

From: Clanon, Paul
Sent: 7/11/2011 10:09:18 PM
To: Cherry, Brian K (/O=PG&E/OU=CORPORATE/CN=RECIPIENTS/CN=BKC7)
Cc:
Bcc:
Subject: Re: SFGate: In court, PG&E deflects blame for San Bruno blast

Thx. See you in Oakley.

On Jul 11, 2011, at 10:00 PM, "Cherry, Brian K" <BKC7@pge.com> wrote:

> 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

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> Does he have his facts right here?

>

>

>> Monday, July 11, 2011 (SF Chronicle)

>> In court, PG&E deflects blame for San Bruno blast

>> <a class="email fn" href="<mailto:jvanderbeken@schronicle.com>">mailto:jvanderbeken@schronicle.com>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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