

September 23, 1997

Mr. Bruce Kaneshiro
Project Manager
c/o Environmental Science Associates
225 Bush Street - Suite 1700
San Francisco, California 94104

Re: Mitigated Negative Declaration and Initial Study, California Public Utilities Commission, Pacific Gas & Electric Company's Application No. 96-11-020, Proposal for Divestiture, Dated August 25, 1997, and Prepared by Environmental Science Associates

Dear Mr. Kaneshiro:

The Port of Oakland ("Port") has reviewed the above-referenced **Mitigated Negative Declaration and Initial Study** ("Initial Study") and respectfully submits the following comments.

1. Port's Jurisdiction

[\[Begin PO-1\]](#)

The Port's July 2, 1997, comment letter on the Draft Initial Study needs to be emphasized. The Oakland Power Plant is located within the Port Area, and therefore under the Charter of the City of Oakland the Board of Port Commissioners has the complete and exclusive power and duty on behalf of the City of Oakland to exercise planning and permit jurisdiction over the plant. In other words, the Port is the City within the Port Area. Accordingly, the CEQA lead agency and permitting authority and responsibility, which the Initial Study (p. 4.11.8) notes will be assumed by the Port with respect to the Oakland Power Plant.

[\[End PO-1\]](#)

2. Hazardous Materials

[\[Begin PO-2\]](#)

The Port's July 2 comment letter on the Draft Initial Study pointed out the failure of the Draft Initial Study to address the potential environmental effects, particularly regarding hazardous materials, of undertaking the \$620,526 of Necessary Capital Expenditures needed at the Oakland Power Plant. The Initial Study, for example, notes that 15 "recognized environmental conditions" and at least nine impaired conditions constituting "material recognized environmental conditions" exist at the site. (p. 4.9.4) The proposed Purchase and Sale Agreement for the site provides that the Necessary Capital Expenditures must be made. The port has requested, but has not been provided, the Phase II report on the site. The Initial Study improperly fails to address the hazardous materials impacts that may result from undertaking the Necessary Capital Expenditures.

[\[End PO-2\]](#)

3. Misleading and Incorrect Statements in the Initial Study Concerning Repowering or Other Substantial Changes or Increased Use at Oakland Power Plant

[\[Begin PO-3\]](#)

Any expanded use of the Oakland Power Plant for power generating purposes raises serious land use and environmental questions in view of the recent substantial changes in the immediate vicinity of the plant. The plant site is immediately adjacent to major new retail, commercial and public facility developments that have been developed in Jack London Square over the past 10 years. Many additional similar developments are proposed in Jack London Square in the near future. (See, for example, p.4.16.8 of Initial Study.) Similar new developments, including live-work facilities, have occurred recently and are planned in the areas near Jack London Square and the Oakland Power Plant. The Initial Study concedes "that overall there are incentives that create a tendency for the new owner of a divested plant to operate at higher levels than PG&E would operate that plant in the future." (p. 3.5) However, the Initial Study analyzes only the difference between (1) PG&E operations without divestiture (capacity factor of 0% for Oakland Power Plant) and (2) "technically feasible maximum operations (capacity factor of 10% for Oakland Power Plant). (pp. 3.5-3.6; Table 3.1) The Initial Study "does not consider the environmental effects that might arise from repowering." (P.C.16)

The Initial Study states on p. 4.1.6 and p.4.1.7 that:

"There is no anticipation that such a [Port of Oakland] land use or zoning code will be adopted in the near term, however, the Port does have the authority under the Charter to do so. The Port has accepted the land use for the power plant and assumes that it will continue so long as the facility remains in operation. (Heffes 1997)" (p.4.1.6; emphasis added) (See also p.4.1.9. which refers to "the Port of Oakland's acceptance of the site for heavy industrial use.")

"The Port of Oakland anticipates that the land use designation for the Oakland power plant [Heavy Industry] will remain unchanged so long as the facility is operational. (Heffes, 1997). Therefore the project would not be expected to cause conflicts with the Port of Oakland's planning or land use designations and would have a less-than-significant impact." (p.4.1.7.; emphasis added)

The foregoing statements in many important respects are incorrect and misleading:

- The Port may adopt a land use plan for the Jack London Square area, including the Oakland Power plant site, in the near future as the result of the Estuary Planning process being undertaken jointly with other agencies of the City of Oakland. Both the City's General Plan and the Port's land use plan may provide for commercial use of all or portions of the power plant site.
- The Port does not know what the Initial Study means by the phrases "Port has accepted" and "Port of Oakland's acceptance." The Port has not accepted, consented to or approved any changes in the level of operations or any physical modifications of the existing plant. Substantial modifications or changes in level of operations may conflict with both existing and proposed nearby retail, office, restaurant, entertainment, hotel and public uses in the Jack London Square area, and may create negative environmental impacts, which the Port does not accept, consent to or approve.

The statements on p.4.1.11 of the Initial Study, that "an established residential community is

within one-half mile" but "95% of these residences are separated from the plant by an elevated freeway" fail to acknowledge the 288-unit residential project approved by the Port in Jack London Square, increasing numbers of existing and planned live-work facilities south (the Oakland Power Plant side) of the freeway, and the existing and proposed offices, restaurant, entertainment, hotel and public uses in the Jack London Square very near to the power plant. The statements on p.4.5.22 of the Initial Study, that "no sensitive receptors are located near the project site" and that "The closest sensitive receptors are located east [north?] of Highway 880," and similar statements made elsewhere in the Initial Study (e.g. pp. 4.5.29 and 4.10.7), are simply wrong. The Port is very concerned about future potential substantial modification or changes in the level of operations at the Oakland Power Plant because of the large number of "sensitive receptors" represented by the large numbers of workers, patrons, public and future residents in the immediately adjacent Jack London Square area who are located much closer to the power plant site than areas east or north of Highway 880.

[\[End PO-3\]](#)

[\[Begin PO-4\]](#)

Although the project, as defined in the Initial Study to include no more than "technically feasible maximum operations" of a 10% capacity factor for the Oakland Power Plant, may have less-than-significant impact, the Port believes that any increase of the capacity factor of more than 10%, and any other substantial changes to the plant, may have a significant impact, should be the subject of an Environmental Impact Report and may be an inappropriate land use.

[\[End PO-4\]](#)

4. Fuel Oil Use

[\[Begin PO-5\]](#)

The statement on p.4.5.30 of the Initial Study, that although a "foreseeable scenario" of divestiture includes a "tendency for increased use of the power plants, no increase in fuel oil use is expected as a result of divestiture." Since the Oakland Plant is oil fueled, and the foreseeable scenario is for increasing the capacity factor of the plant from 0% to 10%, the statement on p.4.5.30 is clearly untrue for the Oakland Plant.

[\[End PO-5\]](#)

5. Conclusion

The Initial Study fails to respond to the Port's comment letter on the Draft Initial Study in that it does not consider the hazardous material impacts of the \$620,526 in Necessary Capital Expenditures a purchaser will be required to make to this documented materially contaminated site, and incorrectly assumes that the foreseeable scenario of divestiture would result in no increase in fuel oil even if the oil fueled Oakland Power Plant's capacity factor is increased from 0% to 10%. The Initial Study also incorrectly implies that the Port has accepted or approved heavy industry and/or power plant use of the site beyond the presently existing improvements at and level of use at the site. On the contrary, the Port believes that any substantial increase in the level of power plant operations at the site, or any substantial physical modification of the plant, will require the preparation of an environmental impact report, and may not be an appropriate use because it will conflict with immediately existing and planned adjacent retail, office, restaurant, hotel, entertainment, residential and public uses.

Should you have any questions regarding the Port's response comments, please contact Steven Reiner, Port Environmental Planner, of my staff at (510) 272-1180

Very Truly yours,

James McGrath
Manager
Environmental Planning

cc: Andy Altman
Steven Reiner
Thomas D. Clark
Michele Heffes
Parties of Record in
CPUC Application 96-11-020

PO - PORT OF OAKLAND

PO-1.

We refer the commentor to pages 4.1.5 and 4.1.6 of the Initial Study where the document clearly indicates that the Port of Oakland Commissioners have land use jurisdiction over Port of Oakland property. For further discussion, see response to PO-3.

PO-2.

As stated in the fifth paragraph of page 4.9.10 of the Initial Study, "PG&E has agreed to be responsible for any legally required remediation of existing contaminated soil and groundwater at the divested plants and therefore will be responsible for remediation activities that are part of the ownership transition." The commentor notes that on page 4.9.4 of the Initial Study, the Phase I report for the Oakland Power Plant identified 15 environmental concerns and nine impaired conditions. The Oakland Power Plant Phase II Report (Fluor Daniel GTI, 1997c), now available, shows that, for the most part, these environmental concerns and conditions are either not significant or pose no unacceptable risks to current site workers or future construction workers. The Phase II report further indicates that there are five environmental concerns at the plant site which may require remediation. Specifically these are petroleum hydrocarbons in soil and groundwater, lead in shallow soil, elimination of horizontal conduits with potential for transport of groundwater and stormwater runoff, PAHs in shallow soil, and cyanide in soil and groundwater. All of these issues and information related to them will be passed on to prospective new owners as part of the due diligence process. Also see response to PG&E-5

PO-3.

With regard to the commentor's issue regarding the environmental effects of repowering, the purpose of the Initial Study was to assess the impacts of the proposed divestiture. As stated on page 3.5 of the Initial Study, it is not foreseeable that repowering would occur with divestiture in any manner differently than without divestiture if the plants were retained by PG&E. Thus, repowering is not considered to be part of, or a result of, the project. As noted on page 3.2 of the Initial Study, if the Oakland Power Plant is purchased, the new owner may determine that modifications to the plant are needed. However, the same would apply to PG&E if it were to continue ownership of the facility, as discussed thoroughly in section 3.4 of Attachment C to the Initial Study. If either a new owner or PG&E decide to modify the plant, it must comply with applicable regulations, including environmental review. Based upon the type of modifications requested, either the Port of Oakland or the California Energy Commission (CEC) would be the CEQA Lead Agency. In any event, any changes proposed would be evaluated at the time an application for such changes were presented for consideration by the owner of the plant. Therefore, the Port of Oakland and other interested parties would have the opportunity to evaluate impacts to land use and other environmental effects at that time.

With respect to the issue raised by the commentor regarding the Port of Oakland's future adoption of a land use plan for the Jack London Square Area, including the Oakland Power Plant

Site, the Initial Study correctly acknowledges that both the Port and the City of Oakland are jointly developing (with other agencies) an Estuary Plan and that as a consequence a land use plan may be adopted by the Port early in 1998. Recent contact with the Port of Oakland staff has indicated that the Estuary Plan would probably include a change to the land use designation for the power plant, recognizing the site as a transitional land use that could become available for commercial development at a future date (Reiner, 1997). To reflect this potential the first paragraph of page 4.1.6 of the Initial Study is revised as follows:

The Oakland power plant and surrounding vicinity are designated as M-40, Heavy Industry. However, because of the authority vested by the City Charter (Section 706) in the Board of Port Commissioners, the zoning designations of the City do not apply within the Port Area. At this time the Port of Oakland has not adopted a zoning or land use code for properties that are either under the control of the Port or private land which falls under Port of Oakland jurisdiction. There is no anticipation that such a land use plan will be adopted in near term; however, ~~the Port does have the authority under the Charter to do so.~~ both the City of Oakland's General Plan and the Port's Estuary Plan may designate all or portions of the Oakland Power Plant Site for future commercial use, and a land use plan for the area may be adopted by the Port in the future. ~~The Port has accepted the land use for the power plant and assumes that it will continue so as long as the facility remains in operation (Heffes, 1997).~~ It is probable that the property will remain a heavy industrial use so long as the power plant remains in operation.

Regarding the issue of sensitive receptors and their location relative to the power plant, the Port staff provided information for this Initial Study indicating that a 288 unit multifamily residential development is proposed by Lincoln Properties for Port property as a future project. It was noted in the Cumulative Impacts section on page 4.16.8 of the Initial Study for PG&E. However, the Port staff did not indicate the location of the proposed (Lincoln Properties) apartment complex. Recent contact with the Port staff indicates that the site of this future project is at the Embarcadero, west of Alice Street in the Jack London Square area (Reiner, 1997). While there are lofts and live/work units within proximity to the power plant, we still believe that the nearest foreseeable residential sensitive receptor is 600 or more feet from the project site on the north and northeast side of Highway 880.

The following text changes are made to reflect corrections regarding the direction of residential sensitive receptors in relationship to the Oakland Power Plant:

The last sentence of the first paragraph on page 4.5.22 is revised as follows:

The closest sensitive receptors are located north and northeast of Highway 880.

The last sentence of the fourth paragraph on page 4.5.29 is revised as follows:

The closest sensitive receptors to the Oakland Power plant are located north and northeast of Highway 880, over 600 feet from the project site.

The last sentence on page 4.10.7 is revised as follows:

The closest sensitive receptors are located north and northeast of Highway 880,

over 600 feet from the project site.

PO-4.

Please see response to PO-5.

PO-5.

The Oakland Power Plant is composed exclusively of combustion turbine (CT) units. Such units are quick start units routinely able to come up to power and be synchronized with the grid in less than 10 minutes. They are not routinely used by the California investor-owned utilities and are held in reserve to fill in for unexpected deficits in resources needed to satisfy load/generation resource imbalances as would be occasioned by unexpected unit outages and transmission disturbances. These interruptions are not expected to occur with any greater frequency after divestiture than before and, indeed, Attachment C to the Initial Study (page C.12, et al.) describes incentives that may tend to increase the availability of divested plants, thereby reducing the need for CTs to fill in for units experiencing outages.

The existing CTs are inherently less efficient than steam boilers, so CTs are not used for economic dispatch because they cost more to operate. Because the Oakland CTs burn distillate exclusively, they are even more expensive to operate than most other available CTs, which burn natural gas, a significantly less expensive fuel. Since no mechanism has been identified by which the divestiture would cause a significant tightening of the load/resource balance, it is not foreseeable that the Oakland CTs would be used in other than their traditional reserve role.

REFERENCES:

Fluor Daniel GTI, Phase II Environmental Site Assessment Oakland Power Plant, 50 Martin Luther King Jr. Way, Oakland, California, prepared for Pacific Gas and Electric Company, July 1997c.

Reiner, Steve, Personal Communication between Mr. Dail Miller of ESA and Mr. Steve Reiner of the Port of Oakland. October 2, 1997.