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May 10, 2005

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### VIA EMAIL AND HAND DELIVERY

Mr. Andrew Barnsdale  
Energy Division Project Manager  
c/o Aspen Environmental Group  
235 Montgomery Street, Suite 935  
San Francisco, CA 94104

Re: Comments on Draft Environmental Impact Report, Pacific Gas and Electric Company's Application for Diablo Canyon Power Plant Steam Generator Replacement Project, A.04-01-009 (March 2005)

Dear Mr. Barnsdale:

On behalf of Pacific Gas and Electric Company ("PG&E"), we submit these comments on the Draft Environmental Impact Report ("DEIR") prepared by the California Public Utilities Commission ("Commission" or "CPUC") for the Diablo Canyon Steam Generator Replacement Project ("SGRP" or "Project").

PG&E appreciates the Commission's hard work in preparing the DEIR and is largely in agreement with the DEIR's findings. The DEIR correctly concludes that the SGRP would create no significant environmental impacts that could not be mitigated. In addition, PG&E concurs with the DEIR's finding that the several options for locating the temporary facilities and old steam generator storage facility ("OSGSF") required for the Project are virtually indistinguishable from an environmental standpoint and should all be maintained as viable options that PG&E can use to implement the SGRP.

Despite the document's overall strength, there are a few areas of the DEIR where we recommend modification before it becomes final. The following issues are discussed further herein and in the attachments to this letter:

- First, the DEIR addresses several issues related to radiological health and safety matters that are outside of the regulatory jurisdiction of the State of California. The DEIR then sets mitigation measures for these impacts. The imposition of mitigation measures in these areas is preempted by the federal government's occupation of the field of radiological health and safety issues. As such, the

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CPUC has no authority to require that these mitigation measures be implemented, thus rendering these measures legally infeasible.

- Second, the DEIR's analysis of off-site disposal of the original steam generators should be augmented to make clear the technical, economic and environmental feasibility issues associated with this alternative. This additional information is consistent with the DEIR's proper conclusion that off-site disposal should be rejected in favor of on-site storage.

- Third, as the project description in the DEIR makes clear, PG&E will utilize existing facilities at DCPD in lieu of the proposed temporary facilities, wherever possible. The Final EIR should address the possibility that San Luis Obispo County or the California Coastal Commission may not approve the necessary permits for these facilities within required project timelines, and that PG&E may proceed with the Project without constructing new temporary facilities in the Coastal Zone, if possible. Although reorganizing existing DCPD facilities to accommodate all aspects of the SGRP would be extremely difficult and costly, this could become PG&E's only option.

- Fourth, certain mitigation measures raise technical feasibility problems that will unnecessarily inhibit project implementation. Modifications to these measures would eliminate these feasibility issues while ensuring that any environmental impacts will be reduced below the level of significance under CEQA. These modifications are described herein.

- Finally, attached to this letter is an appendix that includes technical and editorial changes to the DEIR organized by resource area.

#### **I. THE DEIR'S TREATMENT OF RADIOLOGICAL HEALTH AND SAFETY ISSUES IS PREEMPTED BY FEDERAL LAW**

In evaluating the environmental impacts of the SGRP, the DEIR contains significant discussion of nuclear safety matters that are within the sole jurisdiction and authority of the Nuclear Regulatory Commission ("NRC") pursuant to the Atomic Energy Act, 42 U.S.C. § 2011 *et seq.*, and proposes mitigation measures related to these preempted matters. These provisions are preempted by comprehensive federal regulation of nuclear health and safety and are not properly considered in this CEQA process. The DEIR should be revised to eliminate these mitigation measures or to make clear that these mitigation measures are legally infeasible and unenforceable, because the CPUC has no authority to act in this area.

California courts, previous Commission decisions and the Administrative Law Judge in this proceeding have recognized that the NRC has exclusive jurisdiction over the management of radioactive material, the design and operation of nuclear power plants, and the safety and security of nuclear power plants. Therefore, neither the Commission nor any of the responsible agencies or any other state, local or trustee agencies are in a position to prescribe mitigation measures related to these issues.

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A. The Federal Government, Acting Through the NRC, Has Exclusive Jurisdiction Over Radiological Health and Safety, Including Operation of Nuclear Power Plants.

The Atomic Energy Act gives the federal government exclusive authority to regulate the design, construction and operation of nuclear power plants. The Act specifically states that the NRC “shall retain authority and responsibility with respect to the regulation of . . . the construction and operation” of any nuclear power plant or other nuclear facility. 42 U.S.C. § 2021 (c). In *Pacific Gas and Elec. Co. v. State Energy Resources Conservation & Development Commission*, 461 U.S. 190, 212-13 (1983), the United States Supreme Court interpreted these provisions of the Atomic Energy Act and concluded that the NRC has “occupied the entire field of nuclear safety concerns” preempting all state action in this area. This exclusive jurisdiction extends to nuclear safety issues as well as the regulation of the methods of storage and permanent and non-permanent disposal of nuclear materials. See *Skull Valley Band of Goshute Indians v. Nielson*, 376 F.3d 1223, 1246 (10<sup>th</sup> Cir. 2004).

The Commission specifically recognized its lack of jurisdiction over these issues in *Bennett v. Pacific Gas and Electric Company*, 25 CPUC 2d 374, 1987 Cal. PUC LEXIS 211 (CPUC Sept. 10, 1987). In that case, the Commission held that it “has no power to consider or rule on safety issues such as an evacuation plan, PG&E’s competence to construct, operate, and maintain the Diablo Canyon Plant, and disposal of radioactive waste.” *Id.* at \*4. Finally, in this proceeding ALJ O’Donnell has already found that “the imposition of security requirements” and “the imposition of seismic requirements for Diablo Canyon” are “not within the Commission’s jurisdiction.” ALJ Ruling Granting and Denying Motions to Strike at 1-2 (Aug. 31, 2004) (“ALJ Ruling”).

The DEIR itself recognizes the preemptive authority of the NRC. The DEIR states that the “NRC has pre-emptive jurisdiction over State and local regulations regarding the use, storage and transport of nuclear materials and protection of public safety.” DEIR at A-10. It also states that “DCPP is solely required to comply with NRC regulations on issues regarding radioactive hazards, safety issues, and nuclear materials transport and storage. The State of California, including the CPUC and local jurisdictions such as San Luis Obispo County, do not have the authority to regulate these aspects of nuclear power plant operations.” *Id.* at A-13.

B. Despite Recognizing the Scope of Federal Preemption, the DEIR Includes Suggested Mitigation Measures That Are Preempted.

Although the DEIR makes clear that matters related to radiological health and safety are outside of the CPUC’s jurisdiction, it nonetheless suggests mitigation measures within this preempted regulatory sphere. While PG&E agrees with the DEIR that these areas are outside the scope of the CPUC’s jurisdiction, the DEIR’s treatment of these issues could create the misimpression that these provisions have some substantive component. For example, the DEIR proposes specific mitigation measures that would need to be implemented by the NRC in order to reduce these impacts below a CPUC-designated significance threshold. Because NRC preemption extends to review of radiological health and safety issues under state environmental

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review statutes, these mitigation measures are beyond the scope of the state CEQA process and should be eliminated.

As described above, the NRC has complete and exclusive jurisdiction over radiological health and safety issues, including with respect to the design and operation of nuclear power plants. Given this extensive federal preemption, states are limited to “traditional authority over the need for additional generating capacity, the type of generating facilities to be licensed, land use, ratemaking, and the like.” *Pacific Gas & Elec. Co. v. State Energy Resources Conserv. & Dev. Comm’n*, 461 U.S. 190 211-12 (1983). Moreover, even with respect to those areas traditionally within state jurisdiction, state agencies may not use these authorities “as an obstacle to the accomplishment and execution” of areas within NRC control. *Id.* at 204. Specifically, states may not use environmental regulation, including state environmental impact review statutes, as an indirect restriction on areas of NRC exclusive jurisdiction. *See Maine Yankee Atomic Power Co. v. Bonsey*, 107 F.Supp. 2d 47, 55 (D. Maine 2000) (state environmental impact review statute cannot interfere with those aspects of nuclear disposal project that are under NRC jurisdiction). In this case, the DEIR’s implementation of CEQA results in indirect regulation of an area where the NRC has exclusive jurisdiction.

CEQA allows state agencies to discuss matters in an EIR that are beyond the agency’s authority to regulate, but they can only include such discussions for information purposes, not for the purpose of engaging in environmental regulation. While it purports to include these discussions for “general information” purposes, the DEIR in fact appears to go beyond information disclosure by designating mitigation measures necessary to reduce certain impacts below the CPUC-determined levels of significance. By imposing necessary mitigation measures that must be implemented by the NRC to reduce impacts below the CEQA level of significance, the DEIR improperly acts within an area reserved for federal jurisdiction.

Several mitigation measures fall within this type of improper state regulation, and should be eliminated from the document to avoid confusion concerning their applicability. At the very least, the Final EIR should make absolutely clear that these measures are unenforceable and therefore legally infeasible. For example, the DEIR makes clear at the outset that it has no jurisdiction to regulate “[s]eismic safety of DCPP in its current design and certain permanent project components (e.g., the OSG Storage Facility).” DEIR at ES-24. Nonetheless, Impact G-3 purports to assess the seismic issues associated with the construction of the OSGSF, and Mitigation Measure G-3a requires that an NRC-required seismic program be “refined to incorporate new earthquake data.” In this way, under the umbrella of a CEQA impact analysis and associated mitigation, the DEIR attempts to require PG&E to modify an NRC seismic requirement or proceed with the Project in the absence of required mitigation. If not modified, this requirement would impose mitigation measures related to a matter outside of the state’s jurisdiction, namely geologic issues related to radiological health and safety, and is preempted. *See Maine Yankee*, 107 F.Supp. 2d at 55.

In several instances, the DEIR includes mitigation measures that are beyond the authority of the State of California to implement, rendering them legally infeasible under CEQA. *See CEQA Guidelines*, 14 Cal. Code Regs. 15364. Attachment 2 to this letter describes those provisions of the DEIR that are preempted. These provisions of the DEIR should be eliminated

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or the Final EIR should make perfectly clear that these measures are unenforceable and so legally infeasible under CEQA.

C. NRC Requirements For The Design Of Facilities At Nuclear Power Plants Limits The CPUC's And The County of San Luis Obispo's Jurisdiction Over The Siting And Construction Of The OSGSF.

The NRC has set specific requirements for radiation dose levels related to public and worker exposure that will dictate the design of the OSGSF. In addition, NRC regulations govern the construction of facilities within nuclear power plants. As a result, neither the CPUC nor the County of San Luis Obispo may impose conditions on the OSGSF that frustrate the radiological safety aspects of this facility or regulate it beyond superficial or ancillary construction requirements such as "landscaping requirements, or flood or soil erosion control measures." *See Maine Yankee*, 107 F.Supp 2d at 55. The Final EIR should make clear these limitations on the CPUC's or the County's authority and should eliminate those mitigation measures that attempt to impose greater limitations on the construction of the OSGSF.

Acceptable radiation doses associated with the storage of low level nuclear waste and contaminated components on the DCPD site are solely within the regulatory authority of the NRC, because they relate directly to radiological health and safety issues. *See* 10 C.F.R. Part 50, App. A; 10 C.F.R. Part 20; 40 C.F.R. Part 190. The original steam generators, once removed from Units 1 and 2, would be contaminated materials containing elevated doses of radiation. The OSGSF would be designed in order to reduce radiation dose to acceptable levels and ensure public and worker safety.

Because these regulations mandate certain design and structural characteristics of the OSGSF and because the presence of this facility is necessary to ensure radiological health and safety for these contaminated materials, neither the CPUC nor the County may impose restrictions or limitations that frustrate this fundamental purpose of the facility or interfere with these NRC requirements. With respect to the OSGSF then, the CPUC or the County may only address matters that do not directly or indirectly address "radiological, operational, construction or safety issues", leaving matters "such as aesthetic landscaping requirements or flood or soil erosion matters." *See Maine Yankee*, 107 F.Supp. at 55. This limitation should be explicitly stated in the Final EIR as described in Attachment 1, Executive Summary, General Comment 3.

II. **PG&E AGREES THAT OFF-SITE STORAGE OF THE ORIGINAL STEAM GENERATORS IS INFERIOR DUE TO TECHNICAL, COST AND ENVIRONMENTAL REASONS**

PG&E concurs with the DEIR's conclusion that "onsite storage of the OSGs is preferred over offsite disposal." DEIR at ES-52. The DEIR correctly finds that off-site disposal would create impacts to "system and transportation safety" as a result of transporting the OSGs through communities on their way to a disposal site. *Id.* at ES-51. In addition, the DEIR finds that off-site disposal could create similar mitigable impacts as off-loading the replacement steam generators at either the Intake Cove or Port San Luis. *Id.* While the DEIR makes a good case for

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the inferiority of off-site disposal of the OSGs when compared to on-site storage, the document does not consider all of the potential impacts associated with off-site disposal.

There are additional costs, construction impacts, and worker safety concerns associated with off-site disposal of the OSGs that were not adequately identified in the DEIR. These additional impacts were described by PG&E in its response to Data Request #2, PD-2 and so are part of the administrative record. *See* Attachment 3. This additional information does not alter the correct conclusions reached by the DEIR concerning the relative preference of onsite storage and in fact further supports this conclusion. Nonetheless, PG&E highlights, and requests that the Final EIR include, this information to help provide a more complete picture of the off-site disposal option.

First, off-site disposal will require an on-site radiologically-controlled area ("RCA") where the OSGs can be temporarily stored and prepared for shipment. The construction of the RCA, which would likely be located in the same general portion of the DCPD site as the OSGSF, would raise environmental impacts similar to the construction of the OSGSF. This RCA would require a large semi-enclosed area approaching the size of the planned OSGSF (approximately 15,000 square feet). The area would need to be secured and monitored and would result in more personnel and more on-site transportation moves of the OSGs than on-site disposal. The RCA will need to provide contamination control, radioactivity monitoring and likely dismantling of the OSGs to reduce their size for transportation.

In order to prepare the OSGs for shipment, Project workers would dismantle the OSGs into smaller pieces to facilitate transportation. These preparation activities would occur at a time when the OSGs are at their highest level of radioactive contamination, having recently been removed from the reactors. If the OSGs are stored on-site from the time of their removal until the entire plant is decommissioned, most of the radioactive contamination in the steam generators will decay. After about 25 years, the level of radioactivity in the steam generators will approach the level of radiation normally present from background sources such as the earth and sun. Thus any work done on the OSGs at that time will result in substantially less radiation exposure to the workforce. Both the on-site impacts to workers from preparing the OSGs for off-site disposal and the impacts from construction of an RCA were largely not addressed in the DEIR.

In addition, it is important to make clear that if the OSGs are stored on-site until DCPD is decommissioned, any environmental impacts associated with the transportation of the OSGs off-site at that time will be just a small part of the overall decommissioning activities at DCPD. If off-site disposal were to take place at the time of the SGRP, it will result in a separate, independent set of impacts that would not otherwise occur.

Finally, off-site disposal is significantly more expensive than on-site storage. PG&E's cost estimates for the two alternatives as given in PG&E Testimony, Chapter 4 are \$8 million (direct) for on-site storage and \$22 million (direct) for off-site disposal. Because off-site disposal would raise impacts that would not otherwise occur except during plant decommissioning and because on-site storage is a viable option that would not raise any

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significant environmental impacts, there is no reason to force California ratepayers to cover this additional disposal cost.

**III. CONSISTENT WITH THE PROJECT DESCRIPTION, PG&E MAY USE EXISTING FACILITIES FOR REPLACEMENT STEAM GENERATOR (RSG) STAGING IF A COASTAL DEVELOPMENT PERMIT CANNOT BE SECURED WITHIN THE NECESSARY PROJECT TIMELINES**

As the DEIR describes, PG&E would need to secure a coastal development permit ("CDP") from San Luis Obispo County, before developing any new facilities in the Coastal Zone. The County has delegated authority from the California Coastal Commission ("CCC") to issue a CDP, but any County grant of a CDP is appealable to the CCC. PG&E is hopeful that a CDP will be granted by the County and any appeals to the CCC will be completed by the time it is necessary to deliver the RSG. If necessary, however, PG&E will attempt to reorganize the use of existing facilities at DCPD to be used in lieu of any new construction within the Coastal Zone. Although this approach will make the Project more difficult to accomplish and more costly, it would eliminate the need for a CDP.

The most feasible approach for implementing the SGRP is to use the temporary facilities for staging and project preparation activities. The proposed temporary facilities for the SGRP would be located in a developed portion of the DCPD site, would have no impacts on coastal resources, and represent the least cost approach to installing the RSGs with the least disruption to normal plant operations. Moreover, the reorganization of existing facilities at DCPD to eliminate the need for the development of new temporary SGRP facilities within the Coastal Zone would be very difficult and it is unclear at this time whether it would be feasible. Because it may not be possible to completely eliminate the need for new construction in the Coastal Zone and because construction of the proposed temporary facilities would create no impacts to coastal resources, the best approach to implementing the SGRP is to use the proposed new temporary facilities.

Nonetheless, from the beginning PG&E has stated that it would attempt to use existing facilities whenever possible to minimize any construction activities. PG&E's application with the CPUC for the SGRP makes clear that PG&E will use existing facilities at DCPD to the extent possible. *See* SGRP Environmental Assessment at 3-16, Attachment 1, Chapter 8, PG&E's SGRP Application. This aspect of the SGRP was further described in the Project Description of the DEIR and so is an element of the Proposed Project. *See* DEIR at B-24. In the event that PG&E cannot secure a final CDP during the time required for delivering the RSGs, PG&E would attempt to implement the Proposed Project using existing DCPD facilities if that is ultimately possible.

Implementing the Project through the use of existing facilities is contemplated in the DEIR and is consistent with the Project Description. The Land Use section of the Final EIR, then, should highlight that, to the extent PG&E is capable of eliminating the need for the development of new facilities within the Coastal Zone, a CDP from the County will not be necessary. *See* Attachment 1, Land Use, Recreation and Agriculture, General Comment 2. In addition, the Final EIR should clarify the minor and insignificant impacts associated with

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relocating some existing DCPD personnel off-site as part of the temporary reuse of existing DCPD facilities for the SGRP.

If a reorganization of the use of existing facilities at DCPD is possible and necessary, this aspect of the Proposed Project could result in the temporary relocation of some DCPD personnel off of the DCPD site. Although minor and not significant, there would be some effects associated with reducing the number of DCPD personnel at the plant site itself. Any relocated personnel would be moved to existing fully-permitted work space in the vicinity of DCPD. As a result, no new impacts to the community or environment would occur as a result of the use of this work space. PG&E would welcome a new mitigation measure requiring that any DCPD personnel temporarily relocated as part of the Project be placed in existing, permitted work space.

The only other potential effects of such a temporary relocation of DCPD personnel would be a reduction in baseline DCPD traffic patterns associated with the reduction of on-site personnel during the SGRP. Although the number of such relocated workers is unknowable and speculative at this time, any reduction in traffic would create a positive effect on SGRP traffic impacts. These reductions in baseline DCPD worker trips could then be considered as part of the traffic control plan for the Project to ensure no significant impacts to traffic from SGRP activities. *See* Attachment 1, Traffic and Circulation, General Comment 1.

It is important to note that at this time, PG&E has no reason to believe that it will not be able to secure a CDP from the County and the CCC within the time necessary to meet SGRP project timelines. On the contrary, PG&E has been working cooperatively with the County for nearly twelve months on the SGRP. After several meetings with the County concerning the contents of a CDP application, PG&E filed its application on February 2, 2005 and this application was deemed complete by the County on March 18, 2005.

Nonetheless, unforeseen circumstances, including matters beyond PG&E or the County's control, could extend the CDP approval process beyond the time necessary to prepare for RSG delivery. In such a situation, the Proposed Project contemplates conducting the SGRP without construction of new facilities in the Coastal Zone, if possible. The Final EIR should further highlight these aspects of the Proposed Project and clarify their effects. *See* Attachment 1, Land Use, Recreation and Agriculture, Comment 2.

#### **IV. CERTAIN MITIGATION MEASURES RAISE TECHNICAL FEASIBILITY ISSUES AND SHOULD BE REFINED TO ENSURE PROJECT IMPLEMENTATION**

The DEIR includes several mitigation measures addressing air quality and traffic that are infeasible as drafted and must be modified to allow for project implementation. These mitigation measures are based on overly conservative assumptions of potential impacts and employ effectiveness criteria that would be infeasible and unnecessary to address actual SGRP impacts. In the attached Technical Appendix (Attachment 1), PG&E proposes revisions to these mitigation measures that will ensure that all possible impacts to traffic and air quality are



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reduced below the level of significance while employing methods that allow for effective project implementation.

First, the DEIR's evaluation of the air quality impacts of the SGRP reflects a "worst case" scenario that is based on several unrealistic assumptions, including the number and types of construction equipment required for the Project, the number and associated vehicle trips of Project personnel, and the location of project workers. *See* Attachment 1, Air Quality, General Comment 1. Mitigation measures A-1a, A-1b, A-1c and A-2a, require PG&E to develop trip reduction and emission control and offset plans to minimize these overly conservative impact assumptions. Moreover, the effectiveness criteria for Mitigation Measure A-1a, in particular, is in no way tied to the reduction of air quality impacts below a level of significance. The DEIR does not analyze whether the vehicle occupancy rate of 2.0 or a vanpool ridership rate of 10%, required by A-1a, would reduce air quality emissions below the significance rate set by the San Luis Obispo Air Pollution Control District ("APCD"). This criterion should be removed.

In order to more effectively ensure that air quality emissions associated with the SGRP are below the significance criteria set by the APCD, the DEIR should require PG&E to obtain a Construction Activity Management Plan ("CAMP") from the APCD itself. A typical CAMP would require a trip reduction plan, a diesel combustion emission control plan, any necessary air quality offsets, and a requirement that the applicant use registered portable equipment – all requirements currently set forth in Mitigation Measures A-1a, A-1b, A-1c and A-2a. In addition, at the time APCD would evaluate the CAMP, more refined information will be available concerning project equipment and personnel needs, allowing such a document to reflect actual project impacts. In lieu of these four mitigation measures, the Final EIR should provide that PG&E will submit a CAMP for APCD approval that includes these same four basic elements as well as any others required by APCD to ensure that project air quality impacts will not exceed the APCD significance thresholds for relevant pollutants.

The second set of mitigation measures that must be revised in the Final EIR relate to controlling traffic impacts. Through Mitigation Measures T-2a, T-2b, T-3a and T-3b, the DEIR proposes several trip reduction measures to address increased traffic during implementation of the SGRP. Although PG&E supports the goal of reducing SGRP traffic impacts on the communities surrounding DCP, the DEIR's treatment of traffic impacts from the SGRP should be revised. The DEIR fails to properly assess existing baseline traffic conditions, improperly attributes impacts from ongoing plant operations to the SGRP, and proposes trip reduction measures that are unworkable and infeasible.

First, in assessing the number of additional workers (and associated traffic impacts) from the SGRP, the DEIR combines both SGRP-related employees and employees that would be present at DCP for the normal refueling outage. *See* DEIR at D.13-15. The number of personnel employed during historic DCP refueling outages constitutes part of the environmental baseline for the DEIR and impacts associated with these workers cannot properly be considered a SGRP impact.

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In addition to improperly attributing the impacts of historic refueling outages to the SGRP, the DEIR also miscalculates the baseline amount of workers associated with historic refueling outages at DCP. Under CEQA, all activities associated with normal plant operations, including regular refueling outages and other necessary plant maintenance activities, such as the SGRP, should be considered as within the historical vested right to operate DCP and therefore within the historical traffic baseline. Even under a more conservative interpretation of CEQA, the baseline number of outage-related employees should reflect the historical average of refueling outage personnel.

Finally, the effectiveness criteria applied to T-2a, T-2b, and T-3b – that fewer than 10 project-related vehicles pass through the Access Gate during any peak hour – would be next to impossible to meet. The primary SGRP activities would take place during a refueling outage where the DCP workforce would include normal personnel, refueling outage personnel and SGRP personnel. Differentiating vehicles associated with the SGRP from vehicles associated with other DCP activities would be nearly impossible. It would also place an extreme and unnecessary administrative burden on DCP that would likely result in additional traffic impacts, including congestion and delay.

It is impractical to restrict project implementation and worker movement in this manner. Under this effectiveness criteria, if nine SGRP workers had already passed through the access gate during any designated peak period, no additional Project worker could leave until the peak period had passed. This limitation would not allow for family emergencies, unanticipated overtime needs or other emergency situations. Finally, this effectiveness criteria, as well as the 50% shuttle ridership criterion in T-3a, were not evaluated in the DEIR as in any way related to reducing Project traffic impacts below a level of significance. There is no indication that these effectiveness criteria are at all necessary to reduce traffic impacts below the level of CEQA significance.

In lieu of these existing measures, the Final EIR should employ two modified mitigation measures. The first would address traffic conditions during peak hours through the modifying shift start times to avoid impacts to local and state roadways during peak times. The second measure would address overall traffic volumes during the replacement outages, when SGRP traffic levels would be highest. These traffic control measures are described in greater detail in the attached Technical Appendix, Traffic and Circulation, General Comment 1.

A similar traffic control plan was required and approved by the County during the ISFSI project, and would provide important benefits over the existing traffic control measures. Such a traffic control plan could take into account any reduction in on-site workforce associated with reducing or eliminating the need for TSA facilities in favor of the use of existing facilities. It also would be integrated with the traffic reduction measures provided for the CAMP, described

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above.<sup>1</sup> The traffic control plan also could take into consideration existing efforts at DCPD to develop a revised parking plan.

These revised mitigation measures will ensure that any air quality and traffic impacts associated with the SGRP are mitigated below the level of significance by working with both the CPUC and the appropriate local entities such as the County and APCD. These revisions to the traffic analysis will also ensure that the Final EIR evaluates actual Project-related impacts and uses the appropriate CEQA baseline conditions. The Final EIR should reflect these modifications.

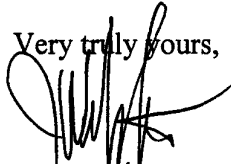
**V. TECHNICAL APPENDIX**

Included with this letter as Attachment 1, is a technical appendix that provides additional comments from PG&E experts concerning several chapters of the DEIR.

**VI. CONCLUSION**

PG&E appreciates the opportunity to provide these comments on the Draft Environmental Impact Report for the Steam Generator Replacement Project at DCPD. Please do not hesitate to contact me if you have any questions regarding these comments or require additional information.

Very truly yours,



J. Wesley Skow  
of LATHAM & WATKINS LLP

cc: Mr. Robert Exner, Pacific Gas and Electric Company  
Jennifer Post, Esq., Pacific Gas and Electric Company

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<sup>1</sup> Currently the two different trip reduction programs required in A-1a and T-3a include no provision for creating an integrated approach to traffic reduction. On the contrary, these two measures include inconsistent effectiveness criteria for shuttle or van ridership. Compare DEIR at D.2-18 with DEIR at D.13-20.

**Pacific Gas and Electric Company Comments  
Draft Environmental Impact Report  
Diablo Canyon Power Plant Steam Generator Replacement Project,  
May 10, 2005**

**List of Attachments**

Attachment #	Title
Attachment 1:	Technical Appendix
Attachment 2:	List of Preempted Portions of the DEIR
Attachment 3:	Pacific Gas and Electric Company's Response to CPUC Data Request # 2, Item PD-2 (Oct. 21, 2004)
Attachment 4:	Native Vegetation Adjacent to the Intake Cove Haul Route
Attachment 5:	Letter From PG&E Geosciences Department (May 5, 2005)
Attachment 6:	Port San Luis Harbor District Regulations, Chapter 647 of Statutes of 1955, as amended by Chapter 302 of Statutes of 1957.
Attachment 7:	Refueling Outage Peak Headcount (1994 – 2003), previously provided as Attachment 26 to PG&E's Response to CPUC Deficiency Report (May 28, 2004).
Attachment 8:	Revised DEIR Figure B-6
Attachment 9:	Revised DEIR Figure B-11

# **ATTACHMENT 1**

**Pacific Gas and Electric Company**  
**Comments on Draft Environmental Impact Report**  
**Technical Appendix**  
**May 10, 2005**

**EXECUTIVE SUMMARY**

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**I. General Comments**

**1. Section 3.13.1, Page ES-42,<sup>1</sup> Traffic and Circulation**

The document should clearly identify that all traffic impacts are construction-related and therefore can be identified as short term roadway impacts. No long term, project-related traffic and circulation impacts are anticipated because the Project will not result in a net increase of employees after the project is completed. It is a maintenance project, not a new, stand-alone project that will generate long term traffic and circulation impacts.

**2. Section 3.14.1, Page ES-44, Visual Resources**

The visual analysis is reminiscent of a federal environmental review process with terms such as “viewer sensitivity” and “strong project contrast.” While the analysis provides a comprehensive background and context, the document’s analysis should focus on the thresholds established by CEQA Guidelines, Appendix G for Aesthetics, as follows:

Would the project . . .

Have a substantial adverse effect on a scenic vista?

Substantially damage scenic resources, including, but no limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

Substantially degrade the existing visual character or quality of the site and its surroundings? Or

Create a new source of substantial light or glare which would adversely affect day of nighttime views in the area?

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<sup>1</sup> Please note that the page numbers differ in the hard copy and electronic versions of the DEIR. The page numbers provided in this Technical Appendix refer to the hard copy version of the document.

The document's analysis clearly shows that the Proposed Project does not reach or cross over any of these CEQA thresholds.

**3. Section 5, Page ES-58, Table ES-6, Summary of Impacts and Mitigation for the Proposed Project**

Mitigation measures S-2 through S-6 address issues that are pre-empted from state and local review, and should be eliminated from this document. Should the CPUC insist on retaining these mitigation measures within the document (including this table and throughout the entire document), at a minimum, an accompanying statement clearly identifying these suggestions as "pre-empted from state and local review, being the sole purview and responsibility of the NRC," needs to be added in every instance.

**II. Specific Comments**

**4. Section 1, Page ES-2, First Paragraph**

The following sentence should be added to the paragraph.

In addition to the CPUC using this EIR in as a part of their specific approval process, this document will also be used by Responsible Agencies as defined by CEQA Guidelines Section 15381, including the County of San Luis Obispo and Port San Luis Harbor District, as a part of their respective discretionary actions and approval processes.

**5. Section 1, Page ES-2, Third Paragraph**

The following sentence should be added to the paragraph.

In addition, license renewal is not a reasonably foreseeable project to be included as part of this EIR's cumulative impact analysis.

**6. Section 1, ES-5, Third Paragraph, Fourth Sentence**

This sentence should be revised to read:

"All other potential RSG offloading alternatives from Avila Beach to..."

**7. Section 2.1.5, Page ES-19, First paragraph**

This paragraph makes a conclusory statement regarding the environmental and safety concerns about “new nuclear, hydroelectric, or coal and oil-fired generation” facilities without any substantiating analysis or reference to such analysis. It is recommended that a brief analysis or reference to such analysis be cited here to substantiate the conclusion.

For example, the following sentence should be added to this paragraph:

Section C.6.2 of this DEIR provides an analysis of these types of facilities with the potential environmental impacts being noted in the subsequent sections.

**8. Section 3.1.2, Page ES-22, Third paragraph**

This paragraph should include an additional sentence identifying that license renewal is not a reasonably foreseeable project and therefore was not included within this document’s cumulative impact analysis.

**9. Section 3.12.1, Page ES-40, Third paragraph**

The second sentence states that “these impacts could be mitigated to less than significant levels by coordinating with harbor operations.” Amend this sentence to state that this activity would be governed by the Port San Luis Harbor District acting as a responsible agency. This should also refer to the discussion in the Land Use Section regarding consistency with the Port Master Plan and the Harbor District Ordinances.

**10. Section 4, Page ES-45, Summary Comparison of the Proposed Project and Alternatives**

The first sentence should be amended to reflect the purpose of CEQA, as it relates to alternative analysis. For example, CEQA requires the analysis of alternatives for the purpose of avoiding or reducing any potential significant, adverse environmental impacts, not to compare the “environmental advantages and disadvantages of the Proposed Project.” Please refer to CEQA Guideline Section 15126.6. The subsequent analysis complies with the Guidelines; however, this introductory sentence is not consistent with the purpose of an alternative analysis.

**11. Section 4.2, Page ES-47, Second paragraph**

See comment immediately above. Citing the environmental “advantages and disadvantages” of each alternative is not consistent with the CEQA Guidelines language. It is recommended that the following sentence be substituted for the first sentence in this paragraph:



The following is a discussion provides a meaningful evaluation, analysis and comparison of each alternative with the Proposed Project, and a determination of whether the Proposed Project or an alternative is considered to be environmentally superior within each component of the project.

**12. Section 4.2.1, Page ES-48, Table ES-2, Proposed Project vs. Replacement Steam Generator Offloading Alternative - Issue Area: Socioeconomics**

The Intake Cove is indicated as being “Slightly Preferred” for this category. The assessment should be changed to “Preferred” as no businesses/fishermen would be impacted at the Intake Cove.

**13. Section 4.2.4, Page ES-51, First sentence**

The subject of this sentence is pre-empted from state and local review, and should not be a part of this analysis, nor set forth as a basis for selecting an environmentally superior alternative. This sentence should be removed.