

From: Cherry, Brian K
Sent: 7/12/2011 8:43:18 AM
To: 'mpl@cpuc.ca.gov' (mpl@cpuc.ca.gov)
Cc:
Bcc:
Subject: Fw: Fwd: SFGate: In court, PG&E deflects blame for San Bruno blast
As soon as I get a copy of the pleading you will get it. The Chronicle is wrong.

----- Original Message -----

From: Bottorff, Thomas E
Sent: Tuesday, July 12, 2011 08:09 AM
To: Cherry, Brian K; 'paul.clanon@cpuc.ca.gov' <paul.clanon@cpuc.ca.gov>
Cc: 'frank.lindh@cpuc.ca.gov' <frank.lindh@cpuc.ca.gov>; 'michelle.cooke@cpuc.ca.gov' <michelle.cooke@cpuc.ca.gov>; Horner, Trina; Hartman, Sanford (Law)

Subject: RE: Fwd: SFGate: In court, PG&E deflects blame for San Bruno blast

Sandy Hartman will be calling Frank this morning to explain what we filed in our response (and send you a copy). The filing does not say that we will assign some of the blame for the losses to the residents.

Tom

-----Original Message-----

From: Cherry, Brian K
Sent: Monday, July 11, 2011 10:01 PM
To: 'paul.clanon@cpuc.ca.gov'; Bottorff, Thomas E
Cc: 'frank.lindh@cpuc.ca.gov'; 'michelle.cooke@cpuc.ca.gov'; Horner, Trina
Subject: Re: Fwd: SFGate: In court, PG&E deflects blame for San Bruno blast

Paul - this is the first I've heard of this. I find it very hard to believe that this is true and not taken out of context. Let me follow up tomorrow.

----- Original Message -----

From: Clanon, Paul [<mailto:paul.clanon@cpuc.ca.gov>]
Sent: Monday, July 11, 2011 09:15 PM
To: Cherry, Brian K
Cc: Frank Lindh <frank.lindh@cpuc.ca.gov>; Michelle Cooke <michelle.cooke@cpuc.ca.gov>
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 jvanderbeken@sfnchronicle.com.
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