

these regulations preempt any state or local laws or regulations that impermissibly attempt to regulate radiological safety or hazards in connection with the Proposed Project.

PUBLIC SERVICES AND UTILITIES

1. Mitigation Measure U-2a Is Preempted Due To the Presence of a NRC-Mandated Emergency Plan

Mitigation Measure U-2a requires the pre-positioning of emergency responders as part of emergency response procedures for DCPD during the SGRP. DEIR at D.10-6. This mitigation measure is pre-empted by the NRC regulations requiring an emergency response plan for DCPD. As described in the DEIR at D.10-4, 10 C.F.R. Part 50, Appendix E sets forth the NRC's requirements for an Emergency Response Plan as required under DCPD's NRC license. Under this plan, PG&E is required to ensure that none of the SGRP activities block emergency access both into or out of the plant, and pursuant to this plan PG&E will develop a plant procedure with contingency plans prior to moving the RSGs on the plant site. Pre-positioned emergency responders will be only one potential facet of this plan. The plan will most likely also put restraints on travel times, keep the transporter limited to one lane, etc.

Because the NRC has established particular requirements for emergency planning and preparedness that address the issues described in Impact U-2 and Mitigation Measure U-2a, these provisions are preempted by federal law, are legally infeasible and unenforceable. These provisions should be deleted or their legal feasibility and unenforceability made explicitly clear.

3. The DEIR Adequately Addresses Fire Safety Analysis

In PG&E's discussions with the County of San Luis Obispo, the County raised the concern that the DEIR does not adequately address fire safety and should include an augmented fire safety analysis. PG&E respectfully asserts that the existing treatment of fire safety issues in the DEIR is adequate and any additional fire safety requirements could infringe on areas within the exclusive jurisdiction of the NRC. Page D.10-4 of the DEIR describes in detail the several fire safety plans and procedures in place for DCPD. These procedures comply with NRC requirements for safety planning and provide for the necessary communication with County and state authorities under California law.

No further analysis is necessary and any requirements or measures related to fire safety are both unnecessary and would improperly tread on federal jurisdiction. The SGRP does not raise any fire safety issues above the existing baseline of plant operations and refueling outages. The OSGs and RSGs will not be pieces of equipment with significantly elevated levels of heat or otherwise create any significant fire hazard. PG&E's existing, NRC-required safety procedures will adequately address this aspect of the SGRP.

SYSTEM AND TRANSPORTATION SAFETY

1. Section 12.3.1, Page D.12-17, Fourth full Paragraph, Second Sentence

This DEIR states: “. . . CEQA Guidelines do not provide any recommended significance criteria for radioactive hazards or risk of upset, and federal government control limits the ability of the CPUC to mitigate impacts in this area.” This sentence appears to eliminate the need for this entire section. CEQA Guidelines are silent regarding this issue precisely because the State and local agencies are pre-empted from regulating operations at nuclear power plants involving radiological safety.

In particular, Impacts S-3, S-4, S-5, S-6, S-7 and Mitigation S-7a should be removed from the document. The radiological impacts of the no project alternative should also be removed.

ATTACHMENT 3

**PACIFIC GAS AND ELECTRIC COMPANY
Diablo Gen Replacement
Application 04-01-009
Data Response**

PG&E Data Request No.:	ED 002-PD-2		
PG&E File Name:	DiabloGenReplacement-CEQA_DR_ED_002-02-PD-2		
Request Date:	October 8, 2004	Requester DR No.:	002
Date Sent:	October 21, 2004	Requesting Party:	ED
PG&E Witness:	N/A	Requester:	Nicolas Procos

QUESTION PD-2

CPUC understands that PG&E may be developing an off-site option for disposal of the original steam generators. If this change to the project is to be considered during the present CEQA process, PG&E should provide a description of the off-site disposal method and the associated impacts as soon as possible.

ANSWER PD-2

PG&E has examined the feasibility of off-site disposal. Based on this analysis, several factors demonstrate that disposing of the old steam generators off-site is likely infeasible. These include:

- Off-site storage is significantly more expensive. Under §15126.6(f)(1) of the CEQA Guidelines, “economic viability” is a factor to be considered in determining the feasibility of a potential alternative. PG&E’s cost estimates for the two alternatives as given in PG&E Testimony Chapter 4 are \$8 million (direct) for on-site storage and \$22 million (direct) for off-site disposal.
- Off-site disposal will require an on-site radiologically-controlled area (RCA) where the old steam generators can be temporarily stored and prepared for shipment as low-level radioactive waste. This RCA would require a large semi-enclosed area approaching the size of the planned old steam generator storage facility (approximately 15,000 square feet) in the plant vicinity during the outage period when space is at a premium. The most feasible location for this RCA would likely be in the canyon behind the plant where PG&E has proposed to build the OSGSF. The area would need to be secured and monitored and would result in more personnel and more on-site transportation moves of the old steam generators. The RCA will need to provide contamination control, radioactivity monitoring and possible dismantling of the old steam generators to reduce their size for truck and/or train transportation. This would not be a required component of the Projects if the old steam generators are stored on-site.
- Disposing the old steam generators off-site would result in additional environmental impacts that would not otherwise be triggered until final decommissioning of DCCP. Disposing of the old steam generators off-site, raises potential environmental

impacts and issues related to moving very large, heavy, low-level radioactive waste components from the plant to a disposal facility in Utah. Transportation routes would be limited, requiring either: (1) barging the old steam generators to another port, and then transporting them by truck or train to Utah, or (2) transporting them by truck to Pismo Beach and then by train to Utah. Because storing the old steam generators on-site would result in no significant adverse environmental impacts, off-site disposal would cause greater environmental impacts.

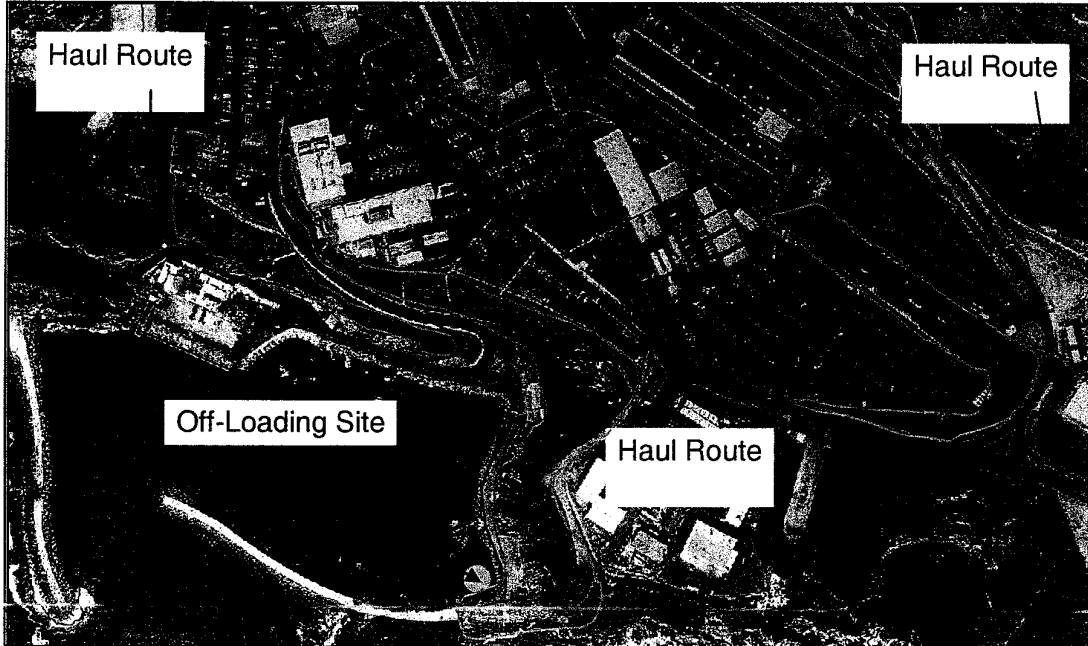
- If the old steam generators are stored on site from the time of their removal until the entire plant is decommissioned, most of the radioactive contamination in the steam generators will decay. After about 25 years, the level of radioactivity in the steam generators will approach the level of radiation normally present from background sources such as the earth and sun. Thus any work done on the old steam generators (such as dismantling them for shipment) will result in less radiation exposure to the workforce.

PG&E has identified no significant environmental impacts associated with on-site storage of the old steam generators, nor identified any reasons why such on-site storage would be impractical or infeasible. Therefore, the consideration of an off-site disposal alternative is not required under CEQA, because the off-site storage alternative would not “avoid or substantially lessen any of the significant effects” associated with on-site storage, because there are none. See 14 Cal. Code Regs. §15126.6(a). While the Commission retains the authority to determine the reasonable range of alternatives, PG&E believes on-site storage of the old steam generators offers a better approach because on-site storage results in a feasible, less expensive, simpler and safer project.

ATTACHMENT 4



Native and introduced vegetation adjacent to the alternate haul route consists of disturbed coastal scrub and coastal bluff scrub with annual and some perennial grasses.



ATTACHMENT 5

Date: May 5, 2005 **File #:**
To: Scott Maze, Civil Engineer
Diablo Canyon Steam Generator Replacement Project
From: Lloyd S. Cluff and William D. Page
Geosciences Department
Subject: Response to CPUC EIR Mitigation Measure G-2b for Steam Generator Project



**Pacific Gas and
Electric Company**

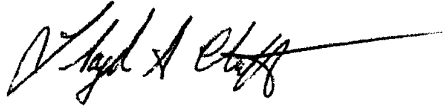
Dear Scott:

At your request, we have prepared the following response to the CPUC's issue called Mitigation Measure G-2b that requests PG&E address the prevention of casualties caused by falling rocks along the transport route for the new and used steam generators.


PG&E analyzed the potential for landslides and rockfall along the access road into Diablo Canyon Power Plant following the intense storms of late 1996 and 1997. The results are presented in a report to the NRC completed in April 1997: *Assessment of slope stability near the Diablo Canyon Power Plant, Response to NRC request of January 31, 1997*. The damage along the access road from the storm events was minimal and is considered typical of future events. Drawing from our knowledge of the geological conditions based on the findings in this report and the analysis of potential rock fall along the transport route for the ISFSI site documented in the Safety Analysis Report for the ISFSI, we conclude the following:

1. Rockfall hazard along the transport route for the used generators is very low. The areas of concern are in two areas only: the slopes below Green Hill and below Hill 914. Of these only Green Hill has the type of large rocks that could create a hazard if they were to become dislodged from the hillside. The hazard from potential rock fall from Hill 914 is very low because the sizes of the rocks are too small to cause damage.
2. Rockfall and debris flows would occur during or just following intense storm events. The steam generators will not be moved along the roads during these times, so this hazard is not a concern for the steam generator transport from storm events.
3. The risk from a rock fall or debris flow during an earthquake is extremely low because the possibility of an earthquake occurring as the vehicle passes along the transport route below Hill 914 is close to nil. Moreover, the transport vehicle and generators are strong enough to not be damaged by any small rockfalls in this area.
4. Earthquakes large enough to cause rockfall are infrequent and the potential area of hazard limited to the steep slopes below the Green Peak mountain area. The chances of an earthquake occurring in this area as the new steam generators are driven past are extremely low. In the very unlikely event that such an earthquake occurs the personnel will follow safety procedures prepared for response G-2a.

It is a pleasure to be of assistance to the Steam Generator Project.



Lloyd S. Cluff
Director Geoscience Department
Registered Geologist #1725
Certified Engineering Geologist # EG567



William D. Page, Ph.D.
Senior Engineering Geologist
Registered Geologist #3357
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ATTACHMENT 6

Attachment B

Ch. 647]

1965 REGULAR SESSION

1148

CHAPTER 647

An act conveying certain tidelands, lands lying under inland navigable waters, swamp and overflow lands, situate at San Luis Bay and San Luis Creek, to the Port San Luis Harbor District, in furtherance of navigation and commerce and the fisheries, and providing for the government, management and control thereof, reserving rights to the State.

[Approved by Governor May 21, 1965. Filed with Secretary of State May 21, 1965.]

In effect September 7, 1965

The people of the State of California do enact as follows:

SECTION 1. There is hereby granted to the Port San Luis Harbor District, hereinafter called "district," a political subdivision of the State of California, and to its successors, all the right, title, and interest now held by the State of California by virtue of its sovereignty, in and to all lands, salt marsh, tidelands, submerged lands, and swamp and overflowed lands described as follows:

That portion of San Luis Bay lying between the line of ordinary high tide line of the Pacific Ocean and a line parallel thereto and distant westerly therefrom three miles and bounded on the north by that certain lighthouse, with latitude 35 degrees, 9 minutes 38 seconds north and longitude 120 degrees, 45 minutes 37 seconds west, at Point San Luis at the westerly end of San Luis Bay and a line extending south 80 degrees, no minutes west therefrom and on the south by the most southerly line of Lot 7 in Block 14 of Tract No. 57, El Pizmo Manor No. 1, as per map thereof recorded in Book 5, page 76 of maps in the Office of the County Recorder of the County of San Luis Obispo, State of California, extending into the Pacific Ocean on a bearing due south, together with all salt marsh, tidelands, submerged lands, and swamp and overflowed lands within San Luis Creek.

To be forever held by said district, and its successors, in trust for the uses and purposes and upon the express conditions following, to-wit:

(a) That said lands shall be used by said district, and its successors, for the establishment, improvement and conduct of a harbor, including an airport or aviation facilities, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures, facilities and appliances necessary or convenient for the promotion and accommodation of commerce and navigation by air as well as by water, and for the construction, maintenance and operation thereon of public buildings and public parks and playgrounds, and for public recreational purposes, and said district, or its successors, shall not at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatsoever; provided, that said district, or its successors, may grant franchises

thereon for limited periods (but in no event exceeding 50 years), for wharves and other public uses and purposes and may lease said lands, or any part thereof, for limited periods (but in no event exceeding 50 years), for purposes consistent with the trust upon which said lands are held by the State of California, and with the requirements of commerce and navigation at said harbor; and collect and retain rents from such leases, franchises and privileges including those certain leases (1) between the State of California and Port San Luis Transportation Company, dated April 13, 1951, as amended March 26, 1954 (P. R. C. 580.1), (2) between the State of California and the Union Oil Company of California, dated February 28, 1941 (Lease 675/PC-82.9), and (3) between the State of California and California Packing Corporation and Carmel Canning Company, dated September 6, 1951 (P. R. C. 644.1).

(b) That said lands shall be substantially improved by said district within 10 years of the effective date of this act without expense to the State, and shall always remain available for public use for all purposes consistent with the trust under which the State holds sovereign lands, and the State of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements and facilities constructed on said lands, or any part thereof, for any vessel or other watercraft or aircraft, or railroad, owned or operated by the State of California. If the State Lands Commission determines that the district has failed during said 10-year period to improve said lands as herein required, all right, title, and interest of said district in and to all lands granted by this act shall cease and said lands shall revert and vest in the State.

(c) That in the management, conduct or operation of said harbor, or of any of the utilities, structures, appliances or facilities mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service in connection therewith shall ever be made, authorized or permitted by said district or its successors.

Reservations
and
exceptions

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands for said purposes together with the right of navigation.

(e) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said land.

(f) The lands herein described are granted subject to the express reservation and condition that the State may at any time in the future use said lands or any portion thereof for highway purposes, without compensation to the district, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event im-

improvements have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interest.

Sec. 2. The State Lands Commission shall, at the cost of ^{Survey, reservation, etc.} the grantee, survey, monument, plat, and record in the Office of the Recorder of San Luis Obispo County, the area of state lands described in this act. Said district shall enter into a contract with the State Lands Commission for surveying, monumenting and platting the area of state land described in this act, and shall, upon submission of invoices by the State Lands Commission, pay said costs as a condition precedent to the grant of lands hereunder.

Sec. 3. If any provision of this act or the application ^{severability} thereof to any person or circumstance is held invalid, the remainder of this act, or the application of such provision to other persons or circumstances, shall not be affected thereby.

CHAPTER 648

An act to amend Sections 7322 and 7420 of the Business and Professions Code, relating to cosmetology.

[Approved by Governor May 21, 1955. Filed with Secretary of State May 21, 1955.]

In effect
September
7, 1955

The people of the State of California do enact as follows:

SECTION 1. Section 7322 of the Business and Professions Code is amended to read:

7322. The board shall admit to examination for a certificate ^{hairdresser and cosmetician or cosmetologist} of registration and license as a hairdresser and cosmetician or cosmetologist, at any meeting of the board duly held for the purpose of conducting examination, any person who has made application to the board in proper form, paid the fee required by this chapter, and who is qualified as follows:

- (a) Who is not less than 18 years of age.
- (b) Who is of good moral character and temperate habits.
- (c) Who has completed the tenth grade in the public schools of this State or its equivalent.
- (d) Who has had any one of the following:
 - (1) Training of at least 1,500 hours, extending over a school term of nine months in a school of cosmetology approved by the board.
 - (2) Practice of the occupations of a hairdresser and cosmetician, or cosmetologist, for a period of four years outside of this State. Each three months of such practice shall be deemed the equivalent of 100 hours of training for qualification under paragraph (1) of this subdivision.
 - (3) Service for at least two years as a licensed junior operator in a licensed cosmetological establishment in which all of

(c) Any court in which any person is convicted of operating a motor vehicle while under the influence of intoxicating liquor, shall, unless the court, in case of the first conviction only, recommends to the department that there be no license suspension, require the surrender to it of any operator's or chauffeur's license held by such person and the court shall thereupon forward any said license to the department.

(d) Nothing in this section as amended shall change any suspension or revocation made under the authority of this section prior to the amendment hereof.

CHAPTER 802

An act to amend Section 1 of Chapter 647 of the Statutes of 1955, relating to tidelands and submerged lands in San Luis Obispo County.

In effect
September
11, 1967

[Approved by Governor May 6, 1967. Filed with
Secretary of State May 4, 1967.]

The people of the State of California do enact as follows:

SECTION 1. Section 1 of Chapter 647 of the Statutes of 1955 is amended to read:

Section 1. There is hereby granted to the Port San Luis Harbor District, hereinafter called "district," a political subdivision of the State of California, and to its successors, all the right, title, and interest now held by the State of California by virtue of its sovereignty, in and to all lands, salt marsh, tidelands, submerged lands, and swamp and overflowed lands described as follows:

That portion of San Luis Bay lying within the tract bounded by a line beginning at the point of intersection of the O.H. W.M. along the shore of the Pacific Ocean and the most southerly line of Lot 7 in Block 14 of Tract No. 57, El Pismo Manor No. 1, as per map thereof recorded in Book 5, page 76 of Maps in the Office of the County Recorder of the County of San Luis Obispo, State of California, thence due South, into the Pacific Ocean, a distance of 3 miles, thence N 60° W 5500 feet, thence N 80° W 7000 feet, thence S 70° 19' 57" W 16,180 feet, thence N 30° E 3 miles, more or less, to the intersection with O.H. W.M. of the Pacific Ocean, said intersection bearing S. 27° 58' 11" W 190 feet, from that certain lighthouse at Point San Luis having a latitude of 35 degrees, 9 minutes, 37.28 seconds North and longitude 120 degrees, 45 minutes, 35.38 seconds West, thence following the line of Ordinary High Water Mark along the shore of San Luis Bay to the point of beginning, together with all salt marsh, tidelands, submerged lands and swamp and overflowed lands within San Luis Creek:

To be forever held by said district, and its successors, in trust for the uses and purposes and upon the express conditions following, to-wit:

(a) That said lands shall be used by said district, and its successors, for the establishment, improvement and conduct of a harbor, including an airport or aviation facilities, and for the construction, maintenance and operation thereon of wharves, docks, piers, slips, quays and other utilities, structures, facilities and appliances necessary or convenient for the promotion and accommodation of commerce and navigation by air as well as by water, and for the construction, maintenance and operation thereon of public buildings and public parks and playgrounds, and for public recreational purposes, and said district, or its successors, shall not at any time, grant, convey, give or alien said lands, or any part thereof, to any individual, firm or corporation for any purposes whatsoever; provided, that said district, or its successors, may grant franchises thereon for limited periods (but in no event exceeding 50 years), for wharves and other public uses and purposes, and may lease said lands, or any part thereof, for limited periods (but in no event exceeding 50 years), for purposes consistent with the trust upon which said lands are held by the State of California, and with the requirements of commerce and navigation at said harbor, and collect and retain rents from such leases, franchises and privileges including those certain leases (1) between the State of California and Port San Luis Transportation Company, dated April 13, 1951, as amended March 28, 1954 (P. R. C. 560.1), (2) between the State of California and the Union Oil Company of California, dated February 23, 1941 (Lease 675/PC-33.9), (3) between the State of California and the Union Oil Company of California, dated November 21, 1949 (Lease P. R. C. 472.1), and (4) between the State of California and California Packing Corporation and Carmel Canning Company, dated September 5, 1951 (P. R. C. 644.1).

(b) That said lands shall be substantially improved by said district within 10 years of the effective date of this act without expense to the State, and shall always remain available for public use for all purposes consistent with the trust under which the State holds sovereign lands, and the State of California shall have at all times the right to use, without charge, all wharves, docks, piers, slips, quays, and other improvements and facilities constructed on said lands, or any part thereof, for any vessel or other watercraft or aircraft, or railroad, owned or operated by the State of California. If the State Lands Commission determines that the district has failed during said 10-year period to improve said lands as herein required, all right, title, and interest of said district in and to all lands granted by this act shall cease and said lands shall revert and vest in the State.

(c) That in the management, conduct or operation of said harbor, or of any of the utilities, structures, appliances or facilities mentioned in paragraph (a), no discrimination in rates, tolls, or charges or in facilities for any use or service

in connection therewith shall ever be made, authorized or permitted by said district or its successors.

(d) There is hereby reserved, however, in the people of the State of California the absolute right to fish in the waters of said harbor with the right of convenient access to said waters over said lands for said purposes together with the right of navigation.

(e) There is hereby excepted and reserved to the State of California all deposits of minerals, including oil and gas, in said land, and to the State of California, or persons authorized by the State of California, the right to prospect for, mine, and remove such deposits from said land.

(f) The lands herein described are granted subject to the express reservation and condition that the State may at any time in the future use said lands or any portion thereof for highway purposes, without compensation to the district, its successors or assigns, or any person, firm or public or private corporation claiming under it, except that in the event improvements have been placed upon the property taken by the State for said purposes, compensation shall be made to the person entitled thereto for the value of his interest in the improvements taken or the damages to such interest.

Sec. 2. This act shall become operative November 21, 1957.

CHAPTER 803

An act to amend Section 28128 of the Government Code, relating to compensation for public services in counties of the twenty-eighth class.

In effect
September
21, 1957

[Approved by Governor May 8, 1957. Filed with
Secretary of State May 8, 1957.]

The people of the State of California do enact as follows:

SECTION 1. Section 28128 of the Government Code is amended to read:

How Laid
Out by
County
Compensa-
tion

28128. In a county of the twenty-eighth class the following shall receive as compensation for the services required by them by law or by virtue of their offices the following sums:

(a) The auditor, six thousand six hundred dollars (\$6,600) a year.

(b) The district attorney, nine thousand dollars (\$9,000) a year. He shall devote his entire time during office hours to the work of the county and State and is prohibited from engaging in private work within office hours. This does not preclude him from continuing or concluding any private matter in which he appeared of record prior to taking office.

(c) Each supervisor, for all services required of him as supervisor four thousand five hundred dollars (\$4,500) a year and his actual expenses necessarily incurred in the performance of county business within the county, not to exceed