

Comment Set CC1
Arroyo Grande Valley Chamber of Commerce



ARROYO GRANDE VALLEY

Chamber of Commerce

Positioned
for
Progress

April 11, 2005

Andrew Barnsdale, CPUC Project Manager
C/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

Re: Public Hearing on draft EIR for Diablo Canyon Power Plant

The Arroyo Grande Chamber of Commerce is in complete support of the proposed replacement of the steam generators at Diablo Canyon Power Plant by P.G. & E.

The Arroyo Grande Chamber of Commerce feels strongly that we need to support P.G. & E. in their continuing commitment to keep D. C. P. P. current, safe and reliable.

On behalf of the Board of Directors

A handwritten signature in cursive script that reads "Heather Jensen".

Heather Jensen, President/C.E.O.

CC1-1

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Responses to Comment Set CC1
Arroyo Grande Valley Chamber of Commerce

CC1-1 The commenter's support for the Proposed Project is noted.

Comment Set CC2
Sierra Club



Santa Lucia Chapter
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April 29, 2005

Andrew Barnsdale, CPUC
C/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

Comments of the Santa Lucia Chapter of the Sierra Club on the Draft Environmental Impact Report, Diablo Canyon Power Plant Steam Generator Replacement Project

Application No. A.014-01-009
SCH No. 2004101001

CC2-1

Comment: The Diablo Canyon facility is a nuclear power plant. We have corrected the DEIR's use of the acronym "DCPP" to the correct and traditional "DCNPP" in our comments, except in direct quotes. The final EIR should employ the correct DCNPP acronym in its text, and the word "nuclear" in its title.

D.1.2.1:

"...routine operation of the nuclear power plant affects the existing environment.... These environmental effects have been previously reviewed and approved by the NRC and predecessor and cooperating agencies prior to and at periodic intervals over the life of the licenses."

CC2-2

Comment: In a footnote, the DEIR bases its presumptive exemption from any requirement to assess current and future impacts of ongoing operation of the DCNPP on an Atomic Energy Commission environmental review commissioned in 1973. The assumption that there has been no change in CEQA environmental study areas since then, nor improvements in the study techniques, methodologies and technology now in use for environmental reviews over those used 32 years ago is clearly incorrect. For example, the California Dept. of Fish and Game noted on February 29, 2000, that the effects of DCNPP's thermal discharge and entrainment "include loss and degradation of habitat, decreases in several species' diversity and density, and loss of entire species," and that "the effects continue to expand beyond Diablo Cove and are greater than predicted." But for the Proposed Project, these impacts would cease in 2013/2014. The Proposed Project will extend these impacts, at minimum, to 2025.

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Sierra Club

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The DEIR does not estimate the amount of uranium that must be mined to power the plant from 2014-2025 should the Proposed Project be approved, nor of the waste and water pollution that would be produced as a result of the mining, enriching, packaging, and transport of that uranium for the operation of the DCNPP. According to the estimate of Christopher Sherry, research director for the Safe Energy Communication Council, uranium enrichment in the U.S. currently generates about 14 million tons of CO2 annually. There is no analysis of DCNPP's share of these cumulative impacts in the DEIR.

CC2-3

In order to rely on the 1973 review to avoid analysis of current and ongoing impacts facilitated by the Proposed Project, let CPUC cite where in that review are to be found analyses of the Hosgri fault, the impacts on global warming produced by the mining and enrichment of the uranium used to power the plant, and an expanding dry cask storage facility extending the storage of spent fuel on site to an unknown future date. If this was not analyzed by the Atomic Energy Commission in 1973, these impacts must be included in a new DEIR.

The footnoted prior "project-specific CEQA review...for certain permits for construction of structures at the plant" is cited as further justification for the omission of analysis of the impacts of ongoing operation. These reviews are unlikely to have been any more inclined than the current DEIR toward comprehensive analysis of impacts beyond the narrow scope of the specific project or update of the impacts of continued operation beyond the 1973 analysis, and hence are not a basis for the exclusion of such analysis from the DEIR. The omission of this analysis and reliance on the existence of outdated and partial prior review requires the preparation of a new DEIR assessing the impacts of continued operation of the DCNPP from 2013-14 through 2021/2025, including in its scope the larger context of the state's energy resource goals (14 CCR, § 15378(c).) A finding must be made that the proposed project will minimize risks to life and property in areas of high geological hazard and assure stability and structural integrity of the proposed development.

CC2-4

Ibid:

"The existence of the operating nuclear power plant through the NRC authorized license period and its ongoing effects...are not a consequence of the Proposed Project. However...the analysis in this DEIR of the No Project Alternative does provide comparative data concerning effects to those resources if DCPP were to not operate between 2013/2014 and the end of the NRC operating licenses in 2021/2025."

CC2-5

Comment: But for the Proposed Project, the "existence of the operating nuclear power plant" will cease. The statement to the contrary betrays a fundamental flaw in the environmental assessment methodology, and, by itself, negates the document and its analysis and mandates the preparation of a new DEIR.

The DEIR proffers the comparative data of the No Project Alternative analysis as some compensation for this glaring omission, but admits to the inadequacy of this analysis at D.1.2.3, stating "the environmental consequences of the No Project Alternative are discussed in a general manner" and "at a lesser level of detail than the Proposed Project."

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D.1.2.2:

“License renewal is not a reasonably foreseeable consequence of the Proposed Project given the feasibility, analytical and regulatory hurdles to license renewal (let alone PG&E’s decision on whether to apply for license renewal.)”

CC2-6

Comment: The portrait painted of the alleged “hurdles” to license renewal is belied by the history of extreme affinity of the NRC to relicensing requests from nuclear utilities.

The “regulatory hurdles” to license renewal have been removed or significantly reduced by the NRC. In January 2004, the NRC adopted regulatory changes which eliminated formal adversarial hearings on license renewals and established informal hearing procedures for all but a few types of licensing proceedings. (Changes to Adjudicatory Process; Final Rule, 69 Fed. Reg. 2,181-2282 (2004) (codified at 10 CFR Parts 1, 2, 50 et al.)(“Final Rule”). Per the First Circuit amicus brief filed June 15, 2004, by the Massachusetts Attorney General, these informal procedures restrict participation by the public and the states, eliminate the parties’ right to discovery, severely restrict cross-examination, and adversely impact the quality of the record for judicial review. Hence, the DEIR’s reference to “analytical and regulatory hurdles to license renewal” that PG&E would face at the NRC, painting a picture in which the granting of a renewed license is less than likely, does not compel credulity.

Nor is it likely that the utility would seek to abandon a lucrative financial operation such as the DCNPP. The tortured construction necessary for CPUC to claim that PG&E’s clear movement toward license renewal is “remote and speculative” is belied by the statement that “PG&E has taken preliminary steps toward gathering the information that would be needed to consider license renewal for DCP.” If one is denying any interest in marriage while pricing wedding rings, one’s denials should not be given great weight. The statement that “PG&E has indicated that it currently has no plans to apply” for a license renewal “in response to a data request from the CPUC” does not consider the likelihood that PG&E was aware that a reply in the affirmative to CPUC’s request would have triggered an environmental review of the impacts of a license renewal, and that PG&E’s demurrals might be sufficient to avoid that review -- as, indeed, it has been.

On the matter of the DEIR’s consistency: At D.3.1.5.1 the DEIR presents the “Consent Judgment” on the continuing marine impacts of DCNPP’s cooling water entrainment and thermal discharge and their proposed mitigation as though this were a matter of settled fact. As we note in our comment at D.3.1.5.1, there is, as yet, no Consent Judgment, and the issuance of an NPDES permit is therefore in doubt. If the DEIR wishes to cite PG&E’s relicensing as “remote and speculative” because an actual request has not yet been filed, it must find the terms of the not-yet-entered Consent Judgment equally “remote and speculative,” and cannot cite these terms as mitigation for the impacts of the plant’s continued operation facilitated by the Proposed Project. If CPUC considers the prospect of a consent judgment and NPDES permit likely, as it clearly does, then the prospect of PG&E’s request for relicensing is also likely. The DEIR cannot have it both ways.

CC2-7

A new DEIR must be prepared that considers the impacts of the Proposed Project given the likelihood of DCNPP operating beyond the license expiration dates. In view of the fact that the current Proposed Project has been necessitated by the unexpected failure of the Original Steam Generators to continue to function until the end of the

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current license period, the revised analysis should consider the impacts of yet another replacement of the steam generators during the relicensing period.

CC2-7

Ibid:

"...this DEIR analyzes the incremental changes of the Proposed Project, which are limited to short-term effects of steam generator replacement activities and the long-term presence of the OSG."

CC2-8

Comment: As stated in our Supplemental Protest to the application of PG&E (Application 04-01-009 filed November 8, 2002), there is no basis for PUC to narrow the scope of the CEQA review. The Court has held that agencies must apply CEQA "so as to afford the fullest protection of the environment within the reasonable scope of the statutory language." (*Friends of Mammoth v. Board of Supervisors*, (1972) 8 Cal.3d 247.) To the extent that there is any doubt about the scope of CEQA review, the Commission should proceed in the manner most protective of the environment.

A CEQA review narrowed to "incremental changes" wrought by a project that will also directly result in an additional eleven years of operation of a nuclear power plant and the production and on-site storage of spent fuel is clearly inadequate.

D.1.2.3:

"This environmental assessment does not analyze any specific scenarios for providing replacement power-generating capacity..."

CC2-9

Comment: As stated in our Supplemental Protest to the application of PG&E (Application 04-01-009 filed November 8, 2002), the Proposed Project presents the Commission with a question of long-term resource planning for the State. The Commission, the Legislature and the Governor have strongly stated their preference for energy conservation and renewables to meet future resource needs. The failure to engage in an alternatives analysis for the Proposed Project is deficient because the Project has the potential to "achieve short-term goals to the disadvantage of long-term goals" (Pub.Res.Code § 21083), specifically, the long term resource goals of the state of California, by precluding the development of environmentally preferable alternatives.

D.3.1.5:

"The existing thermal plume, impingement and entrainment issues... would be considered part of the baseline conditions of the project."

CC2-10

Comment: CPUC may consider the impact of the proposed project against the physical environment that exists at the time of filing only if a project leaves intact an existing project that has previously been the subject of environmental review. The impacts of the replacement of the steam generators at DCNPP facilitating extension of the life of the plant beyond its licensing period have not been subject to specific environmental review. Prior review has been for the impacts of the plant through 2025, and that review was deficient – see comment at D.1.2.1 re: thermal discharge impacts found in 2000 to be "greater than predicted."

Comment Set CC2, cont.
Sierra Club

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CC2-11

D.3.1.5.1:

"RWQCB and the Attorney General's office negotiated a settlement with PG&E, which is defined in the Consent Judgment. The Consent Judgment provides permanent protection for 5.7 miles of near-shore marine habitat, funding for projects to enhance and protect marine resources, and other benefits."

Comment: Per Lori T. Okun, RWQCB Staff Counsel: "Although the settlement agreement was signed by PG&E, it was not entered by a court as a judgment so there was no actual Consent Judgment. The agreement was contingent upon the Regional Board adopting the NPDES permit described in the agreement. When the permit came before the Regional Board, the Board directed staff to consider additional alternatives and make further recommendations to the Board. The matter has been tabled since then." (pers. comm., 11/02/04.)

The DEIR appears to engage in a deliberate attempt to mislead in referring to the settlement agreement as though it has already been entered by a court as a Consent Judgment, and in failing to note the legal deficiencies in the settlement agreement (see Attachment A) which have a likelihood of either bringing about substantial modifications in the terms of the agreement prior to its entering into force or the rejection of the agreement and revocation of the NPDES permit for DCNPP.

The conservation easement portion of the settlement agreement is unlikely to win approval as a condition of renewal of Diablo Canyon's NPDES permit, due to the inclusion of paragraph 10.1., pg 15 of the agreement, attached as part of the conservation easement:

TERMINATION OF CONSENT JUDGEMENT

10.1 If, during the Operating Life of the Plant, for any reason any federal or state government entity, or court imposes, whether through the exercise of its discretion or as the result of a change in applicable federal, state or local laws, regulations, ordinances, plans, guidelines, guidance documents, or policies, a requirement that would require the Company to comply with a more stringent standard with respect to thermal effluent limitations than exists in the Plant's current Permit, a copy of which is attached as Exhibit B to this Consent Judgment, or that would require a cooling water system technology that is more costly or burdensome than the cooling water intake and discharge system which existed at the Plant as of August 2000, the Company, in its sole discretion, may elect to rescind the Consent Judgment, including without limitation the Conservation Easement, in the manner set forth below.

This is a gun to the head of USEPA, RWQCB, SWRCB, and California Coastal Commission, threatening to rescind the easement if any additional regulatory requirements are ever put on the plant in the future. This is so patently ridiculous that on page 11, section 17(a) of the Easement, they state "The parties acknowledge that the Conservation Easement may not qualify as a conservation easement" under Section 815 of the California Civil Code, because Section 815.2(b) provides that "a conservation easement shall be perpetual in duration." Yet earlier in the document PG&E relies on Section 815 to make the findings of necessity of the easement. This supposes a never-land where even though the easement doesn't meet the definition of a conservation easement as defined in the Civil Code, PG&E is relying on that definition to justify the easement.

Comment Set CC2, cont.
Sierra Club

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As written, the easement conflicts with PG&E's recently approved Coastal Development Permit for dry cask storage of spent fuel rods, as it precludes all development activities, which would apply to the construction of trails, signs, benches or anything else associated with the now mandated public access.

CC2-11

The DEIR catalogs the enormous impacts of DCNPP's thermal discharge ("discharge affects a greater area of the subtidal zone than was predicted... a major increase in 'bare rock'... a major community shift... significant community-wide change in 150 species..."), but then parrots the RWQCB on the options to thermal discharges as being too costly and concludes that these options "would not be ecologically effective."

D.3.1.5.2:

"The larval losses for nearshore taxa cannot be converted into an equivalent number of adults because very little is known about these species.... The cost of closed cooling systems is wholly disproportionate to their benefit."

CC2-12

Comment: The DEIR is unable to evaluate losses of the affected species, yet makes a declarative statement on the value of the closed cooling system -- the Best Available Technology -- that would avoid these impacts. The U.S. Second Circuit Court of Appeals has ruled that restoration efforts cannot be substituted for the use of Best Available Technology (BAT) in new cooling water intake systems, and noted that statutory BAT requirements apply equally to existing facilities (*Riverkeeper v. EPA*). The Clean Water Act's 316(b) rules mandating BAT in power plant cooling water intake systems are in flux and under legal challenge. The Federal Draft Phase II regulation for BAT requires meeting performance standards that reduce entrainment by at least 60% or the imposition of numerous cost/benefit and cost/cost analyses by the discharger. PG&E has not implemented such technology nor conducted such studies at DCNPP.

D.10.5:

"New power plants could, however, require substantial water supplies for cooling. This potential impact could be mitigated through the use of recycled water."

CC2-13

Comment: CPUC should issue a revised DEIR with this helpful suggestion, cited for the No Project Alternative of the construction of new power generation facilities, applied to the continued operation of the DCNPP, which would cease to operate but for the Proposed Project, as this would resolve the ongoing significant impacts of entrainment and thermal discharge.

I.- Public Participation, I.1.4.1 - .5:

Comment: These four pages detailing public comment on Purpose and Need, Human and Physical Environment Issues and Concerns, Alternatives, and the Environmental Review and Decision-Making Process throw into high relief the inadequacies of the DEIR, which virtually ignores every concern here expressed by community organizations, public agencies, and members of the public. The DEIR's dismissal of public input necessitates the preparation of a new DEIR that addresses the "major issue[s] addressed in the comments" as "strong concerns" by "nearly all of the public and agency comments," by "a clear majority of comments," etc.

CC2-14

Comment Set CC2, cont.
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I.1.4.5:

Comment: The causes of the above-noted deficiency – “concerns regarding the scope of the environmental review” and “dissatisfaction with the scope of the project description as it was written in the NOP” are noted and passed over without comment.

It is noted that “The comments overwhelmingly identified the extension of the operating life of DCPP and the associated cumulative impacts of long term operations as a critical issue that should be included in the environmental review,” and we are assured that this critical issue “is discussed further in the following section.” The discussion that follows consists of four sentences summarizing the associated impacts, which the DEIR otherwise ignores.

A new DEIR must correct these deficiencies and omissions prior to the issuance of a Final Environmental Impact Report.

CC2-15

Comment Set CC2, cont.
Sierra Club



July 30, 2004

Mr. Jeffrey Young, Chairman
Central Coast Regional Water Quality Control Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

RE: Comments on the Proposed Diablo Canyon Nuclear Power Plant Consent Judgment

Dear Mr. Young and Members of the Board:

The undersigned, representing the World Wildlife Fund, The Ocean Conservancy, the Surfrider Foundation, EcoSlo, and the Sierra Club present to you the following comments on the proposed Consent Judgment regarding the Diablo Canyon Nuclear Power Plant cooling water intake system (Consent Judgment). We appreciate your efforts in preserving our coastal and marine habitats, and hope to continue to work with you on this project in the future.

We urge the Central Coast Regional Water Quality Control Board (Regional Board) to reevaluate and ultimately reject the Diablo Canyon Consent Judgment (Consent Judgment). First, a consent judgment that purports to circumvent the consideration of cooling water intakes under the permit renewal process for the remaining operating life of the plant is neither legal nor within the public interest. Second, the Consent Judgment, in adopting a permanent site-specific determination of "best technology available" (BTA) without consideration of the legal requirements for such a determination, is inconsistent with the EPA's Phase II rules implementing Clean Water Act § 316(b). Third, an agreement binding the State Water Board in the face of the rapidly changing § 316(b) rules is unreasonable. Fourth, the Consent Judgment fails to equitably compensate the People of the State of California. Consequently this consent judgment is both illegal and contrary to good public policy.

1. The Consent Judgment is Neither Within the Public Interest nor Legally Enforceable.

The Diablo Canyon Consent Judgment purports to bind the Regional Board to renew Diablo Canyon's NPDES permit for the operating life of the plant without consideration of legal requirements specifically relating to cooling water intake regulations. Such an agreement is legally invalid and fails to adequately protect the public interest. The Regional Water Board cannot legally prescribe a right to pollute indefinitely, in the face of federal law and regulations that would constrain such pollution. Furthermore, this agreement is contrary to the public interest. It is unprecedented for the Regional Board to bind future water boards in an agreement that attempts to provide a future right to PG&E to violate any and all state and federal entrainment and impingement regulations. Finally, NPDES permit renewals are subject to federal approval and consequently the Regional Water Board lacks the authority to unilaterally grant future NPDES permit renewals in an agreement without such approval.

2. The Consent Judgment Fails to Consider the Federal Draft Phase II Regulation for BTA.

CC2-16

CC2-17

Comment Set CC2, cont.
Sierra Club

The Consent Judgment illegally purports to define BTA under Clean Water Act Section 316(b) as the technology currently in place at the plant in combination with the restoration efforts agreed to in the Consent Judgment. The Phase II rule implementing Section 316(b) for existing plants provides a flexible framework under which a discharger can choose among five alternatives for achieving BTA. Four out of the five are based on meeting performance standards that require reductions in entrainment of 60 to 90 percent; there has been no demonstration that PG&E's efforts are consistent with any of these alternatives or will result in 60 to 90 percent reduction in entrainment. Under the fifth alternative, a discharger may use an alternative definition of BTA if it conducts a number of studies, including numerous cost-benefit and cost-cost analyses to support such a decision; no such studies have been conducted. Consequently, the Consent Judgment is inconsistent with the requirements of the Phase II rule.

CC2-17

3. The Consent Judgment is Unreasonable in the Face of Changing 316(b) Regulations

The Consent Judgment attempts to provide an NPDES permit to PG&E for the life of the Diablo Canyon Nuclear Power Plant. In *Riverkeeper v. EPA*, the U.S. Second Circuit Court of Appeals made it clear that restoration efforts could not be substituted for BAT in new industrial cooling water intake systems. The Court held that restoration measures that attempt to restore fish and shellfish populations killed by a cooling water system were plainly inconsistent with the statute's text, and clear Congressional intent that the *design* of intake structures be regulated directly, based on the best technology available. Although the case concerned new power plants specifically, the Court noted that the statutory BTA requirements applied equally to new and existing facilities and suggested that its analysis might apply to existing facilities as well. *Riverkeeper*, *Surfrider*, and several northeastern States have recently launched challenges to the Phase II rules on similar grounds. A consent judgment that attempts to bind the Regional Board to a definition of BTA in the face of Phase II rules that are under legal scrutiny and are likely to be remanded is against good public policy, and inapposite to the goals of the Clean Water Act.

CC2-18

4. The Consent Judgment Fails to Equitably Compensate the People of California

This agreement would permit PG&E to defiantly continue to degrade the marine and coastal environment through outdated and outmoded technology for a paltry price that is wholly inadequate to compensate the people of California for the resources that would be lost as a consequence. The funding offered by PG&E for marine reserves establishment is of little added value in a state in the process of establishing these reserves already. Furthermore, the conservation easement that PG&E offers is inadequate both in terms of its breadth, and in terms of ameliorative benefits. Finally, the funding for research that PG&E offers cannot be used to evaluate any increase in habitat destruction, or reduction in marine life due to impingement or entrainment, and thus expressly excludes the type of research that is most pertinent to these issues. These overtures simply fail to provide adequate compensation for the People of California, and consequently the agreement should be rejected.

CC2-19

In sum, the DCNPP consent judgment should be firmly rejected as contrary to the Clean Water Act, in violation of EPA Phase II Rules governing the cooling water intakes of existing facilities, unreasonable in the face of changing law, and inequitable. Thank you for your consideration of these comments, and please feel free to call if you have any questions.

Responses to Comment Set CC2

Sierra Club

CC2-1 The commenter's note regarding changing the "DCPP" acronym to "DCNPP" (to include the word "nuclear") is noted. The fact that the Diablo Canyon Power Plant is a nuclear power plant is documented throughout the Draft EIR. Changing the title of the EIR is not required to satisfy CEQA's "full disclosure" requirements.

CC2-2 Please refer to Master Response MR-1 (Baseline). Section D.3.1.5 of the Draft EIR describes the adverse impacts of current plant operations on the marine environment and acknowledges that for some impacts, such as thermal plume issues, the discharge effects are greater than predicted. The Draft EIR also acknowledges that these effects would cease under the No Project Alternative. Existing impacts to marine resources, however, are baseline conditions as defined by *CEQA Guidelines* Section 15125. As required by CEQA, the Draft EIR has evaluated potential project-related impacts against the established baseline conditions. Implementation of the Proposed Project would not have any effect on the current impacts to marine resources that result from the operation of the power plant.

CC2-3 The Draft EIR describes the effects of project-related activities in relation to physical changes to existing environmental conditions. The Draft EIR does not describe uranium mining or other uranium fuel cycle processes, such as enrichment, because those activities presently occur as part of the environmental baseline (see Draft EIR Section D.1.2.1). Furthermore, those types of activities would be subject to the applicable permitting and environmental review requirements in effect within the jurisdictions where the mining-related operations occur. The Proposed Project activities (RSG transport, staging and preparation, etc.) would not result in changes to the uranium fuel cycle, and would not change how DCPP uses uranium fuel or the greenhouse gas emissions associated with enrichment. Similarly, the Proposed Project would not alter the ongoing operation of DCPP in its seismic setting.

Storage of spent fuel would similarly not be affected by the project, and it has been considered in the CEQA process conducted by San Luis Obispo County for the ISFSI project. Spent fuel storage is authorized to occur at DCPP for the duration of the NRC licenses to 2021 and 2025, and it presently occurs on the site. Therefore, the storage of spent fuel is part of the environmental baseline conditions from which environmental impacts of the Proposed Project must be evaluated. Please also see Master Response MR-1 (Baseline).

CC2-4 Potential impacts associated with the long-term operation of the power plant are considered to be part of the "environmental baseline." Section D.1.2.1 of the Draft EIR provides a summary of the existing environmental baseline conditions at the DCPP site. CEQA does not require a review of ongoing DCPP operations that are not altered by the Proposed Project. Please see Master Response MR-1 (Baseline)

The comment asserts that the scope of analysis should discuss whether continued operation of DCPP is within the State's energy resource goals. Because operation of DCPP through the end of the NRC licenses is an aspect of the environmental setting, there would be no change to the State's current energy resource mix.

The comment also indicates that a finding must be made that "the Proposed Project will minimize risks to life and property in areas of high geological hazards . . ." Federal stand-

ards pertaining to the design of nuclear power plants to minimize potential geological and seismological impacts are under the jurisdiction of the NRC and are described in Section D.5.2 of the Draft EIR. Additional information regarding the jurisdiction of the NRC is provided in Master Response MR-3 (Jurisdiction). A review of existing geological hazards that could affect the Proposed Project was also provided in Section D.5 of the Draft EIR. The analysis concluded that with implementation of the proposed mitigation measures, potential geological hazard impacts of the Proposed Project would be reduced to a less than significant level.

CC2-5 Please refer to Master Responses MR-1 (Baseline) and MR-2 (License Renewal). The Draft EIR acknowledges that plant operations would cease if the steam generators are not replaced and appropriately describes the effects of this change in the analysis of the No Project Alternative. The No Project Alternative is adequately and consistently discussed in Section C.6 (p. C-26) and Section D.1.2.3 (p. D.1-3) of the Draft EIR, as well as analyzed in each of the individual issue areas in Section D and in the Executive Summary of the Draft EIR. The impacts of the No Project Alternative are also analyzed and compared to those impacts of the Proposed Project. Sections ES.4.3 (p. ES-53) and E.3 (p. E-8) of the Draft EIR compare the No Project Alternative to the Environmentally Superior Alternative. Based on this full evaluation weighing *all* issue areas, the No Project Alternative was *not* found to be overall environmentally superior to the Proposed Project nor the Environmentally Superior Alternative. Discussion of the effects of alternatives at a lesser level of detail than those of the Proposed Project is appropriate under *CEQA Guidelines* Section 15126.6(d). Please also see Responses CC2-9 and PM2-4.

CC2-6 Please refer to Master Response MR-2 (License Renewal). As stated in Section D.1.2.2 of the Draft EIR, PG&E is still evaluating the feasibility of applying for a license renewal. Attempting to complete an environmental review of a potential licensing project for which no application has been filed and that would not be implemented within the next 15-20 years would be based on conjecture and not on firm evidence or knowledge, requiring an extensive amount of “forecasting,” which is not required by CEQA. Please also see Master Response MR-3 (Jurisdiction) regarding the fact that the CPUC has no jurisdiction over relicensing or the impacts of relicensing.

CC2-7 DCPD Units 1 and 2 have current operating licenses until September 2021 and April 2025, respectively, and environmental conditions resulting from the plant operations pursuant to those licenses are considered part of the environmental baseline. The operation of DCPD under these licenses is considered part of the environmental setting, which establishes the conditions from which project-related impacts are to be measured. The Draft EIR provided information related to ongoing DCPD cooling water system issues (see Section D.3.1.5) in order to fully disclose environmental issues associated with the DCPD that are part of the current baseline.

The Consent Judgment process described in Section D.3.1.5 of the EIR outlines existing issues associated with the DCPD cooling water system and the efforts to regulate its operation. Regardless of the status of the agreement, issues associated with the existing DCPD cooling water system are considered as part of the environmental setting for the Proposed Project. The analysis of Proposed Project impacts does not rely on resolution of the Consent Judgment. The status of the Consent Judgment has been revised in the Final EIR and summarized in Master Response MR-4 (Consent Judgment).

It should be noted that Section D.3.5.2 of the Draft EIR also identified that impacts associated with the No Project Alternative, such as shutdown of the DCPD prior to the end of the current license periods, would be beneficial to marine organisms because of the elimination of the impingement/entrainment and thermal plume impacts. Regardless of the resolution of the Consent Judgment, cessation of DCPD cooling water system operations under the No Project Alternative would result in beneficial environmental impacts on marine biological resources.

CEQA does not require an evaluation of a potential renewal of DCPD's operating license because relicensing is not a reasonably foreseeable consequence of the Proposed Project. Additionally, PG&E anticipates that the RSGs will be capable of operating successfully at least until the end of the current licenses, and therefore, it would be speculative to assume that replacement of the presently proposed RSGs would occur as a result of the Proposed Project. Please also refer to Master Response MR-2 (License Renewal). Please also see Master Response MR-3 (Jurisdiction) for a description of the limits of CPUC jurisdiction over NRC actions, which would include analysis of license renewal.

CC2-8 Please refer to Master Responses MR-1 (Baseline), MR-2 (License Renewal), and MR-3 (Jurisdiction).

CC2-9 Alternatives selected for evaluation in the Draft EIR were chosen according to the following criteria, which are outlined in Section 15126.6(f): compliance with most basic project objectives; feasibility (economic, legal, regulatory, technical); avoidance or substantial lessening of significant effects of the Proposed Project; potential for effects greater than those associated with the Proposed Project (Draft EIR Section C.3, p. C-3 to C-5).

Ongoing DCPD operations are part of the baseline of the Proposed Project, but are not part of the Proposed Project. CEQA requires that an EIR to examine a reasonable range of alternatives to the project. The Proposed Project consists of replacement of the original steam generators at DCPD, and the Draft EIR examines a reasonable range of alternatives to this project. Therefore, this means that although alternative energy sources are relevant under the No Project Alternative, they are not appropriate project alternatives. The EIR considers alternatives to ongoing DCPD operation in the context of the No Project Alternative, which is appropriate because under the No Project Alternative, DCPD operation would be shortened.

Sections C.6.1 through C.6.4 of the Draft EIR describe various replacement generation sources that could potentially be developed under the No Project Alternative. These potential sources include combined cycle gas turbine power plants; replacement transmission facilities; alternative technologies such as solar thermal, photovoltaics, wind turbines, geothermal power, hydroelectric power, biomass power, and fuel cells; and system enhancements including demand-side management and distributed generation. These sections describe several scenarios and demonstrate that the technologies or enhancements in the scenarios could cause positive and negative impacts when compared to the impacts of the Proposed Project. Section C.6 of the Draft EIR provides an adequate analysis of the No Project Alternative and the major replacement power generation sources for nuclear power that are currently available. As described in Section ES.3.1.3, the Draft EIR acknowledges that no specific scenarios for providing replacement power-generating capacity, transmission system upgrades, or system enhancements are analyzed. It would be unduly remote and speculative to forecast exactly how any replacement power would be provided given the wide range of possibilities, including type, size, or location. Therefore a detailed analysis of specific projects would not be possible or mean-

ingful. Section D.1.2.3 of the Draft EIR also shows how the potentially adverse effects of constructing new replacement generation and transmission facilities under the No Project Alternative are described in a manner that is consistent with the requirements of CEQA.

The unpredictable nature of future conditions limits the amount of detail that can be incorporated into the analyses presented in Sections C.6.1 through C.6.4. Section 15126.6(d) of the *CEQA Guidelines* indicates that alternatives shall be discussed in less detail than the significant effects of the proposed project. The analysis of potential impacts that could be associated with the implementation of the No Project alternative is also consistent with direction provided by Section 15146 of the *CEQA Guidelines*, which states: “*The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.*” In other words, CEQA does not require detailed environmental impact evaluation of hypothetical energy generation projects for which no sites have been identified and no planning has been conducted. The evaluation of potential impacts associated with the implementation of the No Project Alternative provides an evaluation of reasonably foreseeable, and most likely, impacts that may result from the development of energy sources with the capability of replacing energy produced by DCPP. Please see Response PM2-4 for more information on replacement generation options and their level of analysis in the EIR. Additionally, long-term resource planning is being addressed in the ongoing CPUC proceeding, R04-04-003 (Order Instituting Rulemaking to Promote Policy and Program Coordination and Integration in Electric Utility Resource Planning). Please also refer to Response CC2-4 regarding the State’s energy resource goals.

CC2-10 Regardless of past environmental review of the DCPP, the project baseline is clearly demarcated as the environmental conditions at the time the NOP was published, which in this case represents the existing marine environment offshore the DCPP, as well as impacts associated with continued operation of the DCPP cooling water system. Given this environmental baseline determination, impacts associated with the cooling water system were summarized in the Environmental Setting section of the EIR. Please see Master Response MR-1 (Baseline). Furthermore, implementation of the Proposed Project would not have any effect on the current impacts to marine resources that result from the operation of the power plant because operation through 2021-2025 would result in the continuation of existing baseline conditions that have already been reviewed and approved by the NRC under current license terms, and would not result in substantial changes in power plant operations (i.e., cooling water flow or power generation). Please see Master Response MR-2 (License Renewal). As noted above, the benefits associated with the No Project Alternative and cessation of the DCPP cooling water system operations, were identified in Section D.3.5 of the EIR.

CC2-11 As noted in the responses to the previous comments, Section D.3.1.5 of the Draft EIR outlines issues associated with the DCPP cooling water system that are considered to be part of the environmental baseline for the Proposed Project. The discussion does not attempt to mislead the public that the Consent Judgment would correct the environmental damage that was summarized in this section, but provides an overview of the major marine biological resource issues associated with the DCPP that are also considered to be part of the environmental baseline. Clearly, the degraded marine resource conditions located offshore the DCPP are characteristic of the marine environment at the time the NOP was published, which under CEQA defines the baseline against which all potential project-related impacts are to be evaluated. Furthermore, implementation of the Proposed Project would not have any significant impacts on the existing marine environment. Please also see Response CC2-7, which notes that the

analysis of impacts caused by the Proposed Project does not rely on resolution of the Consent Judgment.

Regardless of the status of the proposed Consent Judgment, the Draft EIR identified the significant marine biological baseline issues associated with past, present and future operation of the DCPP, and explained that early termination of DCPP cooling water system operations under the No Project Alternative would result in beneficial environmental impacts on marine biological resources (Section D.3.5.2). The EIR does not rely on the Consent Judgment to mitigate impacts of the Proposed Project, as alleged by the commenter.

The Final EIR has been modified to note that the RWQCB has directed staff to evaluate additional alternatives. This evaluation is ongoing and there is no clear timeframe for reaching a settlement and implementation of any of the mitigation or restoration projects identified within the draft Consent Judgment. See also Master Response MR-4 (Consent Judgment) and Responses E-6, CC2-16, and CC2-17.

CC2-12 This comment combines parts of sentences from two different pages of the Draft EIR and grossly misrepresents a partial finding from the DCPP entrainment study that was conducted under the direction of the RWQCB from October 1996 through June 1999. Based on the study results, the RWQCB found that the cost of closed cooling systems is wholly disproportionate to their benefit. The Draft EIR did note that “. . . larval losses for nearshore taxa cannot be converted into an equivalent number of adults because very little is known about these species”; and that “. . . these non-harvested near-shore species have no direct dollar value in terms of commercial fisheries, but do have ecological value.” The “declarative statement on the value of the closed cooling system” is simply noting the RWQCB’s finding on the issue, and was not a factor that was considered in the EIR evaluation of the Proposed Project or alternatives. The existing marine resource issues were provided in Section D.3.1.5 of the Draft EIR to illustrate baseline conditions. Implementation of the Proposed Project would not cause any significant impact to marine resources. Please also refer to Master Response MR-1 (Baseline) and Response CC2-10 regarding the evaluation of existing cooling water system impacts.

Under the analysis of the No Project Alternative, the Draft EIR did not evaluate economic benefits associated with cooling water alternatives, but simply noted the environmental benefit associated with a cessation of the DCPP cooling water system. This finding is based solely on environmental impacts or benefits and did not consider any associated economic aspects. Whether DCPP would be subject to the federal Draft Phase II regulation for Best Available Technology (BAT) referenced by the commenter, is not relevant to this analysis.

CC2-13 The comment asserts that a new mitigation measure requiring the DCPP to use recycled water for cooling should be added to the EIR, and due to the addition of a new mitigation measure, the EIR should be recirculated for public review. *CEQA Guidelines* Section 15041(a) indicates that there must be a connection between a project’s environmental impacts and required mitigation measures, and the level of mitigation must be roughly proportional to the project’s environmental impacts. In the case of the Proposed Project, eight OSGs at DCPP would be replaced with eight RSGs with equivalent operational characteristics. The Proposed Project would not alter the operation of DCPP or its cooling system. Entrainment and thermal discharge are not impacts of the Proposed Project, but rather activities that occur in the environmental baseline (see Draft EIR Sections D.1.2.1 and D.3.1.5) as part of the

existing operation of DCP. The Draft EIR correctly analyzes the impacts of the Proposed Project, and proposes appropriate mitigation measures for the significant impacts that are caused by the Proposed Project. Therefore, there is no basis for requiring the implementation of a new cooling system. The Draft EIR will not be recirculated because implementation of the Proposed Project and the continued operation of the power plant will not result in significant changes to existing environmental conditions. Please also see Master Response MR-1 (Baseline).

- CC2-14 The purpose of the public scoping process is to solicit input regarding potentially significant effects of the Proposed Project that should be evaluated in the EIR. Section I of the Draft EIR summarizes the public participation efforts of the CPUC for the CEQA process. The general public was given the opportunity to provide input to the Proposed Project during the public scoping period before the Draft EIR was created and during public meetings shortly after the publication of the Draft EIR. As described in Section I.1.2, three public scoping meetings were held in October 2004 during which comments were solicited regarding the scope and content of the analyses, as well as the alternatives and mitigation measures that should be considered. In addition, a 30-day NOP scoping period with an 8-day extension provided interested parties time to submit comments regarding the EIR contents. The CPUC also prepared a Public Scoping Report, which summarizes the comments and issues identified through the NOP scoping process, including the public scoping meeting. The Public Scoping Report is available on the project's website at: <http://www.cpuc.ca.gov/environment/info/aspen/diablo Canyon/diablo Canyon.htm>, and a summary of the Scoping Report is in Section I.1.4 of the Draft EIR. In addition, there were two public workshops in San Luis Obispo after the publication of the Draft EIR, and a 45-day comment period in which comments were solicited from parties on the contents of the Draft EIR. These comments have been reproduced and responses provided in Section 3 of this Final EIR.

CEQA Guidelines Section 15064(f)(4) and (5) provide guidance for determining when a potential project-related impact is to be evaluated in an EIR. In summary, subsection (4) indicates that public controversy will not require an issue to be evaluated unless there is substantial evidence before the lead agency that the issue will result in a significant impact. Subsection (5) indicates that “*argument, speculation unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute substantial evidence.*” Based on these CEQA requirements, an EIR shall not evaluate a potential impact if it cannot be demonstrated that it has the potential to result in a significant environmental impact. Therefore, not all items mentioned during the public scoping process required review in the EIR. Concerns expressed during scoping regarding security, public health and safety, emergency services, risk, and transportation and traffic impacts were addressed and evaluated in the Draft EIR to the degree that they were potentially significant and a consequence of the Proposed Project. Many concerns relate to existing plant operations, which are part of baseline conditions and are not a consequence of the Proposed Project. Please also refer to Master Response MR-1 (Baseline).

- CC2-15 Please refer to Response CC2-14 above. In addition, please refer to Section F.3 of the Final EIR for a cumulative impacts analysis. Please also refer to Master Responses MR-1 (Baseline), MR-2 (License Renewal), and MR-3 (Jurisdiction) with respect to the CPUC evaluation process in determining the scope of the EIR. Please specifically refer to Master Response MR-2 (License Renewal) regarding the appropriate level of cumulative impact analysis required in the EIR.

- CC2-16 This comment is a Sierra Club letter to the Central Coast RWQCB regarding the proposed Consent Judgment that was briefly discussed in the Draft EIR under the “Existing Marine Resource Issues” (Section D.3.1.5). The proposed Consent Judgment was not evaluated as part of the Draft EIR. The Consent Judgment was discussed in the context of environmental baseline issues associated with the DCPP, specifically in the area of marine biological resources. Any deficiencies associated with the Consent Judgment are well outside the scope of this EIR, which was prepared to evaluate potential environmental impacts associated with the Steam Generator Replacement Project. Please also refer to Master Response MR-4 (Consent Judgment) and Responses CC2-11, CC2-17, and E-6.
- CC2-17 The proposed Consent Judgment was not evaluated as part of the Draft EIR. The Consent Judgment was discussed in the context of baseline environmental issues associated with the DCPP, specifically in the area of marine biological resources. Any deficiencies associated with the Consent Judgment are well outside the scope of this EIR, which was prepared to evaluate potential environmental impacts associated with the Steam Generator Replacement Project. As noted in the Draft EIR, existing effects of operating the DCPP cooling water system are considered to be part of the CEQA environmental baseline against which the Proposed Project’s environmental impacts were measured. Please also refer to Master Responses MR-1 (Baseline).
- CC2-18 Please see Response CC2-16.
- CC2-19 Please see Response CC2-16.

**Comment Set CC3
San Luis Obispo County Green Party**

Page 1 of 3

Diablo Canyon EIR Project

From: Diablo Canyon EIR Project [diablocanyon@aspeneg.com]
Sent: Tuesday, May 03, 2005 3:24 PM
To: diablocanyon@aspeneg.com
Subject: FWD: Comments to DEIR

From: Jay Adams Ph.D./ Klaus Schumann [mailto:jayklaus@msn.com]
Sent: Tuesday, May 03, 2005 11:54 AM
To: diablocanyon@aspeneg.com
Subject: Comments to DEIR

San Luis Obispo (SLO) GREEN Party Comments
(May 3, 2005)

to

California Public Utility Commission

to the DEIR

for the Diablo Canyon Nuclear Power Plant

Steam Generator Replacement Project

Proposed by PG&E Company

Application No. 04-01-009, SCH No. 2004101001

by

**Klaus Schumann, Chair of the SLO GREEN Party Subcommittee on
High Level Radioactive Waste at Diablo and**

**Member of the SLO Nuclear Waste Management Committee from
1996 to 2002**

**Contact: Klaus Schumann, 26 Hillcrest Drive, Paso Robles, Ca. 93446; (805) 238-4454;
jayklaus@msn.com**

5/3/2005

Comment Set CC3, cont.
San Luis Obispo County Green Party

Attention:

Andrew Barnsdale, CPUC
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

SLO GREEN Party Comments (May 3, 2005)

We believe the DEIR is deficient beyond repair and needs to be re-written.

CC3-1

We strongly agree with the comments submitted by SLO Mothers for Peace (SLOMFP) and make their comments our own. In addition we offer the following specific comments and one additional GREEN Party concern:

Specific Comments

1. The Draft EIR is deficient because it ignores that Diablo's operating license will be in all likelihood extended for another 20 years.

2. The DEIR is deficient because it doesn't address at all future cost increases due to protection towards acts of malice. These costs are likely to occur because of the National Academy of Sciences Report on Nuclear Power Plant Security as mandated by US Congress.

CC3-2

3. The DEIR is deficient because it doesn't include future costs due to the aging of all components of the Diablo plant besides of the steam generators. It is a fact of life that all mechanical components of any industrial facility age and need replacement in time. This is even more true in an marine environment where salt water vapors are present to speed up corrosion.

4. The DEIR is deficient because it does not sufficiently deal with the numerous alternatives to nuclear power and their economic impacts.

CC3-3

Considering environmentally superior alternatives is at the heart of CEQA, yet this Draft EIR

fails to compare the environmental impacts of alternatives to Diablo's operation beyond 2014. Thus, this DEIR is legally inadequate because it does not comply with CEQA's requirement to provide a detailed analysis of possible alternatives.

5. The DEIR is deficient because its mitigation does not incorporate new earthquake data developed since

CC3-4

5/3/2005

**Comment Set CC3, cont.
San Luis Obispo County Green Party**

Page 3 of 3

publication of PG&E's Long Term Seismic Program in 1988. An update is essential for reviewing the seismic characteristics of the storage facility for the original steam generators. The entire facility was built with a slip-strike fault system near the plant in mind. Yet the Dec. 22, 2003 San Simeon earthquake was a thrust event! In addition, there are models which place thrust faults directly under the plant.

CC3-4

Additional GREEN Party Concern

Of special concern is the lack of detail regarding seismic safety along the path of the 360 ton steam generators within the Containment Structure and through the fuel handling structure

CC3-5

(Auxiliary Building). Both, the reactors and the waste pools, contain very large amounts of radioactivity.

It is unclear how these 360 ton loads will be restrained in the event of an earthquake. Since it will take many hours to move each generator, the time of exposure to earthquake risk will be significant. A drop or shift of these heavy loads might damage critical safety systems of the

reactor. Since the containment will be open during this process, a radiation leak would not be contained. The EIR should describe potential damage that might occur as the result of an accident and steps taken to reduce risk.

While the path through the fuel handling building appears to be far enough from the highly radioactive waste pools, the project description should provide detail on potential damage to safety measures to reduce risks, particularly seismic risks.

Generally, the text and diagrams must be more detailed as to the path of the steam generators and nearby hazards.

The section on the transport, preparation and storage of the OSGs must be more descriptive and should not just rely on NRC regulations. Straight forward descriptions of procedures would be helpful

CC3-6

Summary

As do all GREEN Parties on Earth, the SLO GREEN Party opposes nuclear power.

Besides of this fundamental concern, this particular DEIR contains many deficiencies and blatant omissions. The "Project Description" must include a detailed appraisal of the seismic risks, potential damage and safety concerns during the entire process of removal and installation of the generators, as well as, appropriate mitigation of risks.

Therefore, the SLO GREEN Party supports the comments by SLOMFP and joint parties in opposition to this Draft EIR. We concur that the Draft EIR does not comply with CEQA and does not provide an adequate basis for action by the CPUC on the Project application. The Draft EIR is fatally flawed and must be redrafted.

5/3/2005

Responses to Comment Set CC3 San Luis Obispo County Green Party

CC3-1 It is noted that the commenter supports the comments submitted by San Luis Obispo Mothers for Peace. Please see Responses to Comment Set CC6 for responses to these comments. The commenter also states that they have presented specific comments and an additional Green Party concern. Please see Responses CC3-1 (second paragraph below) through CC3-5, respectively, for specific responses.

The commenter states that the Draft EIR is deficient because it does not consider DCP's potential license renewal. CEQA does not require an evaluation of a potential renewal of DCP's operating license because relicensing is not a reasonably foreseeable consequence of the Proposed Project under the legal standards for making that determination under CEQA. Please refer to Master Response MR-2 (License Renewal). Further, as stated in Section D.1.2.2 of the Draft EIR, PG&E is still evaluating the feasibility of applying for a license renewal. Attempting to complete an environmental review of a licensing project that would not be completed within the next 15–20 years would be based on conjecture and not on firm evidence or knowledge, requiring an extensive amount of "forecasting," which is not required by CEQA (please also see Response CC2-6).

The Draft EIR does, however, acknowledge that the Proposed Project may make the NRC license renewal process more likely and may provide an incentive for PG&E to apply for relicensing. In addition, Draft EIR Section G presents a general discussion of the NRC license renewal process, as well as issues relevant to DCP license renewal. Please also see Master Response MR-2 (License Renewal) and Responses C-2 and 4-1.

CC3-2 CEQA does not consider cost issues except in a very limited manner. *CEQA Guidelines* Section 15064(e) indicates that economic changes resulting from a project shall not be treated as significant effects on the environment. Economic changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic effects of a project, the physical change may be regarded as a significant effect. Cost issues associated with the project and alternatives are addressed by the CPUC in the General Proceeding (A04-01-009) on the Proposed Project. See also Response 1-3 for more information on the General Proceeding of the Proposed Project.

In addition to cost analysis being outside the scope of CEQA, the two issues referenced in this comment are not part of the Proposed Project, but rather part of the environmental baseline of ongoing operations at DCP. The Draft EIR contains descriptions of a variety of potential terrorist attack modes, as well as discussions of studies that have been conducted to evaluate potential impacts of terrorist attacks. The Draft EIR also clearly identifies the baseline worst-case consequences associated with a successful terrorist attack. Given the existing threat level for the currently operating DCP, risks of a terrorist attack are part of the environmental baseline under CEQA. With the Proposed Project, the risk of a terrorist attack would continue as it is today. However, even if the Proposed Project were to not move forward (i.e., the No Project Alternative), the risk of a terrorist attack at the DCP would continue for the foreseeable future given that there are currently no plans to remove spent fuel from the DCP. Regardless of the specific mode of attack, the EIR clearly identifies the potential risks and consequences associated with a successful terrorist attack,

evaluates the significance associated with existing risk levels, and identifies the benefit of the No Project Alternative in reducing the risk associated with a terrorist attack. The analysis is based on attack modes that are considered credible and does not attempt to speculate on every conceivable manner of sabotage. By focusing on widely accepted attack modes that are considered credible, the Draft EIR avoids excess speculation of these baseline issues. The aging of DCP's infrastructure, other than the steam generators, is also part of the environmental baseline. The Draft EIR notes that continued operation of the DCP would result in an ongoing probability of component failure. However, as also stated in the Draft EIR, the replacement of the DCP steam generators is in direct response to the long-term wear of these components and the concern for future failures. Similarly, other critical DCP reactor components have serviceable lifetimes, thus requiring periodic inspection, maintenance and replacement per NRC directives and schedules. Much of this maintenance occurs in the baseline conditions and would continue to occur with NRC oversight, with or without the Proposed Project. As stated in Section D.1.2.1, the existence of the operating nuclear power plant through the NRC authorized license periods and its ongoing effects are not a consequence of the Proposed Project. There are NRC staff onsite at DCP to monitor and address any problems with aging components. See also Master Response MR-1 (Baseline).

- CC3-3 Section C.6 of the Draft EIR provides an adequate analysis of the No Project Alternative and the major replacement power generation sources for nuclear power that are currently available. As described in Section ES.3.1.3, the Draft EIR acknowledges that no specific scenarios for providing replacement power-generating capacity, transmission system upgrades, or system enhancements are analyzed. It would be unduly remote and speculative to forecast exactly how any replacement power would be provided given the wide range of possibilities, including type, size, or location. Therefore a detailed analysis of specific projects would not be possible or meaningful, as described in Section D.1.2.3 of the Draft EIR. The potentially adverse effects of constructing new replacement generation and transmission facilities that would likely be developed under the No Project Alternative are described throughout the Draft EIR in a manner that is consistent with the requirements of CEQA. Please also see Response CC2-9.
- CC3-4 The exposure of existing DCP facilities to known seismic hazards is one facet of the environmental setting (as described in Section D.5.1.4), and as noted in Section D.1.2.5, the seismic safety of DCP in its current design is within the jurisdiction of the NRC. This Final EIR includes revisions to Mitigation Measure G-3a that clarify how the facility must safely withstand seismic effects. Revisions to Mitigation Measure G-4a clarify that an engineered design (or bunker-type construction) may be an option. The engineering phase of the project would lead to more specific design measures that must satisfy the requirements of the mitigation and NRC regulations. The CPUC has limited jurisdiction in dictating the design of the facility, as described in Master Response MR-3 (Jurisdiction). Please also see Response PG-124.
- CC3-5 The comment identifies a lack of detailed information on how PG&E plans to support the steam generators within the containment structures during removal and installation activities. Draft EIR Section D.12.1 describes a variety of existing safety-related conditions associated with the operation of the DCP, including: emergency planning, reactor risk, spent fuel, low level radio active waste, security and terrorism. These conditions establish baseline conditions for the existing power plant from which impacts of the proposed steam generator

replacement project must be measured. The project-related evaluation of transportation safety is included in Section D.12.3 of the Draft EIR. The safety evaluation concluded that potential navigational hazards, seismic hazards, and transport impacts could be feasibly reduced to a less than significant level by proposed mitigation measures. Other potential impacts that were evaluated were determined to be less than significant and no mitigation measures are required. The engineering phase of the project would produce a more specific work plan, but all steam generator removal and installation activities would be subject to NRC oversight and comprehensive inspection to verify that nuclear and radiological safety are maintained during the replacement project. All fuel would be removed from the reactors (Draft EIR, p. D.12-7) to minimize the potential for escape of radioactive material during containment access. Section B.3.3 of the Draft EIR provides details on how the steam generators will be handled within the containment structure.

Note also that Mitigation Measure G-2a, which was included in the Draft EIR, specifically deals with potential hazards of handling heavy loads during earthquake-caused ground shaking.

CC3-6 The maps, photos, and graphics in the Draft EIR supplemented by the description of the Proposed Project and its impacts provide an adequate depiction of the transportation route of the RSGs and OSGs during project activities. Figures B-6 and D.12-3 provide an illustration of the barge route into Port San Luis; Figures ES-1, B-1, C-2 through C-4, and D.8-1 through D.8-3 depict the proposed transport route for the RSGs from Port San Luis to DCPD; and Figures ES-2, B-2, B-3, C-1, and D.5-1 show the DCPD site layout including roadways, the Intake Cove, and potential TSAs and OSG Storage Facility locations. Figures B-12 through B-15 show the removal of the OSGs from the containment structures and their transfer to a heavy load transporter. In addition, Figures D.5-2 and D.7-1 show potential geologic and hydrologic hazards in reference to the proposed RSG transport route from Port San Luis to DCPD. The text in Sections B, C, and D of the Draft EIR provide sufficient description of the Proposed Project.

It is noted that the commenter opposes nuclear power. As described in *CEQA Guidelines* Section 15124, the Project Description should contain the location of the Proposed Project, the project objectives, a description of the project's characteristics, and the intended uses of the EIR, however, it “. . . *should not supply extensive detail beyond that needed for evaluation and review of the environmental impact.*” Therefore the Project Description of the Draft EIR does not contain extensive detail on baseline seismic risks and safety concerns of ongoing DCPD operations. Please refer to Section D.5 of the Draft EIR for a full analysis on issues related to seismic risks, and Sections D.6 and D.12 for issues regarding potential safety issues in the baseline and during the steam generator removal and installation process. Please also see Response CC3-5.

It is also noted that the commenter supports the comments from San Luis Obispo Mothers for Peace and Joint Parties in opposition to the Draft EIR. Please refer to Responses to Comment Set CC6 for responses to these comments.

Comment Set CC4
Avila Valley Advisory Council

Avila Valley Advisory Council

San Luis Obispo County, California

P.O. Box 65
Avila Beach, CA 93424
www.AvilaValley.org

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Bob Pusanik
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805-595-9855

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Squire Canyon

Karin Argano
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Vacancy (alt)

May 3, 2005

Mr. Andrew Barnsdale, CPUC
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104
diablocanyon@aspeneq.com

Dear Mr. Barnsdale:

SUBJECT: Draft EIR: Proposed Diablo Canyon Power Plant
Steam Generator Replacement Project
Prepared by: Aspen Environmental Group
for California Public Utilities Commission
SCH 2004101001, March 2005

Following are comments submitted to you for consideration and inclusion in the Final EIR for the Steam Generator Replacement Project at PG&E's Diablo Canyon Nuclear power plant in San Luis Obispo, CA.

Executive Summary

- ES.1 1.3 **Areas of Controversy/Public Scoping Issues**
Human Environment Issues and Concerns
AVAC Comment:
The scoping process for the EIR elicited strong concerns regarding potential impacts, mostly regarding security of the power plant, adequacy of emergency services, and public risk of onsite storage; other concerns were transportation and traffic issues. Evaluations of these potential impacts and recommended mitigations are inadequate. Implications of the DCPD life extension was also scoped but ignored in the Draft EIR.
- ES.2 **Alternatives**
No Project Alternative
AVAC Comment: Without replacement of the Steam Generators, the Plant will likely close in 2013-2014. Longer term operation with license renewal should be addressed, to include the 9 years extended service with steam generator replacement.
- ES.3.1 **Environmental Assessment Methodology**
3.1.1 **Environmental Baseline**
In order for the Plant to operate until 2021/2025 respectively, the Steam Generators must be replaced. If they are not replaced, the Plant will shut down in 2013 and 2014, 8 and 11 years prior to the end of the current license. PG&E is in current processing for on-going operations of the plant.

CC4-1

CC4-2

CC4-3

Comment Set CC4, cont.
 Avila Valley Advisory Council

	<p>AVAC comment: The \$700 million price tag for steam generator replacement will likely escalate with construction increases prior to the time of replacement in 2009. It is unlikely that the California Public Utilities Commission will approve these rate increases to customers with an assumption that the Plant will close in 2021/2025. This price tag would need to be absorbed over an extended license for the Plant to 2050.</p> <p>Given the above assumption, this document falls short in its evaluation of impacts to Marine Biology and continuing Traffic and Circulation impacts for the minimum of an additional nine years that the Plant will operate with Steam Generator replacement. Additionally, the Draft EIR does not provide adequate analysis of the storage of the Old Steam Generators and the details and risks associated with this portion of the Proposal. Please include these impacts in this analysis.</p>	CC4-3
ES3.13	<p>Traffic and Circulation</p> <p>3.13.1 Proposed Project Original Steam Generator Removal, Transport, Storage AVAC Comment: The number of project workers, 900 for this phase, should be included in this section.</p>	CC4-4
C-9	<p>Alternatives</p> <p>C4.2 Replacement Steam Generator Offloading Alternative AVAC Comment: Delivery of the steam generators directly to the Intake Cove at DCPD is the preferred alternative due to elimination of disruption to businesses and recreational access to Port San Luis that would occur with the proposed offloading at the Port. We support this alternative if it can be accomplished without incremental endangerment to personnel.</p>	CC4-5
D.8-19	<p>Land Use, Recreation, and Agriculture</p> <p>D.8.2 Coastal Plan Policies "offloading at Port San Luis would not conflict with this policy because Port San Luis is not a public point of access acquired through historic use or legislative action." AVAC Comment: Correct this data to reflect the Port's historic significance beginning with the tribal Indians and including explorer Cabrillo. In 1955 the State of California gave a grant of State Tide Lands to the Harbor District, a legislative action. Mitigation measures are mandated due to loss of access. Protection of existing access is not adequately addressed because of the inaccurate assumption that the Port neither qualified for protection of public access through historic use or legislative authorization.</p>	CC4-6
D.8-20	<p>Shoreline Access AVAC Comment: Temporary impacts to Port San Luis or Avila Beach to shoreline access have not been addressed. Impacts to occur with road and parking closures need to be identified.</p>	CC4-7
D8-22	<p>Land Use, Recreation and Agriculture AVAC Comment: Recreational users (coastal access, boaters, fishing, parking) displaced by the project's activities will require alternative means of accommodation. Adequate mitigation measures need to be developed for this impact. Improvements to coastal access are required now because replacement of the Steam Generators will potentially extend the licenses to continue operating the Power Plant for a minimum of nine more years. The community will likely lose the opportunity to address the extension under the NRC review for renewal. This has not been addressed by the Draft EIR.</p>	CC4-8
D11	<p>Socioeconomics This section addresses population growth and housing and labor demand. In each category, it is stated that "No impact would occur." AVAC comment: 900 additional employees, added to an outage population employee increase of 1100, increases the employment population of DCPD from a "normal population" of 1400 permanent workers, to a total of 3400 employees, a 130% increase of "normal".</p>	CC4-9

Comment Set CC4, cont.
Avila Valley Advisory Council

- To assume there will be "no impacts" because area workers will be willing to make a two hour commute to the project area which has inadequate "affordable" housing supply is inconceivable. Although there will be no permanent change, the two year construction period will create impacts that need to be addressed. For out of the area workers, temporary housing demand needs to be mitigated, possibly by temporary housing supplied by PG&G. **CC4-9**
- D12.4 **Environmental Impacts and Mitigation**
Original Steam Generator Offsite Disposal Alternative
This section states that in 2008 only one site will receive OSG's.
AVAC Comment: The EIR needs to evaluate availability at this site for Diablo OSG's. **CC4-10**
- D.13.12 **Traffic and Circulation T-1**
D13.2.2 "Transport would temporarily increase local traffic."
AVAC comment: The offloading alternative to the Port is the Intake Cove at DCP. This alternative avoids blocking Port traffic and should be noted. **CC4-11**
- D13.13 **Staging and Preparation T-3a**
D13.3.3 Mitigation Measures
AVAC Comment: The trip reduction program proposed by the applicant needs to be required by the County before project approval. Mitigation components should not be deferred; mitigation that is not specified can not be evaluated for adequacy. **CC4-12**
- Offsite parking needs to be specifically identified and a shuttle service defined from both north and south US 101. **CC4-13**
- There needs to be a **mandated** requirement for OSG removal and SG replacement personnel (900) to reduce trips by 50%, plus the same requirement for outage personnel. It is unacceptable for greater traffic than that experienced during outages. This methodology will still allow for a significant increase in trips from 1400 regular personnel who are not mandated to participate in carpooling.
- G-1 G. **NRC License Renewal**
AVAC Comment: This chapter should identify what mitigation measures the NRC should implement based on environmental effects of increasing the power plant's longevity with replacement steam generators. **CC4-14**
- H-20 **Mitigation Monitoring Program – Traffic & Circulation**
T2-a AVAC Comment: Peak season has been defined as May to August. It actually extends through September and should be stated. **CC4-15**

The Avila Valley Advisory Council appreciates the opportunity to provide these comments on the Draft EIR.

Sincerely,



Bob Pusanik
Chairperson
AVAC

C: Jerry Lenthall, 3rd District County Supervisor, SLO
AVAC Board

Responses to Comment Set CC4 Avila Valley Advisory Council

CC4-1 The purpose of the public scoping process is to solicit input regarding potentially significant effects of the Proposed Project that should be evaluated in the EIR. Please see Response CC2-14 for a detailed explanation of how public participation efforts are incorporated by the CEQA process in the EIR.

Security of the existing DCP, adequacy of emergency services, public risk of onsite radioactive waste storage, and transportation and traffic impacts were discussed in the Draft EIR to the degree that they were significant and a consequence of the Proposed Project. Existing plant operations are part of existing conditions and are not a consequence of the Proposed Project. As required by CEQA, the Draft EIR has evaluated potential project-related impacts against the established baseline conditions. Please also refer to Master Response MR-1 (Baseline).

CC4-2 Please refer to Master Response MR-1 (Baseline). Existing licenses for the power plant allow Units 1 and 2 to operation through September 2021 and April 2025, respectively. Those licenses and the environmental conditions that have developed at and near the project site as a result of the implementation of the licenses constitute the baseline environmental conditions from which potential impacts of the Steam Generator Replacement Project must be measured. *CEQA Guidelines* Section 15358(b) indicates that project-related “*effects analyzed under CEQA must be related to a physical change.*” The continuation of baseline conditions will not result in a physical change in the environment. Therefore, the continued operation of the power plant in accordance with its previously approved licenses is not subject to the environmental review requirements of CEQA as they pertain to the Steam Generator Replacement Project.

CEQA does not require an evaluation of a potential renewal of DCP's operating license because relicensing is not a reasonably foreseeable consequence of the Proposed Project. As stated in Section D.1.2.2 of the Draft EIR, PG&E is still evaluating the feasibility of applying for a license renewal. Attempting to complete an environmental review of a licensing project that has not been determined to be feasible and that would not be completed within the next 15 to 20 years would require an extensive amount of “forecasting,” which is not required by CEQA (please also see Response CC2-6). In addition, please also refer to Master Response MR-2 (License Renewal), as well as Responses A-1, C-2, and 4-1.

The Draft EIR does not fail to consider the effects of future operation of the power plant. A fundamental aspect of the Draft EIR is the acknowledgement that the effects of plant operation would continue into the future if the Proposed Project is approved. However, these effects already exist in the environment and are appropriately described as part of baseline conditions. The Draft EIR acknowledges that plant operations would cease if the steam generators are not replaced and appropriately describes the effects of this change in the analysis of the No Project Alternative. Please note that a license renewal would not be necessary to “include the nine years extended service with steam generator replacement,” as indicated by this comment.

CC4-3 CEQA does not consider cost issues except in a very limited manner. *CEQA Guidelines* Section 15064(e) indicates that economic changes resulting from a project shall not be treated

as significant effects on the environment. Economic changes may be used, however, to determine that a physical change shall be regarded as a significant effect on the environment. Where a physical change is caused by economic effects of a project, the physical change may be regarded as a significant effect. Costs of the project and alternatives are addressed by the CPUC in the General Proceeding (A04-01-009) on the Proposed Project.

Section D.3.1.5 of the Draft EIR outlines issues associated with the DCPD cooling water system that are considered to be part of the environmental baseline for the Proposed Project. The discussion provides an overview of the major marine biological resource issues associated with the DCPD that are also considered to be part of the environmental baseline. Clearly, the degraded marine resource conditions offshore the DCPD are characteristic of the marine environment at the time the NOP was published, which under CEQA defines the baseline against which all potential project-related impacts are to be evaluated. Furthermore, implementation of the Proposed Project would not have any effect on the current impacts to marine resources that result from the operation of the power plant. The Draft EIR also acknowledges that these effects would cease under the No Project Alternative, and that the Proposed Project would allow these impacts to continue until the end of the current license period. Existing impacts to marine resources, however, are baseline conditions as defined by *CEQA Guidelines* Section 15125. Please also see Response CC2-10.

Existing traffic conditions in the project area were described in Draft EIR Section D.13.1.2. These conditions include traffic that is presently generated by the DCPD and reflect the existing baseline conditions from which project-related impacts are to be evaluated. Implementation of the Proposed Project and the extension of plant operations to the end of its current licenses would not substantially alter the existing traffic generation characteristics of the power plant, and would not result in significant change in existing baseline traffic conditions. The Draft EIR also acknowledges that under the No Project Alternative, power plant-related traffic on the Access Road, Avila Beach Drive, San Luis Bay Drive, and other area roadways would be reduced and the roadways would experience an improved level of service due to the termination of DCPD operations prior to the license expiration dates.

Draft EIR Section D.12.3.4 provides an evaluation of potential impacts associated with the removal, transport and storage of the original steam generators. This detailed analysis determined that most potential removal, transportation and storage impacts would be less than significant, and that potentially significant seismic impacts to the OSG Storage Facility could be feasibly reduced to a less than significant level with the implementation of proposed Mitigation Measure G-3a, which addresses how structural design of the OSG Storage Facility should be based on consideration of recent earthquake data.

With regard to the ratemaking issue, replacement of the steam generators is considered a consequence of the CPUC rate-making decision if the CPUC decides to approve PG&E's request. Since CEQA requires evaluation of both direct and indirect effects, the Draft EIR considers the fact that approval of the rate-making proposal would lead to replacement of the steam generators. Therefore, the Draft EIR evaluates the impacts on the physical environment of steam generator replacement. The economic effects of a project may not be treated as significant impacts in an EIR (14 CCR §15064(e), and Draft EIR Section D.1.2.5), and the purpose of the EIR is to evaluate the potentially significant environmental impacts. Therefore, the EIR does not evaluate the economic consequences of the Proposed Project. The economic consequences of PG&E's rate-making proposal are for the Commissioners to

consider in the general proceeding, and are beyond the scope and requirements of CEQA. Similarly, the cost effectiveness of the Proposed Project is not an appropriate topic for the EIR. The EIR need only consider economic and cost issues in determining whether contemplated alternatives or mitigation are feasible.

CC4-4 The text in Section ES.3.13.1 under Original Steam Generator Removal, Transport, and Storage of the Final EIR has been revised to show the number of employees needed for the OSG Removal, Transport, and Storage phase of the Proposed Project (900).

CC4-5 The commenter's support of the Replacement Steam Generator Offloading Alternative is noted. From an environmental impact perspective, the EIR analysis of impacts associated with various offloading alternatives concurs with the commenter's note, that the RSG Offloading Alternative at the Intake Cove would generally have reduced impacts when compared to the Proposed Project.

CC4-6 Please see Response A-47 regarding the status of Port San Luis as a public point of access.

CC4-7 Please see Response A-48 regarding the analysis of parking and traffic impacts.

CC4-8 Please see Response A-53 regarding disruptions to coastal access and the NRC license renewal.

CC4-9 Although the Proposed Project, combined with the planned refueling outage, would increase the number of workers at DCPD by approximately 2,185 workers, it is anticipated that the following factors will allow adequate accommodation of temporary workers:

- Use of workers already living within the commute range,
- Scheduling of work outside of peak tourist season (e.g., May to October), and
- High percentage of vacant units, particularly outside of tourist season.

As described in Draft EIR Sections D.11.3.3 and D.11.3.4, these factors, combined with the large number of hotels, motels, and camping areas in the region would accommodate the temporary workers required for project activities. Consequently, no significant impacts would occur. Please see Responses PG-33 and PG-34 for more information on how the Final EIR includes revisions for an increase in the number of workers for the baseline refueling outage.

CC4-10 As noted in Section D.12.4.4 (p. D.12.26) of the Draft EIR, all low level waste generated at the DCPD will be stored either onsite or offsite at the Envirocare disposal site located in Clive, Utah. As explained in the Draft EIR, the availability of storage at the offsite facility is subject to numerous factors. The Draft EIR has fulfilled its CEQA mandated full disclosure requirement by informing the public that there is a possibility that the planned offsite disposal facility may not be capable of accepting the OSGs. Attempting to predict the availability of adequate storage capability at the offsite location would be speculative and not required by CEQA. Should it be determined in the future (2008) that the Utah facility does not have adequate capacity to accept the OSGs, and if the CPUC has approved a project including the offsite disposal of the OSGs, additional environmental review may be required at that time. Please also refer to Master Response MR-3 (Jurisdiction). The NRC has the jurisdiction to determine future storage locations for low level waste generated at the DCPD.

- CC4-11 This advantage of unloading at the Intake Cove is noted in the comparison of the alternatives. Please see Section E, Table E-1 of the Draft EIR.
- CC4-12 The timing for approval of the traffic reduction program was added to the mitigation monitoring program in Mitigation Measure T-3a as in Table D.13-10 of the Final EIR. Mitigation measures proposed to minimize impacts identified by EIRs often require the preparation and submittal of project-specific plans that require “ministerial” approval (i.e., are reviewed and approved by a Lead or Responsible Agency). Compliance with these types of mitigation requirements generally does not require review by the general public. However, should a discretionary action be required for the traffic reduction plan that is required by proposed Mitigation Measure T-3a, public review and subsequent environmental review would be required.
- CC4-13 The parking locations for the car- and van-pooling would be negotiated between San Luis Obispo County and PG&E. The regular “park and ride” locations within the County have limited spaces and would not be able to accommodate even a portion of the project-related employees’ vehicles. Text necessitating communication between the County and PG&E to identify available parking for the traffic reduction program was added to Mitigation Measure T-3a. This may include requiring that an adequate number of temporary parking facilities acceptable to PG&E and the County be identified and available for use prior to the start of project-related construction activities.
- CC4-14 Please refer to Master Responses MR-2 (License Renewal) and MR-3 (Jurisdiction). Attempting to complete an environmental review of a potential licensing project for which no application has been filed and that would not be implemented within the next 15-20 years would require an extensive amount of “forecasting,” which is not required by CEQA (please also see Response CC2-6).
- CC4-15 The text has been revised throughout the Final EIR to reflect that the peak tourist season is May through October.

Comment Set CC5 Alliance for Nuclear Responsibility

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May 5, 2005

**Comments of the Alliance for Nuclear Responsibility on the Draft
Environmental Impact Report (DEIR) for the Proposed Diablo Canyon
Nuclear Power Plant Steam Generator Replacement Project
Pacific Gas & Electric Company's Application for Diablo Canyon Nuclear Power
Plant Steam Generator Replacement project Application No. A.04-01-009**

The California Public Utilities Commission (CPUC) announces the DEIR's greatest shortcoming when it fails to describe Diablo Canyon as a *nuclear* power plant in the title of this report. It is precisely that Diablo is a nuclear power plant that raises the greatest public concern. Due to the length of the words Diablo Canyon Nuclear Power Plant, the plant will henceforth be referred to as the Nuclear Plant. The Alliance for Nuclear Responsibility will focus on both the environmental impacts highlighted in the DEIR and the issues and impacts it failed to address.

It is very disheartening that the DEIR does not address the primary concern of the residents of San Luis Obispo County and other counties downwind. It is the additional decade of high-level radioactive waste that will be produced and must be stored on fragile earthquake active coastal bluffs if steam generators are replaced that is so crucial in this decision making process. Though not fully disclosed before this DEIR was issued, the following revelations have profound implications for the DEIR:

- Yucca Mountain documents were apparently falsified, leaving the fate of the nation's only proposed permanent radioactive waste facility in doubt;
- The National Academy of Sciences issued a report that questions safety of onsite spent fuel pools, and dry-cask storage;
- Utah officials are gathering support to prevent Skull Valley from opening.

The federal government faces the very dire consequences of being unable to develop a safe alternative to the temporary storage of highly radioactive waste. The question for California residents is whether our state can economically and environmentally afford to continue operation of nuclear plants when there is no permanent site for storage. This leaves the real possibility that highly radioactive waste will be temporarily stored forever. In the case of the Nuclear Plant, this storage will be sited very near to an active earthquake fault.

Planning to replace this radioactive generation must begin with weighing the true costs, both economic and environmental, of steam generator replacement. In our opinion the DEIR fails to take into account the true cost of the replacement. The state can save multi-billion dollar investments in steam generators and other failing components at

CC5-1

CC5-2

Comment Set CC5, cont.
Alliance for Nuclear Responsibility

California's nuclear plants by looking at other less costly energy alternatives. We can use ratepayers' dollars to create electric generation that will benefit our state with new jobs, new property taxes, and clean energy while phasing out the production of high-level radioactive waste stored on our coast.

CC5-2

It is time for California to begin to plan for replacement of this aging and dangerous energy source. The opportunity to veer away from a nuclear path to renewable generation should begin with a denial of PG&E's Application for steam generator replacement at its Nuclear Plant.

**ANALYSIS AND COMMENTS OF THE ALLIANCE FOR NUCLEAR
RESPONSIBILITY OF THE D.E.I.R**

CC5-3

The Alliance for Nuclear Responsibility has thoroughly reviewed the Draft Environmental Impact Report (DEIR). Even though comments result from a complete reading of each section of the DEIR, to the extent possible the Alliance has incorporated responses in points made in the Executive Summary with page citations footnoted.

* Under PG&E's stated objectives: "Replacement of DCNPP's aging steam generators may reduce risk of leakage..."¹

COMMENT: What is meant by the term "aging" in reference to the steam generators? How long were steam generators anticipated to last if not for the entire original 40-year license for the Nuclear Plant? And if the steam generators are "aging" at the half-way point in the original licensed period, then what other components, allied or ancillary, might be aging and subject to "risk of leakage".

* The second objective of the Proposed Project is to operate the Nuclear Plant in a cost-efficient manner by reducing costs associated with tube degradation which is expected to increase over the next few years.²

CC5-4

COMMENT: What is truly meant by cost-efficiency given that the original reactors at the Nuclear Plant exceeded its budget by more than five-fold in terms of cost? Why is this "degradation" a problem now? Was it not foreseen in the original operating budget/plans for the plant, and if not, why? If this was not foreseen as an added cost, how can the public be assured that the project being addressed at present has taken into account such unseen and unplanned costs?

* Each DCNPP Unit provides approximately 1,100 MW of low-cost, zero-emission power to the California power supply.³

CC5-5

COMMENT: The use of the phrase "zero-emission" is misleading; there may be no direct emissions of greenhouse gasses into the atmosphere as a result of operating the

¹ DEIR, Executive Summary, ES-1

² ibid

³ ibid

Comment Set CC5, cont. Alliance for Nuclear Responsibility

Nuclear Plant, however there are greenhouse emissions created in the nuclear fuel fabrication process. The emissions related to nuclear power are caused by the fossil fuel intensive processes involved in uranium mining, conversion, enrichment, transport and construction of power stations. As a result, nuclear power produces direct and indirect emission of 73 to 230 grams of CO₂ per kWh electricity produced. Wind and solar, by comparison, are virtually greenhouse gas free, recouping construction emissions in the first years of operation.⁴

CC5-5

The definition of “emit” is: to give or send out matter or energy, *isotopes that emit radioactive particles...*⁵ The Alliance does not believe the CPUC can responsibly attempt to ignore the “elephant” in the room: the tons of highly radioactive spent fuel that has been accumulated and will continue to be produced on the Nuclear Plant site if PG&E’s application is approved. This waste which is vulnerable to accidents, seismic incidents and terrorism is indeed an “emission” albeit “solid” in nature.

* Based on the current progression of tube degradation, the likelihood of a forced outage to replace the steam generators is substantially increasing⁶

CC5-6

COMMENT: As recently as the June 2002 end of cycle meeting for the Nuclear Plant, the public was assured by Nuclear Plant personnel that the steam generators, while suffering degradation, would be able to be “plugged” and patched in accordance with NRC standards for the remaining life of the license.⁷ If the situation went from “manageable” to “immediate” within two years, how can the public trust PG&E’s engineering judgment in making “long term” plans for this facility?

* At this time PG&E has not formally proposed to renew the licenses, and license renewal is speculative and not a reasonably foreseeable outcome of the Proposed Project.⁸

CC5-7

COMMENT: PG&E currently acknowledges that it is performing “feasibility studies” for license renewals at the Nuclear Plant.⁹ In addition, a representative of the Nuclear Regulatory Commission (NRC) stated at a public meeting in July 2003 that: “...All indications are that multiple license renewal applications will continue to be filed with the Commission over the next decade and eventually the entire fleet of nuclear plants will request license renewal.”¹⁰ Since that date the NRC has granted thirty license renewals. Therefore, it is highly erroneous to state that “license renewal is speculative and not a reasonably foreseeable outcome of the project.”

It is important to highlight a clear contradiction in the DEIR re: foreseeability of license renewals vs. the foreseeability of a yet to be issued NPDES permit. The DEIR presents

⁴ <http://www.nirs.org/factsheets/climatenukes.pdf> Nuclear Power: No solution to climate change

⁵ The American Heritage Dictionary, page 603

⁶ DEIR, Executive Summary, ES-1

⁷ AGP Video DCISC meeting June 2003

⁸ DEIR, Executive Summary, ES-2

⁹ PG&E Overhead presented DCISC attachment to MFP and David Weisman Comments

¹⁰ NRC Public Meeting transcript, July 15, 2003, Anaheim Hilton Hotel, page 12, lines 11-15.

Comment Set CC5, cont.
Alliance for Nuclear Responsibility

the “Consent Judgment” on the continuing marine impacts of Nuclear Plant’s cooling water entrainment and thermal discharge and their proposed mitigation as though this were a matter of settled fact.¹¹ There is, as yet, no Consent Judgment, and the issuance of an NPDES permit is therefore in doubt. If the DEIR wishes to cite PG&E’s relicensing as “remote and speculative” because an actual request has not yet been filed, it must find the terms of the not-yet-entered Consent Judgment equally “remote and speculative,” and cannot cite these terms as mitigation for the impacts of the plant’s continued operation as facilitated by the Proposed Project. If CPUC considers the prospect of a consent judgment and NPDES permit likely, then the prospect of PG&E’s request for relicensing is also likely. The DEIR cannot have it both ways.

CC5-7

* No Project Alternative.... The surroundings would experience beneficial environmental effects by shutting down the routine operation of DCNPP, most notably in the areas of marine biological resources and public safety.¹²

CC5-8

COMMENT: This statement by itself should be sufficient grounds for denial of the permit. By the CPUC’s own conclusion in the DEIR, the environment and surroundings benefit from the shutting down of the Nuclear Plant. In fact, this refutes the contention that the Nuclear Plant has “zero emission” (see definition on previous page) because the thermal discharge of cooling water into the Pacific Ocean is an emission (liquid) and does have a deleterious effect on the marine biological resources. Marine degradation is an open issue and a state responsibility.

A DEIR that fails to include the California Thermal Plan and new EPA regulations for existing power facilities cannot be considered complete. In addition, the DEIR falsely claims the existing thermal plume, impingement and entrainment are part of the baseline conditions and would not change under the proposed project. In fact, the No Project Alternative would allow for the slow natural restoration of the marine environment.

Irreversible changes in the fish population would undoubtedly occur due to cumulative impacts. It is now well established that fish stocks in the ocean have been severely reduced. Several restrictions have been imposed on fishermen in order to protect the remaining fish population. Continued unrestricted entrainment of fish larvae by the Nuclear Plant over time would operate to reduce the remaining fish species, endangering the survival of enough fish to keep fish populations from collapsing.

New steam generators would extend the lifetime of the Nuclear Plant and although the baseline might not change, the damage to the environment would continue for an additional 10-35+ years. The DEIR as written lacks the commitment required by the CEQA process.

* At this time, it would be remote and speculative to predict exactly how replacement power would be provided given the wide range of possibilities, the types, sizes, number,

CC5-9

¹¹ D.3.1.5.1

¹² DEIR, Executive Summary, ES-2

Comment Set CC5, cont. Alliance for Nuclear Responsibility

or location of replacement power projects that might be constructed under the No Project Alternative. Because of these limitations, the environmental assessment for the No Project Alternative does not analyze specific replacement power scenarios. The analysis discusses potential replacement power solutions in a more general manner and at a lesser level of detail than the proposed project.”

CC5-9

COMMENT: There is an apparent “disconnect” in the DEIR evaluation on PG. ES-2. At first the DEIR claims that: “The surroundings would experience beneficial environmental effects by shutting down the routine operation of DC[N]PP, most notably in the areas of marine biological resources and public safety,” which would provide the maximum environmental benefit. However, at the conclusion of the paragraph the DEIR claims that “... At this time, it would be remote and speculative to predict exactly how replacement power would be provided; given the wide range of possibilities...”

The DEIR devotes a scant 6 pages¹³ to examining the alternatives in a very cursory manner devoid of any specific examples or scenarios. In addition, the DEIR endnotes for chapter C.6 has 13 out of 18 citations coming from PG&E and 3 from the California Energy Commission (CEC) report, with no other independent sources listed, credited or consulted.¹⁴

CC5-10

The DEIR does not state emphatically that the No Project Alternative results are achieved by shutting down the plant. The DEIR then focuses any “alternatives” on small variances in the actual loading/unloading and transport of the steam generators, as if it were a *fait accompli*.

The repeated assertions in the DEIR that: “At this time, it would be remote and speculative...”¹⁵ are disingenuous. Indeed it is the ideal time for the CPUC to begin to look at the replacement of nuclear power with its attendant drawbacks, particularly in light of the preceding statement: “The surroundings would experience beneficial environmental effects by shutting down the routine operation of DC[N]PP, most notably in the areas of marine biological resources and public safety.”¹⁶

* Summary of Public Involvement: “Verbal comments were received at all three scoping meetings – two in San Francisco, twenty-three at the afternoon meeting in San Luis Obispo, and twenty-nine at the evening meeting in San Luis Obispo.”¹⁷

CC5-11

COMMENT: “Verbal comments were received” but apparently the CPUC & DEIR consultants were listening or taking notes. In fact, there was no transcription of the meeting and it is obvious in the results of the DEIR. Luckily, the community has a videotape of the event, (sent by regular mail 5/2/05, as an attachment to this document). The CPUC should listen to the San Luis Obispo community requesting an in depth look

¹³ DEIR, Section C-6, pages C 26 to C 35.

¹⁴ DEIR, Section C-6, page 36

¹⁵ DEIR, Executive Summary (PAGE)

¹⁶ DEIR, Executive Summary (PAGE)

¹⁷ DEIR, Executive Summary, ES-11

Comment Set CC5, cont. Alliance for Nuclear Responsibility

at alternative power scenarios to replace the Nuclear Plant.. Notes and website references were submitted at this meeting, including scenarios that involve repurposing the plant to natural gas as well as wind and renewable energy...none of these documents or sources are referenced in the end-notes or bibliography of the full draft DEIR ¹⁸ It is very disheartening for the residents of a community so impacted by the presence of a Nuclear Plant to have their comments ignored.

CC5-11

* Many comments from private citizens and non-profit organizations supported the No Project Alternative... General comments addressed the need to fully analyze all of the Proposed Project's alternatives.¹⁹

CC5-12

COMMENT: This is a stunning statement as it regards the impact these many comments had on the drafting of the DEIR. Out of a 500+ page report a mere six pages of content, using principally the applicant as the source of data, is all that is allocated to addressing the majority of the public's concerns for the No Project Alternative. It is as if the CPUC is completely ignoring the requests of those whose input it sought in the public participation process.

* These technologies do, however, cause environmental impacts, and they also have technical feasibility limitations. High costs and, in some cases, limited dispatchability, inhibit their market penetration. The ability of each of the seven alternative energy technologies to provide replacement power is summarized in Section C.6.3."²⁰

CC5-13

COMMENT: The preferred place for Alternative Energy Technologies to be "summarized" is in the Executive Summary. The expected placement where these issues can be explored and analyzed is in section C.6.3, for which the public receives instead fewer pages of analysis than people at the public comment meeting presented as a bibliography to be studied. For a more detailed response to this omission, see comments for PG. ES-23.

* At this point, therefore, license renewal is remote and speculative and need not be considered in this document. License renewal is not a reasonably foreseeable consequence of the Proposed Project given the feasibility, analytical and regulatory hurdles to license renewal (let alone PG&E's decision on whether to apply for license renewal).²¹

CC5-14

COMMENT: PG&E currently acknowledges that it is performing "feasibility studies" for license renewals at the Nuclear Plant. In addition, a representative of the NRC stated on July 15, 2003, "All indications are that multiple license renewal applications will continue to be filed with the Commission over the next decade and eventually the entire fleet of nuclear plants will request license renewal." Therefore, it is erroneous to state

¹⁸ AGP Video (APPENDIX and date)

¹⁹ DEIR, Executive Summary, ES-13

²⁰ DEIR, Executive Summary, ES-19

²¹ DEIR, Executive Summary, ES-22

Comment Set CC5, cont. Alliance for Nuclear Responsibility

that “license renewal is speculative and not a reasonably foreseeable outcome of the project.

CC5-14

As previously stated, the NRC has approved thirty license renewals without particularly high “hurdles” for nuclear utilities to jump.

Section 3.1.3 No Project Alternative

CC5-15

* The surroundings would experience beneficial environmental effects by shutting down the routine operation of DCP, most notably in the areas of marine biological resources and public safety.

The justification for the “No Project Alternative” is seriously lacking throughout the DEIR. While the DEIR states: “The surroundings would experience beneficial environmental effects by shutting down the routine operation of DCP, most notably in the areas of marine biological resources and public safety,” it does not take that statement to the logical conclusion—the project should be denied.

The following comments highlight DEIR shortcomings:

CC5-16

COMMENT: Throughout the twelve pages of the section on Visual Resources- textual analysis, the temporary nature of the visual impact on the environment is emphasized repeatedly, granting a slim total of eleven sentences to the only permanent change that will result to the DCP site— the OSG Storage Facility, a 10,000 square foot concrete structure proposed to be built without windows or any other architectural amenities.

As well, both concerning the OSG storage facility and the overall visual impact on the environment wrought by the replacement project, the analysis repeatedly begs the question. Here is one example: “Despite the picturesque natural setting of the facility, the existing industrial character of the facility represents an already visually compromised condition, and therefore, the employees’ level of viewer concern at the workplace is already considered to be low” (D.14-25). Here it is implied that because the environment has already been compromised, further compromise is not an issue worth considering. The preceding quote also points to a significant omission regarding point of view. There is never, in this section of the document, (D.14), a reference to the potential future viewer who might well happen upon this coastal setting after the eventual decommission of the DCP. The analysis is written as if future tomorrows do not exist.

COMMENT: The DEIR lists 7 off-normal and 17 accident scenarios, declaring that none of them would “cause substantial public safety impacts”. The justification for this breathtaking statement is that the ISFSI SAR found this to be true. This ISFSI SAR are highly contested and a recent report by the National Academy of Sciences clearly calls the vulnerability of the current spent fuel pool designs and onsite storage to the nation’s attention.

CC5-17

Comment Set CC5, cont.
Alliance for Nuclear Responsibility

The DEIR also refers to NRC Generic Letter 81-38 issued in 1981 stating that no low level wastes should be stored on-site for more than 5 years. However, since then "NRC has eliminated in its guidance any language that the 5-year term is a limit beyond which storage would not be allowed". The Low Level Radioactive Waste Baseline states that the used and contaminated steam generators will be stored onsite until and unless another *cost-effective* solution is found. In other words, no one knows what to do with same, but that should not interfere with the project. The DEIR moves all the way from a 5 year storage limit to a position that whatever is convenient for the plant operator is just fine! (D. 12-10 to 12)

CC5-17

COMMENT: On the whole the section on Traffic and Circulation is a well written and clear review of the roadway and NORMAL traffic impact in the area of the Nuclear plant. There is careful attention to spreading the impacts of additional personnel at the plant and mitigating the adverse effects associated with a greater number of trucks and cars during the steam generator replacement. Circulation conditions and roadway/intersection classifications are clearly explained, and the comparison between present traffic and seasonal conditions and those anticipated during and resulting from the steam generator replacement are lucid.

CC5-18

However, it appears to this observer that there is a fly in the ointment in that no attempt is made in this traffic and circulation element to anticipate and remedy any emergency/accident conditions that could arise during the steam generator replacement process.

This is probably also the case during non-replacement times. Under emergency, some panic conditions are bound to arise, as both residents in nearby areas especially (say within 2-3 miles of the Nuclear Plant) plus plant personnel themselves worry about families and children in and out of the immediate area. Where is the safety valve and what exactly is involved in giving timely warnings and plotting exits and traffic flow under emergency conditions?

Normal traffic flow, plus the additional traffic impacts associated with replacement activities, cannot reasonably be used as a baseline for projecting what will happen under extraordinary conditions. For example, as the Report states, "The worst traffic in the area is experienced on Highway 101 in San Luis Obispo at the Madonna Road/227 junction and at the Marsh Street exit..." What will that mean under extraordinary conditions?

And as Table D.13-5 acknowledges, project activities under CEQA guidelines would be considered significant for traffic if "Project activities would restrict the movements of emergency vehicles (police cars, fire trucks, ambulances, and paramedic units) with no reasonable alternative access," thus yielding a grade of "F" (the lowest) for peak hour use. One can only imagine roadway traffic impacts under critical conditions that go beyond normal plant use and normal-smooth generator replacement.

Thus there is need for a new and major section of this Traffic and Circulation element to deal with all kinds of conditions during an emergency. Some of this will not be known

Comment Set CC5, cont. Alliance for Nuclear Responsibility

with certainty until after the fact. But some clear and imaginative thinking is needed in this strongly advised section that can present a reasonable and practical overview of traffic and circulation functioning under duress.²²

CC5-18

COMMENT: The new steam generators will extend the useful life of Nuclear Plant Units 1 and 2 by at least 8 and 12 years respectively, i.e. at least until the end of the current licensing periods in 2021 and 2025. This extension of the operation of the facility beyond the “natural” decommissioning point in 2013 creates an additional period of seismic risk experienced by the entire Nuclear Plant facility. It would therefore be reasonable to expect the DEIR to include an analysis of seismic risks associated with operation of the entire Nuclear Plant facility for this extended period. As it is, the DEIR focuses narrowly on seismic risks associated only with the steam generator replacement project, i.e. to the OSG storage site, etc.

CC5-19

As a mitigation measure to potential seismic ground shaking on the OSG storage facility, the DEIR proposes updating of the Long Term Seismic Program with new earthquake data (presumably including the San Simeon quake and related seismicity). The updated LTSP would then be used to develop a new design for the OSG storage facility. It is suggested, per the above, that this analysis be extended to the entire Nuclear Plant facility.

A key risk associated with the steam generator replacement project is the fact that the proposed OSG storage site is located at the base of a large landslide mass. The landslide could be re-activated and damage the OSG storage facility. The OSG’s are low-level radioactive, and the integrity of the storage area is thus critical to prevent contamination of the surroundings. As a mitigation measure, the DEIR prudently suggests conducting a geotechnical study of the proposed site to assess the landslide/slope stability risk in more detail and determine if the site needs to be moved, or if the site can be engineered appropriately. However, based on the geologic map, it looks like both the “preferred” and alternative OSG storage sites are in close proximity to the landslide mass and are therefore at risk. Thus, depending on the results of the geotechnical study, we may need to push PG&E to identify other potential sites.

CC5-20

* A range of replacement generation (including renewable energy sources and demand-side management) or conservation and transmission solutions are considered. The No Project Alternative is described fully in Section C.6 of the Draft EIR.

CC5-21

* This environmental assessment does not analyze any specific scenarios for providing replacement power-generating capacity or transmission system upgrades.... At this time, it would be remote and speculative to predict exactly how replacement power would be provided; given the wide range of possibilities, the types, sizes, number, or location of replacement power projects that might be constructed under the No Project Alternative. Because of these limitations, the environmental assessment for the No Project Alternative does not analyze specific replacement power scenarios. The analysis discusses potential

²² Comments of Professor Ira Winn, PhD Urban Studies

Comment Set CC5, cont.
Alliance for Nuclear Responsibility

replacement power solutions in a more general manner and at a lesser level of detail than the proposed project.”²³

CC5-21

COMMENT: The unwillingness of the CPUC to provide an in depth analysis of the No Project Alternative is incredibly shortsighted and irresponsible to California ratepayers. The CPUC cannot credibly issue a blanket dismissal of the role of alternative and renewable energy as being either expensive or technologically unfeasible. It is clear the CPUC has not cited nor researched any of the references provided by the public. If this had been done it should have been referenced in the endnotes for chapter C.6).

It should not be the public’s job as citizens to do the work we are paying the CPUC’s consultants to do. However this is our community at risk and in the spirit of streamlining the process, the public will provide the CPUC with the following links and resources

A. In Colorado, the town of Lamar has established a successful wind farm that is revitalizing its economy and adding needed megawatts to the system.
(<http://www.coenergy.info/home.html>)

B. In Texas, Public Citizen promoted a similar program that provided 1 Gigawatt of power (about ½ the output of Diablo Canyon) for a billion dollars in the late 1990s, for approximately the same cost as steam generator replacement:
(http://www.ucsusa.org/clean_energy/renewable_energy/page.cfm?pageID=1644)

C. California Governor Schwarzenegger has endorsed SB 1, legislation that would require solar powered homes providing 3.3 Gigawatts of power (one and a half times the output of Diablo Canyon!) by 2017...eight years *before* *Diablo Canyon’s license to operate expires*.
(<http://environmentcalifornia.org/envirocalifenergy.asp?id=596&id4=ES>)

* For the most part, market forces and private investment decisions would dictate how and where replacement power would be provided.²⁴

CC5-22

Comment: These “market forces and private investment decisions” in the past decade have wreaked havoc with California’s energy system and economy. Before the CPUC relies too heavily on market forces’ input to plan for California’s energy future, the Alliance for Nuclear Responsibility suggests consulting:
(<http://www.consumerwatchdog.org/utilities/rp/rp002193.pdf>) for a full report on the effects of private markets and energy trading, “gaming” and transmission manipulation for speculation and profit; something that cannot happen under a “decentralized” power proposal such as the “million solar roofs” suggested by the above mentioned SB 1.

²³ DEIR, Executive Summary, ES-23

²⁴ *ibid*

**Comment Set CC5, cont.
Alliance for Nuclear Responsibility**

Summary

There are two glaring errors presented in the DEIR. The first is to pointedly ignore the No Project Alternative as a viable option. It is clear by the comments contained in the document that no serious efforts were made to study this as a possible and reasonable choice. The citizens of San Luis Obispo County provided more information on this topic than did the consultants who authored the report. Secondly, the DEIR and the CPUC are attempting to ignore the real economic and environmental effects of a decision to approve this request. It cannot be reasonably stated that whether the utility will apply for further licenses is highly speculative. Numerous examples have been provided that suggested just the opposite; it is highly likely that if the CPUC gives the green light for this one billion dollar project than PG&E will continue to operate the plant for decades producing more and more tons of highly toxic radioactive waste with no storage strategy in place.

The whole purpose of analyzing cumulative impacts of the present project in context of other ongoing and planned projects is being ignored in this DEIR. The report should include an analysis of extending the life of the plant, seismic risks associated therewith, storage of nuclear waste, and alternatives to nuclear power. The DEIR avoids doing so on the ground that PG&E is not sure it is filing its renewal application. The utility admits the plant could be forced to shut down if the steam generators are not replaced. It has sought approval for enough dry cask storage space to continue operations well beyond expiration of the current licenses. Clearly the steam generator replacement is part of an overall plan to continue operations and seek license renewal. To exclude this analysis is to look at this in a piecemeal fashion that ignores the real environmental consequences.

The failure of the DEIR to flesh out reasonable and genuine alternatives, or to honestly account for foreseeable consequences of the proposed project, requires that, if this project is to be pursued at all, a new DEIR be issued, so that the Final product can incorporate public review and comment on genuinely substantive alternatives analysis rather than constitute a once-over response to a lack of such analysis.

CC5-23

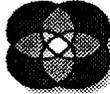
CC5-24

CC5-25

Respectfully Submitted

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Comment Set CC5, cont.
Alliance for Nuclear Responsibility



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May 2, 2005

Andrew Barnsdale, CPUC
c/o Aspen Environmental Group
235 Montgomery Street, Suite 935
San Francisco, CA 94104

Dear Mr. Barnsdale:

Enclosed is Alliance For Nuclear Responsibility Exhibit 1 to accompany the comments of the Alliance filed in response to the draft E.I.R re: Diablo Canyon Power Plant Steam Generator Replacement Project Application No. A.04.01.009 SCH No. 2004101001

CC5-26

The exhibit consists of a video DVD of the E.I.R. scoping meeting held in San Luis Obispo on October 27, 2004.

Thank you for your consideration.

Yours truly,

David Weisman
Board Member
Alliance for Nuclear Responsibility

Responses to Comment Set CC5

Alliance for Nuclear Responsibility

CC5-1 The fact that the Diablo Canyon Power Plant is a nuclear power plant is documented throughout the Draft EIR. Changing the title of the EIR is not required to satisfy CEQA's "full disclosure" requirements.

DCPP Units 1 and 2 have current operating licenses until September 2021 and April 2025, respectively, and those operation timeframes comprise the environmental baseline conditions. The operation of DCPP under these licenses is considered part of the environmental setting (i.e., the baseline) from which project-related impacts are to be evaluated. Therefore, the Draft EIR analysis focused on environmental impacts associated with the Proposed Project. Please see Master Response MR-1 (Baseline).

In the case of potential seismic impacts and the Proposed Project, the EIR identified the need to update and implement the DCPP Long Term Seismic Program (LTSP). Given the baseline determination for the EIR, the evaluation of potential seismic impacts was limited to the proposed OSG Storage Facility.

The EIR analysis incorporated by reference the findings of the DCPP ISFSI EIR completed by San Luis Obispo County in 2004. In the ISFSI EIR it was assumed that none of the high level radioactive waste that has been, and will continue to be generated at the DCPP, will ever be stored at Yucca Mountain. Therefore, recent revelations of potential document falsification at Yucca Mountain are irrelevant to the Proposed Project. The storage and transportation of nuclear waste is regulated by the NRC and federal Department of Transportation, respectively. The role of those agencies in regard to the Proposed Project is described in Section D.12.2 of the Draft EIR. The CPUC does not have jurisdiction over nuclear material management issues, and those issues are beyond the scope of this CEQA document.

The recent National Academy of Sciences (NAS) report reaffirms the findings of the DCPP ISFSI EIR that was incorporated by reference in this document. The ISFSI EIR identified numerous vulnerabilities associated with the spent fuel pools and dry storage facilities that were also identified in the recent NAS report.

Section D.12.1 (Spent Fuel Risk Baseline) in the Draft EIR (p. D.12-7) describes the spent fuel storage program for the DCPP that was reviewed by the ISFSI EIR and certified by San Luis Obispo County in 2004. Potential seismic impacts associated with the storage of radioactive materials at the project site were evaluated by the ISFSI EIR. Implementation of the Proposed Project would not result in new spent fuel storage-related impacts that were not considered by the ISFSI EIR. Section D.12.1 (Low Level Radioactive Waste Baseline) in the Draft EIR also acknowledges that storage facilities for low-level radioactive waste are currently limited (Page D.12-9 through D.12-12).

CC5-2 CEQA does not address cost or ratepayer benefit in the evaluation of the Proposed Project or alternatives. Project cost and ratepayer benefits are addressed by the CPUC in the General Proceeding (A04-01-009) on the Proposed Project. See Response 1-3 for additional information on the General Proceeding of the Proposed Project.

The second portion of this comment provides the commenter's opinion on California's energy resource planning policies, especially with regard to nuclear power. Please refer to Responses CC2-4 and CC2-9 for more information on California's energy resource plans. The commenter's opposition to the Proposed Project by advocating denial of the Proposed Project is also noted.

- CC5-3 The purpose of this EIR is to evaluate potential environmental impacts that have the potential to result from the Proposed Project, which is limited to the replacement of the DCPP steam generators. The EIR has not evaluated, nor is it required to evaluate, system safety or reliability for other power plant components that would not be affected by the Proposed Project. The Draft EIR notes that continued operation of the DCPP would result in an ongoing probability of component failure. However, as also stated in the Draft EIR, the replacement of the DCPP steam generators is in direct response to the long-term wear of these components and the concern for future failures. Similarly, other critical DCPP reactor components have serviceable lifetimes, thus requiring periodic inspection, maintenance and replacement per NRC directives and schedules. Much of this maintenance occurs in the baseline conditions and would continue to occur with NRC oversight, with or without the Proposed Project. As stated in Section D.1.2.1, the existence of the operating nuclear power plant through the NRC authorized license periods and its ongoing effects are not a consequence of the Proposed Project. There are NRC staff onsite at DCPP to monitor and address any problems with aging components. See also Master Response MR-1 (Baseline).
- CC5-4 Please refer to Response CC5-3 for information pertaining to the operation and replacement of other DCPP system components. Please refer to Response CC5-2 regarding the evaluation of economic costs associated with the operation of the DCPP.
- CC5-5 The comment notes that the DCPP is not a significant direct source of greenhouse gas emissions, but that emissions do occur as part of fuel manufacturing and other activities that support the ongoing operation of DCPP. Most of the indirect emissions related to providing fuel supplies occur outside of California, and they occur as a result of the entire U.S. nuclear power industry, not DCPP specifically. Potential impacts associated with uranium processing would be subject to the applicable permitting and environmental review requirements within the jurisdictions where the mining-related operations occur. The Draft EIR does not describe uranium mining or other uranium fuel cycle processes, such as enrichment, because those activities presently occur as part of the environmental baseline (see Draft EIR Section D.1.2.1). Furthermore, those types of activities would be subject to the applicable permitting and environmental review requirements in effect within the jurisdictions where the mining-related operations occur. The Proposed Project activities (RSG transport, staging and preparation, etc.) would not result in changes to the uranium fuel cycle, and would not change how DCPP uses uranium fuel or the greenhouse gas emissions associated with enrichment. Similarly, the Draft EIR does not describe the ongoing production of spent fuel waste, because these activities occur in the environmental baseline (see Draft EIR Section D.1.2.1). Please also refer to Responses CC2-3 and PM2-1.

Draft EIR Section C.6.3 provides information regarding potential alternative energy technologies, and evaluates the feasibility of replacing base-load power supplies that would be lost should the DCPP be shut down. The EIR's evaluation of potential energy alternatives is consistent with the requirements of *CEQA Guidelines* Section 15126.6, which pertains to the selection of a reasonable range of feasible alternatives, and the level of analysis detail required for alternatives analysis. Please also refer to Responses PM1-4, 12-5, and 12-15.

- CC5-6 This EIR was prepared in response to the Proposed Project as described in PG&E's Application to the CPUC for steam generator replacement (A.04-01-009). PG&E's Application described the current percentage of plugged tubes in each unit and the forecasted time period during which the NRC limits may be exceeded resulting in a forced outage (2014 for Unit 1 and 2013 for Unit 2). As described in Draft EIR Section A.2.2, the NRC requires PG&E to maintain the steam generators at DCPD so that the tubes have an extremely low probability of leakage and a substantial margin to failure. The statistical probability is zero that Units 1 and 2 will continue to operate within all applicable NRC limits until the end of each unit's operating license.
- CC5-7 Please refer to Master Responses MR-2 (License Renewal). In regard to a possible request for operating license renewal, attempting to complete an environmental review of a potential licensing project for which no application has been filed and that would not be implemented within the next 15-20 years would require an extensive amount of speculation and "forecasting," which is not required by CEQA. *CEQA Guidelines* Section 15144 states that "An agency cannot be expected to predict the future course of governmental regulation or exactly what information scientific advances may ultimately reveal" (*Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376)."
- Please refer to Master Response MR-4 (Consent Judgment). In regard to the proposed Consent Judgment, the Judgment was discussed in the Draft EIR in the context of baseline environmental issues associated with the DCPD, specifically in the area of marine biological resources. Any deficiencies associated with the Consent Judgment are well outside the scope of this EIR, which was prepared to evaluate potential environmental impacts associated with the Steam Generator Replacement Project. The Final EIR has been updated to include the latest information on the RWQCB's Consent Judgment.
- CC5-8 Please refer to Master Responses MR-1 (Baseline) and MR-2 (License Renewal). As indicated in the comment, in the analysis of the No Project Alternative, the Draft EIR indicates that the shutdown of the DCPD would result in beneficial effects on the marine environment. The project baseline is clearly demarcated as the environmental conditions the time the NOP was published, which in this case represents the degraded marine environment offshore the DCPD, as well as impacts associated with continued operation of the DCPD cooling water system. Given this environmental baseline determination, impacts associated with the cooling water system were summarized in the Environmental Setting (Section D.3.1.5) of the Draft EIR. Furthermore, implementation of the Proposed Project would not change how operation of the power plant cooling water system affects marine resources. The benefits associated with the No Project Alternative and cessation of the DCPD cooling water system operations were identified in Section D.3.5 of the EIR. The Draft EIR appropriately considers the plant's existing thermal plume and impingement/entrainment impacts as part of baseline conditions, but the Draft EIR does not indicate that these effects would remain unchanged with continued plant operations. The Draft EIR acknowledges that impacts to the marine environment would continue through the existing license period if the plant continues to operate. Please also refer to Response PM1-6 for more information about the marine biological baseline.
- CC5-9 Please refer to Master Response MR-1 (Baseline). This comment addresses perceived inconsistencies in the Draft EIR's evaluation of the No Project Alternative. The Draft EIR has evaluated the potential impacts of the No Project Alternative in a consistent manner. The refer-

ence regarding beneficial effects resulting from the shutdown of the plant was in regard to the environmental conditions in the vicinity of the power plant. In regard to the impacts that may be associated with the development and operation of replacement power sources, it is unknown how the power generated from the Diablo Canyon Power Plant would be replaced if the plant were to shut down. There are numerous potential means or combination of means to generate the power that would be lost from the shutdown of the Diablo Canyon Power Plant. Therefore, any detailed analysis of how replacement power would be generated would be extremely speculative and, therefore, not meaningful. *CEQA Guidelines* Section 15126.6(f)(3) states: “An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.”

- CC5-10 As described in Section C.4.1 of the Draft EIR, the CPUC and the preparers of the EIR conducted a comprehensive evaluation of the materials submitted by PG&E and the site itself in order to develop alternatives to the Proposed Project. The range of alternatives evaluated in the EIR fulfills CEQA requirements and the analysis provides sufficient information about each alternative to allow a meaningful evaluation, analysis and comparison with the Proposed Project. Please refer to Response PM1-3.

A clear definition of the No Project Alternative is provided in Draft EIR Section C.6. Under the No Project Alternative, the OSGs in Units 1 and 2 would not be replaced, and they would continue to degrade from stress corrosion cracking. For safety reasons the tubes within the steam generators would continue to be plugged and eventually be taken out of service. As noted on page C-26 of the Draft EIR, “. . . it is assumed that the OSGs will reach the end of their operating life in 2013 or 2014 and the plant would be shut down”.

It is not the purpose of this EIR, or its evaluation of alternatives to the Proposed Project, to identify possible energy supply alternatives for California. No one knows how the power generated from the Diablo Canyon Power Plant would be replaced if the plant were to shut down. There are numerous potential means or combination of means to generate the power that would be lost from the shutdown of the Diablo Canyon Power Plant. Therefore, any detailed analysis of how replacement power would be generated would be extremely speculative and, therefore, not meaningful. *CEQA Guidelines* Section 15126.6(f)(3) states: “An EIR need not consider an alternative whose effect cannot be reasonably ascertained and whose implementation is remote and speculative.” Please refer to Master Response MR-1 (Baseline) for discussion of the No Project Alternative and rationale for analysis of replacement generation under the No Project Alternative.

- CC5-11 The commenter’s statement regarding the absence of transcription of the meeting is noted. The purpose of scoping is to solicit input regarding potentially significant effects of the Proposed Project that should be evaluated in the EIR. Section I of the Draft EIR summarizes the public participation efforts of the CPUC for the CEQA process, and Response CC2-14 provides a detailed explanation of how public participation efforts are incorporated by the CEQA process in the EIR. Suggestions for repurposing the DCPD site for power generation using natural gas or wind and renewable energy have been considered as options under the No Project Alternative, as noted by Section I.1.4.4 of the Draft EIR. The feasibility and descriptions of these options are described in Section C.6 of the Draft EIR. Comments received in the scoping meetings on other topics, including DCPD security, public health and safety, emergency services, risk, transportation and traffic, and environmental impacts, were evaluated in the Draft EIR to the degree that they were potentially significant and a consequence of the Proposed Project.

In addition, the CPUC prepared a Public Scoping Report, which summarizes the comments and issues identified through the NOP scoping process, including the public scoping meeting. This report can be accessed on the project's website at: <http://www.cpuc.ca.gov/environment/info/aspen/diablo/canyon/toc-scoping.htm>.

- CC5-12 Please refer to Response 12-2. A copy of all 67 written comments and a summary of the 54 verbal comments (52 individuals spoke at the scoping meetings and two verbal comments were received via the project's voicemail) from the scoping meetings are included in the Public Scoping Report, which was published in December 2004 and is available on the project's website at: <http://www.cpuc.ca.gov/environment/info/aspen/diablo/canyon/toc-scoping.htm>. A summary of the Scoping Report and of the comments received is also included in Section I.1.4 (p. I-2) of the Draft EIR.

The description of the project, as proposed by PG&E, and much of the setting information was drawn from PG&E's Application and Proponent's Environmental Assessment (PEA); however, staff site reconnaissance and research confirmed all baseline information included in the Draft EIR. The significance criteria, impact analyses, mitigation measures, and comparison of alternatives for each issue area included in the Draft EIR were developed and evaluated independently and objectively by the CPUC and the EIR Team. The evaluation of the No Project Alternative is not limited to the six pages referred to by the commenter. Analyses of potential beneficial and adverse impacts of the No Project Alternative are provided for each of the environmental issues areas that were evaluated in the Draft EIR. The relative impacts and benefits of the No Project Alternative are further evaluated in Section E (Comparison of Alternatives) of the Draft EIR.

- CC5-13 Please refer to Response to CC5-21 regarding the evaluation of alternative energy technologies in this EIR.

- CC5-14 Please refer to Master Response MR-2 (License Renewal). As indicated in the Draft EIR, PG&E has not made a decision to apply for a renewal of the licenses for either unit. Therefore, it is not known whether license renewal will occur and whether the units will operate beyond 2021 and 2025. The Draft EIR acknowledges that replacement of the steam generators would remove one limitation to license renewal, but license renewal and plant operation beyond the current license expiration dates are not foreseeable consequences of the Proposed Project under the legal standards for making that determination under CEQA. The impacts of plant operation beyond the current license expiration dates will be evaluated if and when PG&E submits a license renewal application to the NRC. Please also see Master Response MR-3 (Jurisdiction).

- CC5-15 The No Project Alternative is adequately described in Section C.6 and analyzed throughout Section D of the Draft EIR. Please refer to Master Response MR-1 (Baseline) and Responses CC5-8 and CC5-9.

Documents prepared under CEQA are not intended to issue an opinion on the approval or denial of a Proposed Project. According to *CEQA Guidelines* Section 15002, an EIR is an informational document that is to provide governmental decision-makers and the general public with information about the potential environmental effects of a Proposed Project, to identify ways to minimize potential environmental effects, to prevent significant environmental damage by requiring changes to a project through the use of alternatives or mitiga-

tion measures when the governmental agency finds the changes to be feasible, and to disclose to the public the reasons why a governmental agency approved the project if significant environmental effects are involved. Upon certification, this EIR will be used by the CPUC in considering whether or not to approve the Project as proposed or an alternative.

CC5-16 The purpose of this EIR is to evaluate potential impacts of the proposed Steam Generator Replacement Project. In the case of the Visual Resources issue area, the EIR evaluated the potential for project-related actions to result in significant short- and long-term changes to existing visual conditions that exist at the project site and in other areas that may be affected by the Proposed Project (e.g., offloading areas). The only long-term physical changes to the existing visual conditions that would occur as a result of the Proposed Project would be from the development of the OSG Storage Facility. As required by *CEQA Guidelines* Section 15126.2, the examination of potential visual resource impacts has been limited to changes in the existing physical conditions in the affected areas as they existed at the time the Notice of Preparation was published. Accordingly, the potential visual impacts of the OSG Storage Facility have been evaluated in terms of its existing environmental setting, or “baseline” conditions. Responses 5-1 through 5-3 below also provide more information on further visual compromise and possible effects to future viewers.

CC5-17 The Draft EIR listed seven off-normal and 17 accident scenarios associated with the recently approved ISFSI in the discussion of baseline conditions at the DCP. The Draft EIR did not rely solely on the PG&E ISFSI Safety Analysis Report, but incorporated findings from the ISFSI EIR and the NRC ISFSI NEPA review. As noted in the EIR, “Hazards associated with spent fuel pool fires and dry storage facilities have been evaluated by Sandia National Laboratory (1979), the NRC (2001), the Electric Power Research Institute (EPRI, 2002) and others (Alvarez et al., 2003). These studies were summarized in the DCP ISFSI EIR (SLO County, 2004).” Since spent fuel storage represents a baseline condition (i.e., it already exists regardless of the outcome of the Proposed Project), the findings of the San Luis Obispo County 2004 ISFSI EIR were incorporated by reference. The Draft EIR for the steam generator replacement project provided a summary of baseline system safety conditions for information and “full disclosure” purposes. The CPUC and this EIR, however, have no jurisdiction over the management of radioactive material at the project site. Please refer to Master Response MR-3 (Jurisdiction).

The Draft EIR reference to NRC Generic Letter 81-38 was part of an overall discussion of the regulations that cover the onsite storage and disposal of low-level radioactive waste. The fact that the NRC has eliminated, in its guidance, any language that the 5-year term is a limit beyond which storage would not be allowed, is a simple statement of fact. Any potential impact associated with the NRC’s change in guidance is beyond the scope of this EIR. The remainder of the Draft EIR discussion of low-level waste makes no finding as to the significance or acceptability of the NRC’s guidance. The Proposed Project allows operation of the DCP through its current license term and waste storage on the project site has already been evaluated and approved by the NRC through that time period. Waste storage issues beyond 2021-2025 would be subject to the sole jurisdiction and review of the NRC in the event of relicensing.

CC5-18 Draft EIR Section D.12 (System and Transportation Safety) indicates that “*there are a wide variety of potential releases that could occur from the DCP facilities . . .*” In response to the potential for a release of radiation, the DCP has developed an Emergency Response

Plan and has identified Emergency Response Zones. If a radiation-related hazard were to develop at the project site as a result of the Proposed Project, previously prepared emergency response plans would be implemented. Please also refer to Response PG-195.

- CC5-19 The exposure of existing DCPP facilities to known seismic hazards is one facet of the environmental setting (as described in Section D.5.1.4). Federal standards pertaining to the design of nuclear power plants to minimize potential geological and seismological impacts are under the jurisdiction of the NRC and are described in Section D.5.2 of the Draft EIR. Additional information regarding the jurisdiction of the NRC is provided in Master Response MR-3 (Jurisdiction). A Proposed Project component that would increase structural development at the project site, thereby having the potential to result in an incremental increase in existing “baseline” seismic risk, is the development of the OSG Storage Facility. This Final EIR includes Mitigation Measure G-3a, which addresses how structural design of the OSG Storage Facility should be based on consideration of recent earthquake data, but as noted in Section D.1.2.5, the seismic safety of the remainder of the DCPP in its current design is within the jurisdiction of the NRC. See also Master Response MR-1 (Baseline). Please also refer to Responses A-2, CC3-4, and PG-124.
- CC5-20 The Final EIR includes Mitigation Measure G-4a, which requires evaluation of slope stability for the OSG Storage Facility and requires selection of an alternative site if slope stabilizing measures cannot be developed. Although the CPUC believes at least one of the sites would be feasible, if PG&E cannot develop remedial measures to protect the OSG Storage Facility for any of the sites, PG&E may be forced to alter the proposed location, and subsequent environmental review could be necessary. The need for supplemental CEQA review of project changes is described in Draft EIR Section H.2.1.
- CC5-21 Please refer to Master Responses MR-1 (Baseline) and MR-2 (License Renewal). The Draft EIR acknowledges that plant operations would cease if the steam generators are not replaced and appropriately describes the effects of this change in the analysis of the No Project Alternative. The No Project Alternative is adequately and consistently discussed in Section C.6 (p. C-26) and Section D.1.2.3 (p. D.1-3) of the Draft EIR, as well as analyzed in each of the individual issue areas in Section D and in the Executive Summary of the Draft EIR. Section ES.4.3 (p. ES-53) and E.3 (p. E-8) of the Draft EIR compare the No Project Alternative to the Environmentally Superior Alternative. Based on this full evaluation weighing *all* issue areas, the No Project Alternative was *not* found to be overall environmentally superior to the Proposed Project nor the Environmentally Superior Alternative. The level of detail requested by the Alliance for Nuclear Responsibility is not warranted in the Draft EIR. It is not the purpose of this EIR, or its evaluation of alternatives to the Proposed Project, to identify possible energy supply alternatives for California. The commenter’s list of links and resources relating to alternative generation sources is noted. Please also refer to Responses CC2-9 and PM2-4.
- CC5-22 It is not the purpose of this EIR, or its evaluation of alternatives to the Proposed Project, to identify possible energy supply alternatives for California. The commenter’s recommendation to consult the Foundation for Taxpayer and Consumer Rights is noted.
- CC5-23 The No Project Alternative was appropriately analyzed in Section D of the Draft EIR. As described in Master Response MR-1 (Baseline), the level of detail requested by the Alliance for Nuclear Responsibility is not warranted in the Draft EIR.

CC5-24 CEQA does not require an evaluation of a potential renewal of DCP's operating licenses because relicensing is not a reasonably foreseeable consequence of the Proposed Project. License renewal is not reasonably foreseeable because, as stated in Section D.1.2.2 of the Draft EIR, PG&E is still evaluating the feasibility of applying for a license renewal. Attempting to complete an environmental review of a licensing project that would not be completed within the next 15 to 20 years would be speculative and require an extensive amount of "forecasting," which is not required by CEQA. *CEQA Guidelines* Section 15144 states that "*An agency cannot be expected to predict the future course of governmental regulation or exactly what information scientific advances may ultimately reveal.*" Since relicensing of the power plant is not a reasonably foreseeable project, it is not a cumulative project that must be evaluated by the EIR.

The Draft EIR does, however, acknowledge that the Proposed Project may make the NRC license renewal process more likely and may provide an incentive for PG&E to apply for relicensing. In addition, Section G presents a general discussion of the NRC license renewal process, as well as issues relevant to DCP license renewal. Please also see Master Response MR-2 (License Renewal).

CC5-25 The CPUC believes the Draft EIR fully complies with the requirements of CEQA that pertain to the analysis of environmental impacts that may be caused by implementation of the Proposed Project. Operation of DCP Units 1 and 2 until September 2021 and April 2025, respectively, and the environmental conditions resulting from the plant operations pursuant to those licenses are considered part of the environmental baseline. Potential impacts of the proposed steam generator replacement project have been appropriately evaluated to determine if the project would have the potential to result in physical changes to existing environmental baseline conditions. Section D.3.5.2 of the Draft EIR also identified that impacts associated with the No Project Alternative, including reasonable replacement generation and transmission facilities, which would result in the closure of the DCP prior to the end of the current license periods, would result in some beneficial environmental impacts. The alternatives selected for evaluation in the Draft EIR were chosen according to criteria outlined in Section 15126.6(f) of the *CEQA Guidelines* and are adequate to promote informed decision-making related to the Proposed Project. Some minor clarifications of information presented in the Draft EIR have been provided in the Final EIR. However, none of the revisions contained in the Final EIR constitute significant new information requiring recirculation of the Draft EIR.

CC5-26 The DVD of the NOP Public Scoping Meeting held in San Luis Obispo on October 27, 2004 (Alliance For Nuclear Responsibility, Exhibit 1) has been included in the administrative record of the Proposed Project.