



**SANTA CRUZ COUNTY GROUP**

**of the Ventana Chapter**

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June 3, 2022

Assemblymember Mark Stone  
701 Ocean Street, #318b  
Santa Cruz, CA 95060

RE: OPPOSE SB 396

Dear Assemblymember Stone,

As members of Sierra Club California and leaders of the Sierra Club Santa Cruz Group, ***we urge you to support the Sierra Club's opposition to SB 396 and vote NO on the bill.*** SB 396 is returning for consideration on June 6, and has raised serious concerns in Sierra Club Chapters across California. The Club's foundational purpose and strongest mission has always been to protect our natural heritage. This deeply held value is shared by all of our members, and it is more urgent than ever, in light of rapidly increasing climate change. ***We simply cannot afford to lose millions of trees in California's forested lands to utility overreach.***

***SB 396 would allow electric utilities to access private properties and remove any tree within strike distance of power lines,*** regardless of easements or established rights of way (ROWs). It does not require permission from property owners and offers them limited notice with no recourse, no way to protect their property from environmental degradation or prevent arbitrary action, and no clear process to appeal for damages.

***Despite years of aggressive cutting, PG&E has failed to prevent recent large wildfires such as the Camp, Dixie, and Kincade Fires, burning millions of acres in total.*** In addition, PG&E's tree-removal methods worsen wildfires' severity, leaving piles of flammable slash, logs and chipped debris and creating wind tunnels that increase fire speed, as happened in the Camp Fire. Removal of moisture-preserving, shaded and habitat-rich forest exacerbates the growth of highly flammable grasses, further increasing the fire risk. ***This environmentally destructive protocol has continued without ever providing adequate metrics to prove its efficacy*** since first proposed in PG&E's "Wildfire Safety Plan," which the CPUC exempted from CEQA review in

2017, and which later became the central portion of its (as required by SB 901) 2018 Wildfire Mitigation Plan (WMP).

***PG&E is the only Investor Owned Utility (IOU) with a primary focus on Enhanced Vegetation Management (EVM), removing millions of trees within strike distance of its lines.*** All other IOUs (including the state's second and third largest, Southern California Edison (SCE) and San Diego Gas & Electric (SDG&E)) have successfully mitigated for wildfires by focusing on infrastructure modernization including reinforced, triple-insulated conductor wire, new poles and equipment, and computerized circuit breaker protection. Vegetation Management (VM) failures account for only about 25% of ignitions. Other ignition sources include transformers, animal contacts, vehicles, and balloons. Poorly maintained infrastructure and equipment is the fundamental issue, not the natural environment through which power lines run.

SB 396 is an alarmingly broad overstep of authority. Any one of the following examples is sufficient to reject the bill *in toto*:

- ***SB 396 removes fundamental California State Constitutional guarantees regarding private property by removing PRC 4295.5 (b), which acknowledged a property owner's right to damages.*** The Constitutional guarantees include Article 1 - the "inalienable rights (to)... possessing and protecting property," and Article 19, that if such property is damaged, "just compensation" is mandated. By eliminating that PRC code, property owners have no recourse. Even if an expert Certified Arborist or Registered Professional Forester provides evidence that a contractor's designation of a Danger tree is wrong, PG&E's contractors would be empowered to ignore that and cut down the trees.
- SB 396 also disregards Civil Code Section 2783. This Civil Code deals with indemnification (that is, compensation for harm or loss) relating to legal agreements between the utility and the landowner such as the utility's rights of way or easements related to "electrical power line clearing, tree trimming, vegetation maintenance" (Effective January 1, 2012). ***SB 396 permits an electric utility to destroy valuable private property (trees) without compensation for harm or loss, thus disregarding landowners' rights as a party to the agreement that is inherent in the concepts of rights of way or easements, and the right to protect one's property from environmental degradation.***
- Prior to SB 396's amendments, PRC 4295.5(a)(b) provided liability protection required by the State Constitution; that code, and that protection, is now eliminated. In addition, the bill removes the protections under California Civil Code - Section 2772-2784.5 :: Title 12 **Indemnity**. This Code holds a company responsible not only for its own acts and their consequences, but also those of its agents (contractors and subcontractors). ***This legislation allows PG&E to evade legal responsibility for its contractors' actions.***
- This vastly expanded permission to remove trees not only affects private property owners. For example, the Marin Municipal Water District in Mt. Tamalpais is in the

process of urging PG&E to take a more holistic approach to vegetation management.<sup>1</sup>  
***SB 396 would take away the rights and negotiating power of the MMWD and other municipal water districts and agencies, as well as property owners, land managers, and firefighters*** who understand the value of healthy watersheds and forests.

Southern California Edison's actions over the past three years have been effectively preventing wildfires. After careful risk-benefit assessment, SCE began implementing a comprehensive infrastructure modernization plan in 2017, and has replaced thousands of miles of distribution lines, poles and related equipment at a high rate. Due to this, SCE no longer uses PSPS in the upgraded areas. Nor does it incorporate EVM in its Wildfire Mitigation Plan (WMP), as it is unnecessary. The reinforced conductor and modernized systems are resistant to virtually all the ignition factors that cause fires, not just vegetation. For wildfire prevention and long-term reliability, California requires reinforced, insulated conductor cables, modern circuit protection technology, and the elimination of outdated equipment including worn-out small-gauge and bare wire, expulsion fuses, and generally obsolete circuit equipment. ***The first eight pages of SCE's 2022 WMP describe an effective, affordable, doable plan that protects the environment.*** PG&E should be held to the same standards.

SB 396 continues to make its way through the legislative process and would, if passed, greatly exacerbate utility-caused environmental damage to California's extraordinary natural legacy, without recourse and at alarming speed. Old growth redwoods are currently being felled by PG&E in Humboldt; mature, decades-old redwoods in Mendocino and Marin are succumbing to the same destructive policies; painstakingly restored salmonid waterways in Marin are in danger of being badly degraded; old growth cedars are being removed along burned poles and power lines (Rim Fire, 2013) that should have been replaced years ago in Tuolumne County; thousands of surviving trees needed to help restore the forest after the CZU Lightning Complex Fire in the Santa Cruz Mountains were illegally removed, causing severe damage, erosion, stream choking and habitat loss to private property and vital watersheds<sup>2</sup>. Even towns are not safe, as heritage trees in town have been removed in the city of Santa Cruz and Nevada City, among many others, under PG&E's ongoing EVM program.

***SB 396 cannot be sufficiently amended, and must be rejected.***

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<sup>1</sup>Source:

<https://www.youtube.com/watch?v=FKd8b4mvomQ&list=PL3DJc01424q4a8FdHOTXwQ0tDHNvTgq3s&index=2>

<sup>2</sup> CalFire presented PG&E and its contractors with six Notices of Violation for clear-cutting thousands of trees while failing to obtain required permits or to adhere to Timber Harvest Regulations. This resulted in Santa Cruz County filing a formal safety complaint against PG&E with the CPUC.

<https://www.santacruzsentinel.com/2020/12/08/santa-cruz-county-supervisors-vote-to-file-formal-complaint-againstpge/>

We ask that you **vote NO** on SB 396.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink that reads "Michael Guth". The signature is written in a cursive style with a prominent loop at the end of the last name.

Michael Guth,  
Chair Executive Committee  
Sierra Club, Santa Cruz Group of the Ventana Chapter