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Sent: 7/11/2011 9:15:00 PM
To: Cherry, Brian K (/O=PG&E/OU=CORPORATE/CN=RECIPIENTS/CN=BKC7)
Cc: Frank Lindh (frank.lindh@cpuc.ca.gov); Michelle Cooke (michelle.cooke@cpuc.ca.gov)
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Subject: Fwd: SFGate: In court, PG&E deflects blame for San Bruno blast

Does he have his facts right here?

- > Monday, July 11, 2011 (SF Chronicle)
- > In court, PG&E deflects blame for San Bruno blast
- > Jaxon Van Derbeken, Chronicle Staff Writer
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- > (07-11) 19:12 PDT SAN BRUNO -- Pacific Gas and Electric Co., which issued
- > a public apology last month for the 2010 natural gas explosion in San
- > Bruno, says in a new court filing that it should not have to make payouts
- > to victims who have sued the company because the blast was caused by
- > third-party damage to a "state of the art" pipeline.
- > The company also indicated it would seek to assign some of the blame for
- > the losses from the explosion to residents themselves.
- > PG&E has offered unsolicited cash payments to residents of the
- > neighborhood devastated in the Sept. 9 explosion, which killed eight
- > people and destroyed 38 homes. Last month, the company bought full-page
- > newspaper ads headlined, "We Apologize," and noted that federal
- > metallurgists looking into the cause of the explosion have said the pipe
- > ruptured at a faulty weld.
- > However, in a July 5 filing in San Mateo County Superior Court in response
- > to more than 100 lawsuits seeking millions of dollars in damages, PG&E's
- > lawyers took a more combative stance. The company said it should not be
- > held liable for the disaster because "unforeseeable, intervening and/or
- > superseding acts of persons or entities" other than PG&E caused the blast.
- > Sewer project
- > The filing is not specific, but the only known activity around the
- > pipeline was a 2008 sewer-replacement project that San Bruno commissioned.
- > The city and the private contractor that performed the work, D'Arcy and
- > Harty Construction of San Francisco, say they took steps to ensure that
- > the work - which involved breaking up old sewer pipe and replacing it with
- > a plastic line - did not damage the PG&E transmission pipe.
- > Aside from its court filing, PG&E has said nothing publicly about the
- > sewer work. It had an inspector at the job site who approved the
- > construction plans, but he wasn't there while the work was performed.

> Pointing the finger

> However, in May, an industry trade group - which PG&E joined after the

> blast - said the sewer project had probably weakened the pipe and told

> federal investigators they should consider tests to account for the

> possibility.

> Last month, an expert hired by a state-appointed panel also suggested that

> the sewer work had probably played a role in the explosion. But the

> expert, Robert Nickell, later backed away from that finding, telling The

> Chronicle that fluctuations in gas pressure over the years could have

> damaged the already flawed weld that eventually failed.

> In its court filing, PG&E also said the blast victims themselves "may have

> been legally responsible under a doctrine of comparative negligence (or)

> contributory negligence" - factors that assign a portion of blame to a

> plaintiff.

> PG&E's filing did not specify how residents might have been negligent, or

> how that negligence contributed to the fireball that consumed their homes.

> Company spokeswoman Brittany Chord said Monday that the filing was "a

> standard part of the legal process," and that the company would "continue

> to move forward and work to resolve the claims of all parties as quickly

> as possible." City surprised

> San Bruno City Manager Connie Jackson said PG&E's court filing was

> "completely surprising." She added, "It's unfortunate that they have

> thrown everything plus the kitchen sink in this, to cover their legal

> strategy."

> Michael Danko, an attorney who represents 40 blast victims, said PG&E

> officials "know no bounds."

> "I can forgive them for saying third party - you can forgive that," Danko

> said. "But you cannot forgive them at all for blaming the victims."

> He added, "They had time to figure this out and decide whether they really

> wanted to blame the victims who lost their homes or were burned. After

> thinking about it for nine months, they said the answer was yes." Already

> paid?

> PG&E also suggested the payments that the company has already made to some

> residents meant their lawsuits were invalidated "in whole or in part." The

> firm made cash payouts of \$15,000 to \$50,000 after the blast, on a scale

> that depended on the extent of damage, but said at the time that the

> payments had no bearing on civil damages.

> PG&E's filing also downplayed claims in the lawsuits that the company was

> running a shoddy pipeline system. The company said its transmission pipes,

> including the one that exploded, were "consistent with available

> technological, scientific and industrial state-of-the art and in

> compliance with applicable regulation." E-mail Jaxon Van Derbeken at

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