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May 3, 2012

Jennifer DeLeon, Project Manager
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

Re: Comments on DEIR for Central California Coastal Seismic Imaging Project
Dear Ms. DeLeon:

Although the Alliance for Nuclear Responsibility (A4NR) previously advised the State Lands Commission that we did not expect to file comments on the DEIR because environmental assessment is outside our expertise, developments at the CPUC's April 18, 2012 evidentiary hearing on PG&E's application for funding of its Central California Coastal Seismic Imaging Project (A.10-01-014) have caused us to reconsider.

Accordingly, we submit these comments with four specific purposes in mind:

- To require PG&E's specific delineation of changes in its offshore and onshore study plans necessary to gather data to fully assess the "missed fault" recommendations of Dr. Douglas Hamilton in the A.10-01-014 proceeding (Exhibit A4NR-4). These recommendations are graphically mapped in the DEIR comments submitted by geologist Erik Layman.
- To correct a serious inaccuracy in the DEIR description of the NRC staff's response to PG&E's analysis of the Shoreline Fault. The DEIR's account ends in 2009, and omits the August, 1, 2011 NRC staff report indicating that PG&E had failed to properly evaluate the Shoreline Fault against the seismic design basis for Diablo Canyon (Exhibit A4NR-1 in A.10-01-014). Even more significant, the DEIR fails to mention that PG&E has chosen to seek a license amendment to weaken the plant's seismic design basis rather than submit the required analysis.

- To caution against reliance on “worst case” computer modeling assumptions as a substitute for the crucial scientific data likely to be obtained from the seismic study program. PG&E has repeatedly insisted that the State of California is federally pre-empted from any jurisdiction over the seismic safety of Diablo Canyon. Only empirical, publicly disseminated, scientific data will have any impact on what seismic standards are applied to the plant.
- To encourage the State Lands Commission to take whatever time is required to assure that the studies are properly scoped and need only be done once. After years of resisting the very idea of these studies, PG&E recently adopted an aggressive “the-boat-is-leaving-the-dock” impatience. A4NR reads the DEIR as further corroboration that PG&E’s motivation is more an effort to validate its Long-Term Seismic Hazard Program’s computer model, which dates back to 1988, than a search for scientific truth. We believe the State’s interest is broader and deeper than that.

Allow me to elaborate on each of these four matters.

1. Dr. Hamilton was part of PG&E’s Diablo Canyon geosciences team from 1971 to 1988. His testimony in A.10-01-014 concluded that PG&E’s proposed studies fail to acknowledge “what may well be the controlling seismic hazard to the seismic safety of DCNPP,” the San Luis Range/Inferred Offshore Fault.¹ After unsuccessfully seeking to have the CPUC strike his testimony as federally pre-empted, PG&E asked for and obtained an additional month to present rebuttal testimony. This purported rebuttal, beyond reiterating the federal pre-emption argument and saying that Dr. Hamilton had “speculatively linked” an east-west bedrock fault, meekly opines, “the information collected by the seismic studies proposed in this application will allow PG&E to assess the seismic characterization of the area Dr. Hamilton refers to with greater specificity.”² PG&E declined to cross-examine Dr. Hamilton, but its witness Dr. Stuart Nishenko reiterated – under questioning by A4NR’s attorney -- PG&E’s willingness to address Dr. Hamilton’s concerns:

Q: Has there ever been any offshore study of the character or extent of this faulting?

A: This again, is part of the studies that we are currently proposing to do in this Application.

Q: As they are currently designed?

A: Yeah.

¹ A4NR-4 at p. 7.

² PG&E-3 at p. 14.

Q: *Offshore?*

A: *Offshore studies that we have conducted and we intend to conduct will address these questions, yes.*

Q: *The draft environmental impact report for your studies shows a gap in the proposed vibroseis 2-D lines along the Irish Hills shoreline, does it not?*

A: *I am not quite clear exactly what area you are referring to.*

Q: *Well, I'm referring exactly at the location of the so-called Diablo Cove fault.*

A: *So these are additional data that we can collect there.*

Q: *Can collect or plan to collect?*

A: *We plan to collect to address these questions.*

Q: *And do you plan to collect these data both onshore and offshore to address these questions?*

A: *Yes.*³

Dr. Nishenko's witness-stand flexibility, a contrast to PG&E's feverish deadline insistence to the IPRP and the State Lands Commission, is not dissimilar to what he told the scientists gathered at the Senior Seismic Hazard Assessment Committee (SSHAC) public workshop in San Luis Obispo last November 30:

*STU NISHENKO: Well, I would say it's not cast in stone yet because the time where things were get cast in stone is once that environment impact report, the public comment period closes, we go into negotiations and look at alternatives based on those public comments, we kind of address everything and start fine tuning ...*⁴

A4NR respectfully asks the State Lands Commission to require PG&E to specifically delineate the changes in its offshore and onshore study plans necessary to gather data to fully assess the "missed fault" recommendations of Dr. Douglas Hamilton, as graphically mapped in the DEIR comment submitted by geologist Erik Layman.

³ A.10-01-014 transcript, April 18, 2012, pp. 95-96.

⁴ PG&E transcript of SSHAC workshop, November 29 – December 1, 2011, p. 140.

2. The DEIR narrative seems unaware of the August 1, 2011 NRC staff memorandum⁵ responding to PG&E's January 7, 2011 Shoreline Fault report. The NRC report concludes:

- *Although the LTSP margin analysis demonstrated that the new Shoreline Fault Zone information was bounded by the Hosgri Event, the licensee didn't evaluate the new seismic information against the other two design basis earthquakes, the Design Earthquake and the Double Design Earthquake.*
- *... the plant safety analyses concluded that seismic qualification for certain structures, systems and components was more limiting for the Design Earthquake and Double Design earthquakes than for the Hosgri Event.*
- *New Seismic information developed by the licensee is required to be evaluated against all three of the seismic design basis earthquakes and the assumptions used in the supporting safety analysis ... Comparison to the LTSP by itself is not sufficient to meet this requirement.*

Rather than perform this required evaluation, PG&E took the unprecedented step in October 2011, to file a "License Amendment Request" which seeks to lower the existing design basis for Diablo Canyon. This would be a bold move for any nuclear licensee in the year after the Fukushima accident. For a company still reeling from the national spotlight on its lax attention to safety in its natural gas operations, such a response is nothing short of remarkable. Nor should there be any doubt about its significance. As PG&E stated in its November 3, 2011 10-Q filing with the SEC:

...in early August 2011, the NRC found that a report submitted by the Utility to the NRC on January 7, 2011 to provide updated seismological information did not conform to the requirement of the current Diablo Canyon operating license. On October 21, 2011, the Utility filed a request that the NRC amend the operating license to address this issue. If the NRC does not approve the request the Utility could be required to perform additional analyses of Diablo Canyon's seismic design which could indicate that modifications to Diablo Canyon would be required to address seismic design issues. The NRC could order the Utility to cease operations until the modifications were made or the Utility could voluntarily cease operations if it determined that the modifications were not economical or feasible.⁶

A4NR respectfully asks the State Lands Commission to correct the discussion in the DEIR to accurately reflect the aftermath of PG&E's analysis of the Shoreline Fault.

⁵ A4NR-1.

⁶ PG&E Corporation, Form 10-Q filing, November 3, 2011, p. 63.

3. A4NR is aware that there is currently discussion among State agencies that the need for the proposed studies, and their associated environmental impacts, could be obviated by simply ordering PG&E to use “worst case” assumptions in its seismic modeling. This sentiment is not illogical – the offshore studies are described by some as carpet-bombing the seabed with sonic artillery – but seriously underestimates the complexity of specifying the myriad of interconnected assumptions involved, and ignores the absence of a binding State government authority to do so. PG&E has repeatedly insisted that the NRC has exclusive jurisdiction over all seismic issues affecting Diablo Canyon, most recently in its testimony⁷ in A.10-01-014 and in its unsuccessful efforts to block Dr. Hamilton’s testimony from being considered by the CPUC.⁸

The strength of its conviction on federal pre-emption has led PG&E to a willful misreading of the landmark U. S. Supreme Court Case in which the Rehnquist court unanimously slapped the company down three decades ago when it made similar arguments trying to evade California’s nuclear statutes.⁹ Nowhere in any of its legal hyperventilating has PG&E ever acknowledged the existence of the decision’s pivotal observation: “the states exercise their traditional authority over the need for additional generating capacity, the type of generating facilities to be licensed, land use, ratemaking, and the like.”¹⁰ Or its devastating next line: “The above is not particularly controversial.”¹¹

Nevertheless, there is no reason to believe that an edict – even assuming it could be coherently formulated without data from the studies -- of California state government about what assumptions PG&E should use in its seismic modeling would be followed by PG&E or accepted by the NRC. There simply is no substitute for the voluminous scientific data expected to be generated from the proposed seismic surveys. This is especially true if such data is made publicly available so that it can be analyzed by the full community of geoscientists. To its credit, PG&E has discussed doing so as part of the SSHAC process.

Nor should anyone think that, because of the role the Coastal Zone Management Act affords the California Coastal Commission in Diablo Canyon’s potential relicensing,

⁷ PG&E-3 , pp 3-12, 18-21.

⁸ PG&E, Motion to Strike Testimony of Douglas H. Hamilton, February 16, 2012, pp. 1, 5-8.

⁹ *Pacific Gas and Electric Co. v. State Energy Resources Conservation & Dev. Comm’n*, 461 U.S. 190 (1983).

¹⁰ *Ibid.*, p. 213.

¹¹ *Ibid.*

there is enough State leverage to skip the studies and simply prescribe the use of “worst case” modeling assumptions. There are many years still to run on the existing Diablo Canyon licenses, and the proposed studies – if properly performed -- are expected to provide valuable information concerning the seismic hazard during the remaining years of those licenses.

A4NR respectfully asks the State Lands Commission to remain focused on the value of the scientific information to be derived from the proposed studies and to not be lured into a false belief that reliance on modeling assumptions is a viable alternative.

4. It probably goes without saying, but the State Lands Commission should not allow itself to be stampeded by the recent sense of urgency PG&E has brought to this topic. This is a change for PG&E after years of disdaining the value of the enhanced seismic survey techniques suggested by AB 1632, resisting the authority of the California Energy Commission to require such studies, and even evading the written direction of the President of the CPUC. Only the attendant publicity in the wake of the Fukushima tragedy proved effective at moving PG&E. And only the NRC’s suspension of Diablo Canyon’s relicensing until the studies are completed has made that movement tangible.

But PG&E’s conduct with respect to the limited review opportunities afforded the IPRP has been indefensible. The qualifications of the selected vendor has been a bone of contention between PG&E and the IPRP for months, with several IPRP members questioning whether the quality of seismic survey data obtained by an academic institution will be of the same state-of-the-art caliber as that which could be obtained by the offshore petroleum industry. Rather than discuss the question in an open fashion or respect the pre-implementation review role which the CPUC established for the IPRP, PG&E has instead chosen to stonewall. The IPRP requested copies of the RFPs and vendor responses at its January 23, 2012 and February 6, 2012 meetings. The RFPs were only turned over on March 2, 2012 and the vendor bids not until after an adverse ruling in the April 18, 2012 evidentiary hearing in A.10-01-014.

The IPRP has made clear its need for a private consultant to properly evaluate the data gathering and data evaluation capabilities of the selected vendor(s), something which it has been promised since its first meeting August 31, 2010. Because of the ongoing

inability of the CPUC Energy Division to retain such assistance, the County of San Luis Obispo took the extraordinary step of offering to be the contracting entity if it could be assured of reimbursement. When this offer was communicated at the IPRP's February 21, 2012 meeting, it seemed to meet with approval. But when it was raised by the County at the February 23, 2012 Pre-Hearing Conference in A.10-01-014, PG&E's attorney insisted that it be characterized as "testimony"¹² and thereby delayed its consideration until the evidentiary hearing on April 18, 2012.

A4NR respectfully requests that the State Lands Commission take whatever time is needed to assure that the proposed studies are properly scoped, and that they go forward only as a truly objective, open-minded scientific inquiry rather than a self-serving effort to validate PG&E's earlier computer modeling.

Sincerely,

/s/

Rochelle Becker

Executive Director

¹² A.10-01-014 transcript, February 23, 2012, p. 52.