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November 29, 2001

**HAND-DELIVERED**

Ms. Billie C. Blanchard
California Public Utilities Commission
State Building, Room 4-A
505 Van Ness Avenue
San Francisco, CA 94102

**Re: PG&E Application Nos. 00-05-035 and 00-12-008; Mitigated Negative Declaration**

Dear Ms. Blanchard:

I have previously written on behalf of Santa Clara Valley Housing Group ("SCVHG") to express concern about obvious and significant deficiencies which appear in the Mitigated Negative Declaration ("MND") prepared in conjunction with the above-referenced applications and recently published by the Commission staff for comment due November 29. 2001. Please accept the following as SCVHG's comments on the referenced MND.

SCVHG, a real estate developer with secured, approved plans to construct a residential subdivision in the City of Hercules, has filed its protest to Application No. 00-12-008 and has a direct and immediate interest in the accuracy of the environmental documentation that is under review in conjunction with A. 00-12-008. SCVHG believes that the MND is seriously deficient, either by reason of misstatement of facts or omission of information critical to the Commission's ultimate determination of the environmental impacts associated with the proposed project. These errors and omissions include the following:

(1) While the "Project Description" indicates that the "CPUC has concluded that all potential impacts can be mitigated to less than significant levels," the project description fails to describe the ultimate use(s) to which the subject facilities will or may be put. Without delineating and considering the various potential "actual" uses that are at issue, it is impossible for the CPUC to determine what might be the potential impacts of such uses, much less define the necessary level of mitigation required with respect to each such use. The proposed project description does not address two major considerations: (1) what product(s) will be conveyed in the pipelines and stored in the tanks; and (2) what are the potential origins and destinations for transportation of the pipeline product(s). CEQA Guidelines, Section 15063(a)(1) states: "All phases of project

K1

planning, implementation, and operation must be considered in the initial study of the project." This has not been done.

(2) At p. XII-2, the draft states as follows: "While use of the pipeline would likely transport fuel oil, the end use of the fuel oil has not been determined." It is obvious that fuel oil storage and transportation is not the only anticipated use for which approval is sought under the pending application. Without identifying and analyzing the other potential uses, it is impossible to adequately review the impacts upon SCVHG's housing development. K2

(3) At p. IX-1, the document, in describing the Project "Setting," reads as follows: "The Hercules Pump Station is located on 44.2 acres of land...and undeveloped lands to the north." The referenced lands to the north are not "undeveloped." They are entitled with Vesting Tentative Map 8455 granted by the City of Hercules. K3

Further the draft document states: "The city proposes to amend the general plan so that the land can be used for residential and commercial users, as well as construction of a new school. The city has completed an EIR on the proposed specific plan but has not yet adopted it into the general plan." This statement is erroneous. SCVHG has a vesting tentative Map as does Catellus - information which was conveyed to the applicant in A. 00-12-008 as well as the Commission's environmental consultant when SCVHG protested the proposed project in January, 2001 as a map owner. The General Plan, specific plan and other entitlements are all recorded on the land and substantial grading has begun. The plan is for more than 800 homes, a school, and a commercial site – all of which are entitled. K4

(4) At Section 1.0 "Description of the Proposed Project," 1.1 INTRODUCTION, the document reads: "Two parties, West Contra Costa Unified School District and SCVHG development company, filed protests to SPBPC's application on January 16th, 2001, raising various issues. SPBPC filed a reply to those protests on January 26th, 2001." There is, however, no explanation in the MND of the nature of the protests that have been lodged. K5

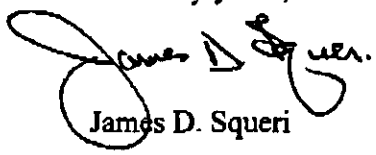
SCVHG submits that the MND does not provide sufficient information to determine the probable environmental impacts of the proposed project. The MND fails to recognize that non-use of the pipeline represents the existing situation or status quo. The fact that maintenance of the line and relevant permits were kept current does not provide justification to determine that resumption of use of the line, potentially for a range of purposes that have not been adequately discussed in the MND, will have "less than significant impacts." Such a determination completely ignores the fact that while the pipeline has remained idle for many years other projects and uses have continued or moved forward. K6

SCVHG does not believe that the Commission is in a position to lawfully consider the above-referenced applications given the inadequacies of the MND. Given the potential impacts associated with the proposed project, SCVHG asks that the Commission staff reconsider the K7

propriety of proceeding on the basis of a MND and instead undertake preparation of a full environmental impact report.

Should you have any questions regarding the concerns set forth herein, please contact me.

Sincerely yours,



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