proposed Action – Issuance of an Eagle Nest Take Permit

We propose to issue a permit to take one alternate eagle nest with associated conditions, as allowed by regulation. Given the limited scope of the project (a single tree-cutting event on private property), there are no other measures required by other agencies and jurisdictions to conduct the tree removal.

PG&E proposes to cut down the tree outside the eagle nesting season (August 1–January 14). The project involves approximately four or five personnel. The personnel will use a chainsaw and fell the tree to the south, away from the electric line. The crew will use a woodchipper to shred some of the vegetative material and haul it off site. Large-diameter vegetation (i.e., the main trunk of the tree) will be left on site. PG&E would bury the nest substrate at the site. All work will be performed in 1 day.

Our regulations do not require that eagle nest removals provide a net benefit to eagles when the removal is necessary to ensure public health and safety (§ 22.85 (a)(1)(ii)). However, PG&E would make a voluntary contribution to a rehabilitation facility that specializes in caring for sick and injured bald eagles sufficient to provide for the rehabilitation costs of a sick or injured eagle for 2 months.

## Alternatives Considered, but Eliminated

### *Relocate Eagle Nest*

We considered requiring PG&E to relocate the eagle nest either to a nearby tree or to construct a platform for the nest's placement. Although this option is appropriate in some situations, we determined that this eagle breeding pair already has a known alternate nest within their breeding territory available for their use (see *Affected Environment*, below, for bald eagle survey information). In addition, the habitat supports additional nest trees available for future alternate nest sites. To minimize future electrocution or collision risk to this pair of eagles and their offspring, we determined that facilitating their continued nesting proximate to the electric line was not practicable. A requirement to relocate the nest or construct a new nest was not biologically warranted. Therefore, we eliminated this potential alternative from further consideration.

## **Affected Environment**

This section describes the environment of the area to be affected by the proposed action and alternatives, including planned actions in the area. The description of the affected environment focuses on important issues, including health and safety and biological resources.

As noted above, under *Background*, PG&E de-energized the electric line on August 15, 2022, as a means to ensure public safety and avoid an ignition or wildfire until PG&E can remove the hazard tree with the eagle nest. Figure 1 shows the hazard tree with the eagle nest in January 2022. Figure 2 gives a closer view of the hazard tree from July 2022 that clearly shows that the tree is dead, as evidenced by bare branches and brown needles. PG&E must remove the hazard tree to comply with California Public Utilities Commission General Order 95, Rule 35, which specifies that “dead, rotten and diseased trees or portions thereof, that overhang or lean towards and may fall into a span, should be removed,” and Public Resource Code 4293, which requires a 4-foot minimum clearance to be maintained for power lines between 2,400 and 72,000 volts.

The remaining description of the affected environment focuses on biological resources of importance that may be affected by the proposed action or alternatives.



Source: PG&E.

**Figure 2. Picture of Hazard Tree with Eagle Nest (July 2022)**

### Bald Eagle

General information on the population trends, distribution, and habitat of bald eagles is detailed in the PEIS (Service 2016b: Sections 3.3 and 3.4). This section more specifically describes the bald eagle population in the affected area for this application.

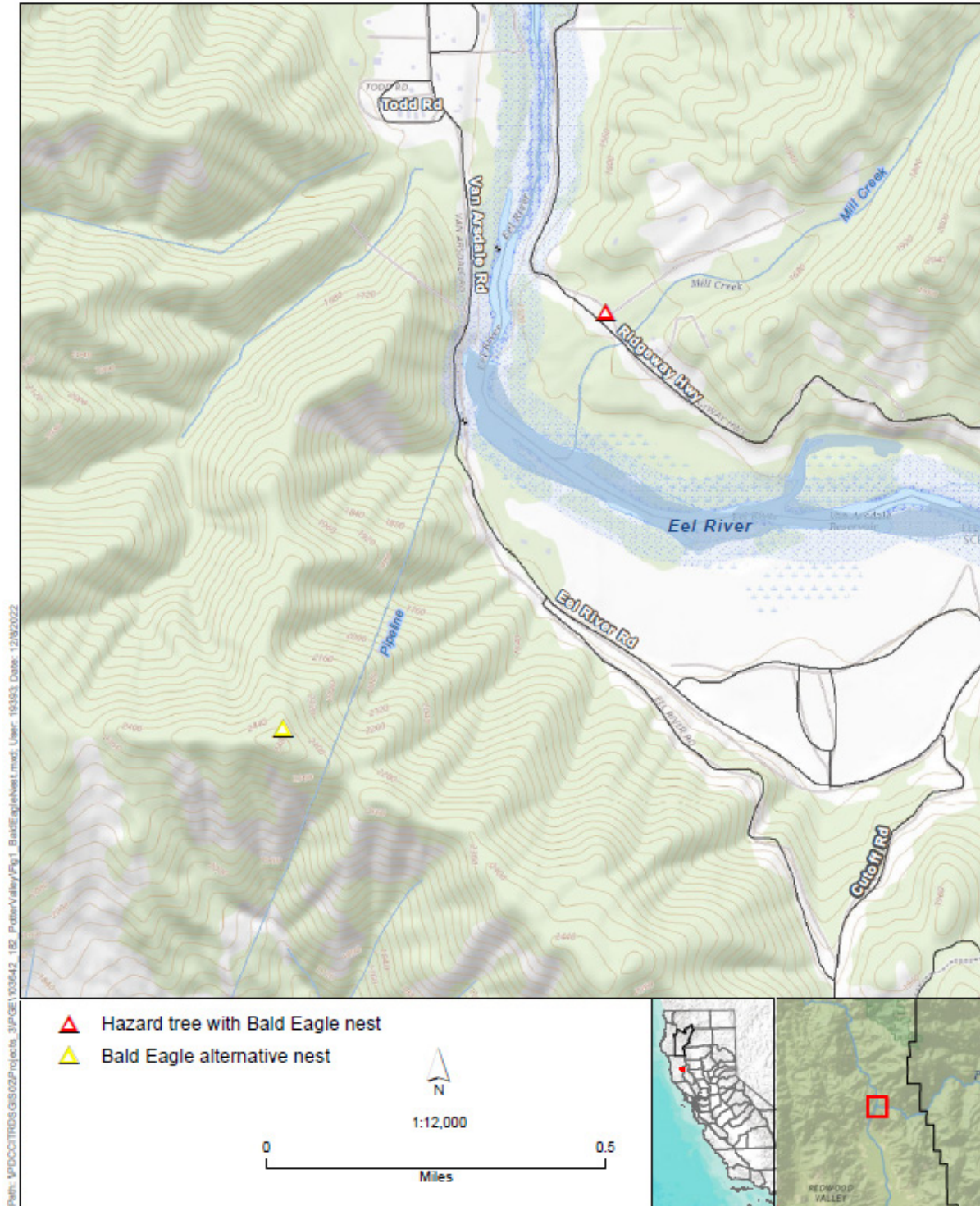
Bald eagles occur most frequently around reservoirs, lakes, rivers, and coastal areas. Breeding habitat is typically coniferous forests adjacent to rivers, lakes, or wetlands (Buehler 2020). In California, breeding bald eagles are resident year-round and mostly remain in their well-defined nesting territories. Bald eagle nest territories usually contain several alternative nest sites, only a single of which is normally used in any given year (Buehler 2020). In most of California, the bald eagle breeding season lasts from about January through July or August.

The bald eagles that nest in the affected area are part of a larger breeding population distributed throughout much of the western United States and Canada in suitable habitats. The estimated total population in the Pacific Flyway North EMU that encompasses the affected area is 13,000 individuals (Service 2016c). The Service defines the *Local Area Population* (LAP) as the bald or golden eagle population within the area of a human activity or project bounded by the natal dispersal distance for the respective species (50 CFR § 22.6). The LAP is estimated using the average eagle density of the EMU or EMUs where the activity or project is located. The LAP for bald eagles is 86 miles. The LAP for this project comprises many breeding bald eagle pairs (CDFW 2022a).

PG&E conducts eagle productivity surveys three times annually for the Potter Valley Project as a condition of its license with the Federal Energy Regulatory Commission. Since it began monitoring the nest in 2007, PG&E has documented the nest in the hazard tree as in-use during a total of 12 breeding seasons (M. Best pers. comm.). In 2016, this breeding territorial pair used a known alternate nest on a ridge approximately 0.8 mile to the south (Figure 3). PG&E's 2021 surveys determined that eagles did not nest in either the hazard tree or in the known alternate ridge top nest (M. Best pers. comm.). In 2021, PG&E's surveys found that the nest in the hazard tree appeared to be slumping. There were also signs that the bald eagle territorial pair may have been working on their alternate ridge-top nest, as evident from fresh lining material observed. Even so, the pair did not use either nest location to produce young in 2021.

PG&E conducted three eagle productivity surveys in the project area vicinity in 2022. The subject nest in the hazard tree was in use by the territorial pair of bald eagles. Surveys conducted in April 2022 identified two nestlings in the nest. A subsequent survey conducted on June 7, 2022, documented one large nestling. Documentation of surveys is inconclusive as to whether one or both nestlings fledged (Jepsen pers. comm.). These surveys also verified that the eagle pair's alternate nest, approximately 0.8 mile to the southwest and last used in 2016, was intact. Therefore, there is a viable alternate eagle nest that this pair maintains within their breeding territory. The productivity surveys also documented six bald eagle nests around Lake Pillsbury (8 miles northeast of the project area), including four alternate nests and two in-use nests, each with two nestlings (Jepsen pers. Comm.), indicating that the area's bald eagle population is productive and that the habitat supports alternate nests and additional trees suitable for nesting.





**Figure 3. Project Location**

## Migratory Birds

Many species of migratory birds occur or have the potential to occur in the project area. These include year-round residents, migratory birds that pass through and are temporary visitors, winter residents, and those that occur during the breeding season.

## Endangered Species

We evaluated the potential for species listed under the Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. §§ 1531–1544), to occur in the project area. We identified the following six species that occur within in Mendocino County (Service 2022a).

- Northern spotted owl (*Strix occidentalis caurina*)
- Western snowy plover (*Charadrius nivosus nivosus*)
- Yellow-billed cuckoo (*Coccyzus americanus*)
- Burke’s goldfields (*Lasthenia burkei*)
- Contra Costa goldfields (*Lasthenia conjugens*)
- Showy Indian clover (*Trifolium amoenum*)
- Monarch butterfly (*Danaus plexippus*)

We found that of the six ESA-protected species, five would not occur because of known species distributions, migration patterns, habitats, and the season for the planned nest tree removal (Table 1).

One species, northern spotted owl, may occur in the project area. Northern spotted owls prefer habitats with old-growth and mature forest components for breeding (Gutierrez et al. 1995). Their foraging habitat is characterized by high canopy closure and complex structure. The courtship phase of the breeding season typically begins in February to March, with the breeding season ending in late August.

## **Environmental Consequences**

This section summarizes the effects on the environment of implementing the No Action Alternative and the Proposed Action. The discussion of overall effects of the eagle nest take permit program is provided in the PEIS (Service 2016b) and incorporated here by reference. This section of this EA analyzes only the effects that were not analyzed in the PEIS that may result from the issuance of an eagle nest take permit for this specific project.

## Alternative 1 – No Action

Under the No Action Alternative, we would not issue a nest take removal permit and, therefore, we expect that PG&E would not cut down the tree because it could not do so legally. Because the tree would remain a fire hazard, PG&E would not re-energize the electric line. Under the No Action Alternative, there would be no disturbance of existing environmental conditions at the site.

### *Economic Impact to the Public*

The No Action Alternative would result in an adverse economic impact to the PG&E customer served at the nest tree property location. PG&E could not remove the hazard tree and, therefore, could not re-energize the electric line without undergrounding it. Because the section of electric line only serves the single customer, California Public Utilities Commission Rule 16 applies; per PG&E, the customer would need to pay for the undergrounding of the line or pay for some other means of electric power (e.g., operation of a gas-powered generator).

### *Public Safety*

PG&E cannot re-energize the electric line under the No Action Alternative because re-energizing the line without being able to remove the hazard tree would present a risk to public safety. These risks include the potential for the tree to contact the energized line and ignite a wildfire and/or fall to the ground and present an electrocution risk.

### *Bald Eagle*

Under this Alternative, bald eagles are not affected because the hazard tree would not be removed, nor would the nest in the tree. Over time, the hazard tree will likely fail and fall to the ground. Because the electric lines would not be energized, there would be no electrocution risk to the breeding pair, nor their offspring. Fire risk would also be eliminated. Risk of collision with the powerlines would remain at the same level as currently exists for this breeding territory.

### *Migratory Birds & Threatened and Endangered Species*

There would be no changes to the current human environment. Therefore, no impacts on migratory birds or endangered species would occur under the No Action Alternative.

## Alternative 2 - Proposed Action: Issuance of an Eagle Nest Removal Permit

### *Economic Impact to the Public*

Issuance of a permit under this Alternative would result in a reduced economic impact to PG&E and the public. This Alternative would allow PG&E to remove the hazard tree and re-energize the electric line. This Alternative would avoid the cost of either re-routing or undergrounding the line or of supplying power to the customer through other means (e.g., gas-powered generator). The economic impact to the public is reduced under the Proposed Action Alternative to issue an eagle nest removal permit compared to the No Action Alternative.

### *Public Safety*

Issuing the eagle nest take permit to facilitate removal of the hazard tree would eliminate the risk to public safety resulting from the tree's interference with an energized electric line. Therefore, compared to the No Action Alternative, the risk to public safety from electrocution and wildfire ignition is eliminated under the Proposed Action Alternative.

### *Bald Eagle*

The proposed action would result in the loss of one eagle nest. As noted above, there is a nearby alternate nest that the eagle nesting pair could use. The removal of the hazard tree nest prior to the 2023 breeding season would not affect the bald eagle breeding territory. The pair has a known alternate nest site and would have adequate time to refurbish that nest or build a new nest in another tree within their territory. Eagle nests commonly blow out of trees during winter storms, and nest trees also occasionally fall down. Adjusting to such events is normal for breeding eagles. We have determined the removal of this nest will not affect the breeding pair.

Removal of the nest and hazard tree will benefit this pair of eagles and their offspring because electrocution and collision risk will be reduced at this territory when the alternate nest site is located further away from any power line. The loss of this nest is not expected to result in the take of eagles (i.e., will not impact their ability to reproduce) or significantly affect the LAP of bald eagles.

The risk of electrocution (should the lines be re-energized) and collision to bald eagles is expected to be reduced under the Proposed Action Alternative compared to the No Action Alternative because the eagles' alternative nest is farther away from the electric line. The additional mitigation provided under this Alternative results in a net benefit to bald eagle populations that would not occur under the No Action Alternative.



### *Migratory Birds*

Our PEIS includes a full analysis of effects on migratory birds in the PEIS (Service 2016b). A variety of migratory birds may occur in the project area; however, we do not anticipate issuance of the permit to substantively affect any other species of migratory birds. The project would occur outside the nesting season.

### *Endangered Species*

We evaluated the six species protected under the ESA that occur in the County for their potential to be affected by the nest tree removal, as summarized in Table 1. We do not expect any adverse effects to ESA-listed or candidate species because none are likely to be present in the project area at the time of the tree-cutting event. The proposed action would not affect designated critical habitat because none is present in the project area; therefore, impacts are comparable to the No Action Alternative.

**Table 1.** Endangered Species with potential to occur in Mendocino County, California, and the U.S. Fish and Wildlife Service’s evaluation of impacts from issuance of a health and safety bald eagle nest removal permit and removal of the dead tree containing the nest located in Potter Valley, California.

<b>Species</b>	<b>Potential to Occur</b>	<b>Potential to be Affected?</b>	<b>Reasoning</b>
Northern Spotted Owl ( <i>Strix occidentalis caurina</i> )	Yes	No	Project occurs outside of breeding season.
Western Snowy Plover ( <i>Charadrius nivosus nivosus</i> )	No	No	No habitat present; occurs on the coast.
Yellow-billed Cuckoo ( <i>Coccyzus americanus</i> )	No	No	Not present in winter timing of project.
Burke’s Goldfields ( <i>Lasthenia burkei</i> )	No	No	Outside of species distribution.
Contra Costa Goldfields ( <i>Lasthenia conjugens</i> )	No	No	Outside of species distribution.
Showy Indian Clover ( <i>Trifolium amoenum</i> )	No	No	Outside of species distribution.
Monarch Butterfly ( <i>Danaus plexippus</i> )	No	No	No habitat present; occur nears the coast.

Sources: CDFW 2022b; CDFW 2022c; Gutiérrez et al. 1995; Hughes 2020; Service 2012, Service 2022a, Service 2022b, Service 2022c; Western Monarch Milkweed Mapper 2022.

### *Cumulative Effects*

We have determined that issuance of this nest removal permit would not result in take of eagles (i.e., permit or related activities would not result in eagles being killed or injured, or prevent their ability to produce young). Therefore, we do not expect the additive effect of the issuance of the nest removal permit to contribute to any cumulative effects.

In summary, the proposed action would not result in significant impacts on the public's economic interests, bald eagles, migratory birds, or ESA-listed species.

### **Mitigation and Monitoring**

The proposed action incorporates measures (i.e., nest removal outside of the eagle nesting season) to minimize and avoid impacts on bald eagles to the maximum degree practicable, as required by regulation. PG&E will be required to continue their monitoring of this territory for 3 years and report this monitoring to the Service.

### **List of Acronyms and Abbreviations**

516 DM 8	Department of the Interior Departmental Manual Part 516, Chapter 8
CatEx	categorical exclusion
CFR	Code of Federal Regulations
EA	Environmental Assessment
Eagle Act	Bald and Golden Eagle Protection Act
EIS	Environmental Impact Statement
EMU	eagle management unit
ESA	Endangered Species Act of 1973
LAP	Local Area Population
NEPA	National Environmental Policy Act
PEIS	Programmatic EIS
permit	eagle nest take permit
PG&E	Pacific Gas and Electric Company's
Service	U.S. Fish and Wildlife Service
U.S.C.	United States Code

## List of Preparers

Heather Beeler, Eagle Permit Coordinator, Migratory Bird Program, U.S. Fish and Wildlife Service, Pacific Southwest Region

## References

- Buehler, D. A. 2020. Bald eagle (*Haliaeetus leucocephalus*). Version 1.0. In *Birds of the World* (A. F. Poole and F. B. Gill, editors). Ithaca, NY: Cornell Lab of Ornithology. Available: <https://doi.org/10.2173/bow.baleag.01>. Accessed: December 5, 2022
- CDFW (California Department of Fish and Wildlife). 2022a. Map of Known Bald Eagle Nesting Territories 2000–2016. Sacramento, CA. Available: <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=112194&inline>. Accessed: September 7, 2022.
- CDFW. 2022b. Burke’s Goldfields. Available: <https://wildlife.ca.gov/Conservation/Plants/Endangered/Lasthenia-burkei>. Accessed: December 5, 2022.
- CDFW. 2022c. Monarch Butterfly. Available: <https://wildlife.ca.gov/Conservation/Invertebrates/Monarch-Butterfly>. Accessed: December 5, 2022.
- Gutiérrez R. J., A. B. Franklin, and W. S. Lahaye. 1995. Spotted Owl (*Strix occidentalis*), version 1.0. In *Birds of the World* (P. G. Rodewald, Editor). Ithaca, NY: Cornell Lab of Ornithology. Published March 4, 2020. Text last updated January 1, 1995. Available: <https://birdsoftheworld.org/bow/species/spoowl/cur/habitat>. Accessed: December 5, 2022.
- Hughes, J. M. 2020. Yellow-billed Cuckoo (*Coccyzus americanus*), version 1.0. In *Birds of the World* (P. G. Rodewald, Editor). Ithaca, NY: Cornell Lab of Ornithology. Available: <https://doi.org/10.2173/bow.yebcuc.01>. Accessed: December 5, 2022.
- Service (U.S. Fish and Wildlife Service). 2012. *Trifolium amoenum* (Showy Indian Clover) 5-Year Review. Available: [https://ecos.fws.gov/docs/five\\_year\\_review/doc4018.pdf](https://ecos.fws.gov/docs/five_year_review/doc4018.pdf). Accessed: December 5, 2022.
- Service. 2016a. Eagle Permits: Revisions to Regulations for Eagle Incidental Take and Take of Eagle Nests. Federal Register 81:91494–91553.

Service. 2016b. *Programmatic Environmental Impact Statement for the Eagle Rule Revision*. Washington D.C.: Division of Migratory Bird Management.

Service. 2016c. U.S. Fish and Wildlife Service. 2016. *Bald and Golden Eagles: Population Demographics and Estimation of Sustainable Take in the United States, 2016 update*. Washington D.C.: Division of Migratory Bird Management.

Service. 2022a. Information for Planning and Consultation (online system). Available: <https://ipac.ecosphere.fws.gov/>. Accessed: September 7, 2022.

Service. 2022b. ECOS. Contra Costa goldfields (*Lasthenia conjugens*). Available: <https://ecos.fws.gov/ecp/species/7058>. Accessed: December 5, 2022.

Service. 2022c. ECOS Western snowy plover (*Charadrius nivosus nivosus*). Available: <https://ecos.fws.gov/ecp/species/8035#lifeHistory>. Accessed: December 5, 2022.

Western Monarch Milkweed Mapper. 2022. Western Monarch Biology. Available: <https://www.monarchmilkweedmapper.org/western-monarch-biology/>. Accessed: December 5, 2022.

## **Personal Communications**

Eric Jepson, Wildlife Ecologist, Kleinfelder email to Andrew Anderson, PG&E. June 22, 2022.

Mike Best, Pacific Gas & Electric Company, emails to Heather Beeler, U.S. Fish and Wildlife Service. January 4, 2022, and November 8, 2022.

## **Appendix A: Public Comments and Responses**

## Eagle Nest Take Permit for Pacific Gas and Electric Tree Removal Draft Environmental Assessment Public Comments and Responses

Letter ID #	Comment ID #	Entity	Comment	Response
1	1.1	Private Citizen 1	In Fairbanks Alaska a pair of Bald Eagles had built their nest on top of an power pole. Well they put up a pole with a platform next to the power pole for them. At least they still have their nesting place. They won't be disturbed and in hopes that the property owners would be ok with the erection of a second pole for them.	The EA addresses the relocation of the nest as an alternative considered but eliminated from further analysis. The EA explains that the breeding pair already has a known alternate nest site and facilitating their continued nesting next to to the electric line is not practical. Relocating or constructing a new nest is not biologically warranted.

Letter ID #	Comment ID #	Entity	Comment	Response
2	2.1	Private Citizen 2	My name is Ellen Brackett a 36 year resident of mendocino county. My whole life growing up has been spent adventuring the beautiful wilderness and lakes we are so lucky to have locally. From family hunting up Sanhedrin to camping and fishing lake Pillsbury lake Mendo and many more. To this day I take my now grown kids up there and first thing we do as soon as we hit get to top is take a left down to van aresdale and searching for the bald eagles we know we will see everytime. It has been one of the best joys ever. Alot of time you can see them sitting tall in the trees above the dam waiting for their chance to score a good meal. We have had a pair of them follow us up the river for Miles just flying right beside us we truly feel it's sprit as it flies. The whole take out the dam which would take away Pillsbury and now this bald eagle nest removal is getting out of hand. We are truly blessed to live in such a beautiful county with so many different forms of wildlife and for pge to want to remove the wildlife homes is absurd.	Comment noted. We are also pleased that bald eagles continue to inhabit this area as their populations have recovered and continue to expand. The EA addresses the potential effects to the breeding bald eagle pair, noting the existence of a known alternate nest, availability of nesting substrate in the area, and the ability of eagles to adjust to lost nests as a behavioral characteristic as reasons why the proposed action will not affect the breeding pair. As discussed in the EA, we are considering the nest removal to address the health and safety hazard to the bald eagles, their young. The action helps protect the human community and wildlife from the fire risk posed by a dying nest tree being next to the eletric utility line.
2	2.2	Private Citizen 2	Please think about denying the application and keeping the beautiful amazing bald eagles happy healthy in local.	Comment noted. The EA analyzes the No Action Alternative, where we considered how the eagles would be affected if we do not issue the eagle nest removal permit compared to allowing the nest removal.

Letter ID #	Comment ID #	Entity	Comment	Response
3	3.1	Private Citizen 3	Just let the eagles' nest and move the wire.	This comment is outside the scope of this EA. It is not within our authority to require PG&E to move the electric line. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle nest take permit request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take permit request as allowed by our regulations.
4	4.1	Private Citizen 4	Please require PG&E to do their job to insulate the lines and not cut down the trees. Enough is enough hold them responsible for maintaining the lines. Particularly lines that run through wildlife eagle nesting trees.	This comment is outside the scope of this EA. It is not within our authority to direct PG&E to insulate the electric line. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle take request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.



Letter ID #	Comment ID #	Entity	Comment	Response
4	4.2	Private Citizen 4	1) Provide an Alternative - PG&E trims the limbs closest to the wire.	This comment is outside the scope of this EA. It is not within our authority to direct PG&E to trim limbs versus remove the dying tree that they have determined is a hazard tree that may fall on their electric utility lines. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle take request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.
4	4.3	Private Citizen 4	2) Provide an Alternative - PG&E buries the wires underground.	This comment is outside the scope of this EA. It is not within our authority to direct PG&E to bury the electric line. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle take request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.

Letter ID #	Comment ID #	Entity	Comment	Response
4	4.4	Private Citizen 4	3) Provide an Alternative - PG&E maintains the insulation around the wire ( as the company should be doing).	This comment is outside the scope of this EA. It is not within our authority to direct PG&E to insulate the electric line. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle take request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.
4	4.5	Private Citizen 4	4) How many alternate trees does the eagles currently have? If its 2 then removal of the tree is a bad horrible idea and will impact the pair.	The EA addresses the potential effects to the breeding bald eagle pair, noting the existence of a known alternate nest, availability of nesting substrate in the area, and the ability of eagles to adjust to lost nests as a behavioral characteristic as reasons why the proposed action will not affect the breeding pair.

<b>Letter ID #</b>	<b>Comment ID #</b>	<b>Entity</b>	<b>Comment</b>	<b>Response</b>
4	4.6	Private Citizen 4	5) USFWS states "The Eagle Act authorizes us to issue eagle take permits only when the take is compatible with the preservation of each eagle species and consistent with the goals of maintaining stable or increasing breeding populations in all eagle management and the persistence of local populations throughout the geographic range of each species". USFWS has not provide evidence of the preservation mitigations of this pair of eagles considering there is no threshold established for this species. Question: What is USFWS threshold for maintaining a stable pollution? What are the preservation mitigations?	The EA notes that the population trends, distribution, and habitat of bald eagles in detailed in the Service's 2016 Programmatic EIS (PEIS) for the Eagle Rule Revision. Please see our Bald Eagle Fact Sheet ( <a href="https://www.fws.gov/media/bald-eagle-fact-sheet">https://www.fws.gov/media/bald-eagle-fact-sheet</a> ) for a summary of bald eagle population status, and our most recent technical report ( <a href="https://www.fws.gov/media/bald-eagle-take-limits-technical-reportfinalpdf">https://www.fws.gov/media/bald-eagle-take-limits-technical-reportfinalpdf</a> ).
4	4.8	Private Citizen 4	6) Eagles generally are know for site fidelity and in most cases will have more than one nest within their breeding territory called alternate nest averaging 1-2 nest tree. Eagles are particular and do not easily choose nest trees. Question: How many nest alternates do the eagles have within their territory? How does it not upset the birds by removing their 1 of 2 alternate trees?	The EA notes the known alternate nest and the availability of nesting substrate in the Affected Environment section. The EA describes the potential effects from the proposed action to the bald eagle nesting pair in the Environmental Consequences section.
4	4.9	Private Citizen 4	4) Comment - USFWS describe the tree as dead (p 1 pp 3) and half dead in other areas in the document.	The EA describes the tree as dead/dying on page 3 as of January 4, 2022 and then as dead at present and as evidenced by Figure 2 in the EA.

Letter ID #	Comment ID #	Entity	Comment	Response
4	4.11	Private Citizen 4	5) For a take categorical exclusion permit the following did not apply and the EA discloses further that the USFWS does not have means to provide sufficient mitigations for an alternative tree. This is not a negligible act removing a successful nesting tree, how do you plan to mitigate for the loss.	The EA notes that Service regulations do not require that eagle nest removals provide a net benefit to eagles when the removal is necessary to ensure public health and safety (§ 22.85 (a)(1)(ii)). Although bald eagle take will not occur as a result of this nest removal permit, we have also determined that for most bald eagle take permits, including those in this Eagle Management Unit (i.e., the Pacific Northwest) compensatory mitigation is not required due to the robust status of their populations. Even so, PG&E has committed to providing a voluntary contribution to a rehabilitation facility that specializes in caring for sick and injured bald eagles sufficient to provide for the rehabilitation costs of a sick or injured eagle for 2 months.
4	4.12	Private Citizen 4	Question: What is the compensatory mitigation when eagles have been successfully nesting in the tree? The permit triggers extraordinary circumstances when USFWS knows the pair specifically use that tree and have been successful.	The EA notes that Service regulations do not require that eagle nest removals provide a net benefit to eagles when the removal is necessary to ensure public health and safety (§ 22.85 (a)(1)(ii)). Although bald eagle take will not occur as a result of this nest removal permit, we have also determined that for most bald eagle take permits, including those in this Eagle Management Unit (i.e., the Pacific Northwest) compensatory mitigation is not required due to the robust status of their populations. Even so, PG&E has committed to providing a voluntary contribution to a rehabilitation facility that specializes in caring for sick and injured bald eagles sufficient to provide for the rehabilitation costs of a sick or injured eagle for 2 months.

Letter ID #	Comment ID #	Entity	Comment	Response
4	4.13	Private Citizen 4	6) The USFWS states "alleviate an existing safety emergency, ensuring health and safety for the public and the nesting eagles". Wires touching a tree does not mean they are connecting to the branches since power line wires such as those coming to a home are insulated. It is PG&E's responsibility to make sure those wires are insulated. In order for current to flow through the tree there has to be a complete circuit from the wire source to the wire to the branch to the ground and back to the power source. It takes more work on PG&E's part to assure the lines are safe, under these conditions mandate that they do. PG&E states their own views of an emergency and safety and as we know they don't do a very good job.	This comment is outside the scope of this EA. It is not within our authority to direct PG&E to insulate the electric line. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle take request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.
4	4.15	Private Citizen 4	Question: USFWS explain how is the tree an emergency and safety health issue for the nesting eagles?	The EA notes that the hazard tree presents a health and safety issue due to potential for fire ignition and that the electric line poses an electrocution and collision risk for the bald eagles.

Letter ID #	Comment ID #	Entity	Comment	Response
4	4.16	Private Citizen 4	8) What are the beneficial circumstance to the eagle in this scenario? Removing a successful nesting tree is not beneficial. Stating the eagles are in danger of being electrocuted is not sound information. It's a guess and attempt to support PG&E and that is not USFWS job to support PG&E. Question: What is the percent chance of the eagle will be electrocuted if the lines are insulated properly?	The EA notes that removal of the nest and hazard tree would benefit the pair of eagles by removing the existing nest site near the electric line and the associated risk of electrocution and collision. It is not within our authority to direct PG&E to insulate the electric line. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle take request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations (see Page 3 of EA), their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.
4	4.17	Private Citizen 4	The EA does not do a good job of showing why PG&E has the right to remove the tree. The USFWS is tampered by institutional design. In other words USFWS continues to use the same standard language and alternatives in your documents. It is obvious to the public the agency uses the same tired language and weak alternatives. The standard language is an insult to wildlife and placates to large cooperations.	The EA notes that PG&E seeks to remove the tree to comply with California Public Utilities Commission General Order 95, Rule 35, which specifies that “dead, rotten and diseased trees or portions thereof, that overhang or lean towards and may fall into a span, should be removed,” and Public Resource Code 4293, which requires a 4-foot minimum clearance to be maintained for power lines between 2,400 and 72,000 volts.

<b>Letter ID #</b>	<b>Comment ID #</b>	<b>Entity</b>	<b>Comment</b>	<b>Response</b>
4	4.18	Private Citizen 4	Is it USFWS assumption that the eagle pair would continue to nest successfully after the alternate tree is cut down? The action could cause the eagles not breed in subsequent season(s) until they are comfortable with the circumstances. The USFWS knows that eagle chick survival is low and the loss of successful nesting over several seasons is considered significant circumstance.	The EA addresses the potential effects to the breeding bald eagle pair, noting the existence of a known alternate nest, availability of nesting substrate in the area, and the ability of eagles to adjust to lost nests as a behavioral characteristic as reasons why the proposed action will not affect the breeding pair.
4	4.19	Private Citizen 4	The alternatives should be to let the tree stand, its a ponderosa and will stand for a long time and wait until the eagles choose another alternate tree. Another suggestion is to have PG&E mitigate branches this might trigger the eagles to move organically. Have PG&E insulate the wires properly or have PG&E bury the line to the house.	The EA analyzes the No Action Alternative, where we would not issue the eagle nest removal permit and the applicant could not legally remove the tree. It is not within our authority to dictate how PG&E manages vegetation to legally operate electric lines. Under the Bald and Golden Eagle Protection Act permit regulations (50 CFR 22.85) we must consider, among other things, if an eagle nest take permit request is necessary to protect a legitimate interest in a particular locality. As PG&E must operate the electric line in compliance with California state regulations, their removal of the hazard tree is a legitimate interest. Therefore, our EA analyzed the Applicant's eagle nest take request as allowed by our regulations.
5	5.1	Environmental Protection Information Center	On behalf of the Environmental Protection Information Center (EPIC) and its 15,000 members and supporters, I write to strongly oppose the removal of the Potter Valley Project Eagle Nest (hereafter "the nest") by PG&E.	The comment is noted.
5	5.1	Environmental Protection Information Center	Reasonable alternatives to nest removal and the documented recent use of this nest site counsels against nest removal.	The comment is noted.

<b>Letter ID #</b>	<b>Comment ID #</b>	<b>Entity</b>	<b>Comment</b>	<b>Response</b>
5	5.1	Environmental Protection Information Center	The Draft Environmental Analysis (Draft EA) fails to meaningfully contextualize options for PG&E, including undergrounding of existing powerlines, should the no-action alternative be adopted.	The EA addresses the option of undergrounding the electric line under Environmental Consequences, Alternative 1 - No Action.
5	5.2	Environmental Protection Information Center	Scheduling a public comment deadline to fall squarely within the winter holiday season is dispiriting, especially as the Service has recognized that this nest removal is the subject of significant public controversy. One can only assume that this was intentional to depress otherwise substantial and hostile comments.	Comment noted. Due to workload and staffing considerations, we were unable to process this permit request, or plan the public meeting earlier in the year. As stated in the EA, bald eagle nest removal permits typically meet categorical exclusion criteria and do not require preparation of an EA or an Environmental Impact Statement. However, we elected to prepare an EA and hold a public meeting to answer questions about the project, given the public interest in this nest.
5	5.3	Environmental Protection Information Center	Bald eagles have struggled to make a full recovery in Mendocino County since their near extinction, with perhaps as few as four active breeding pairs. The Potter Valley eagles are an important breeding pair, with successful reproduction at the nest in 2022. Bald eagles routinely reuse or rotate nest sites. The Draft EA subtly attempts to diminish the importance of this nest site by highlighting that the tree in which it sits is dying or dead. So it goes. But snags are highly important to bald eagles and are used for perching and nesting.	The EA describes the affected bald eagle population in pages 7-8. Given the proximity of an established alternate nest site within 0.8 miles, the abundance of other nesting substrate in the area, and the established behavioral characteristics of bald eagles to rebuild or relocate to other nest sites (that the commenter notes), removing the hazard tree with the nest will not result in significant long-term impacts to the breeding pair. Please also see our response to comment 4.6 for more information regarding bald eagle population status.



Letter ID #	Comment ID #	Entity	Comment	Response
5	5.4	Environmental Protection Information Center	<p>The Draft EA falsely paints the options for PG&amp;E if the tree were not removed. PG&amp;E has maintained that undergrounding this existing line is a feasible option—but one that the company is too miserly . The company’s belief that USFWS will simply roll over and accept the loss of a historic and important nest site has buoyed their opposition to undergrounding the existing line. PG&amp;E has the resources to underground this line but chooses not to because cutting it down is immediately cheaper. Undergrounding also will reduce other forest removal and reduce the risk of fire from existing lines into the future.</p>	<p>Comment noted. The EA notes that because the electric line serves a single customer, per PG&amp;E the California Public Utilities Commission Rule 16 applies and the customer would need to pay for undergrounding the line.</p>
5	5.5	Environmental Protection Information Center	<p>In closing, EPIC urges the Service to adopt Alternative 1 given that viable alternatives exist to maintain power while saving this historic and important nest.</p>	<p>Comment noted.</p>