

PRESS RELEASE

# PG&E Found Guilty Of Obstruction Of An Agency Proceeding And Multiple Violations Of The Natural Gas Pipeline Safety Act

Tuesday, August 9, 2016

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For Immediate Release  
U.S. Attorney's Office, Northern District of California

SAN FRANCISCO — A federal jury found Pacific Gas and Electric Company ("PG&E") guilty today of multiple willful violations of the Natural Gas Pipeline Safety Act of 1968 ("PSA") and obstructing an agency proceeding, announced U.S. Attorney Brian J. Stretch, California Attorney General Kamala D. Harris, San Mateo County District Attorney Stephen M. Wagstaffe, U.S. Department of Transportation Office of Inspector General Special Agent in Charge William Swallow, FBI Special Agent in Charge John F. Bennett, and San Bruno Police Chief Ed Barberini. The PSA violations were uncovered in the course of an investigation initiated after the fatal San Bruno natural gas pipeline explosion in 2010. The obstruction charge was added later after investigators discovered PG&E attempted to mislead the National Transportation Safety Board (NTSB) during its investigation.

The verdict follows a 5 1/2 week trial before the Honorable Thelton E. Henderson, U.S. District Judge. The PSA-related charges stem from PG&E's record keeping and pipeline "integrity management" practices. The evidence at trial demonstrated that PG&E willfully failed to address recordkeeping deficiencies concerning its larger natural gas pipelines knowing that their records were inaccurate or incomplete. The evidence further demonstrated that PG&E willfully failed to identify threats to its larger natural gas pipelines and to take appropriate actions to investigate the seriousness of threats to pipelines when they were identified. In addition, PG&E willfully failed to adequately prioritize as high risk, and properly assess, threatened pipelines after they were over-pressurized, as required by the PSA and its regulations. On April 1, 2014, a federal grand jury for the Northern District of California returned an indictment charging PG&E with multiple pipeline violations. In finding PG&E guilty, the jury concluded the company knowingly and willfully violated the PSA and its regulations between 2007 and 2010. The jury found PG&E guilty of 5 out of the 11 separate violations of the PSA charged.

The charge of obstructing an agency proceeding was included in a superseding indictment filed July 29, 2014. The charge centers around PG&E's use of a letter in an attempt to mislead the NTSB during an investigation. The NTSB began its investigation immediately after the deadly San Bruno explosion. During the course of the NTSB's investigation, PG&E provided a version of a policy outlining the way in which PG&E addressed manufacturing threats on its pipelines. In accordance with this policy, PG&E did not prioritize as high-risk, and properly assess, many of its oldest natural gas pipelines, which ran through urban and residential areas. Although PG&E was operating under the policy from 2009 through April 5, 2011, the company submitted a letter to the NTSB attempting to withdraw the document. According to PG&E's letter, the policy was produced in error and was an unapproved draft. In finding PG&E guilty of obstructing an agency proceeding, the jury concluded PG&E intentionally and corruptly tried to influence, obstruct or impede the NTSB investigation, in violation of 18 United States Code Section 1505.

U.S. Attorney Brian J. Stretch provided the following statement:

On occasion an event occurs that is sufficiently devastating that a public account must be made, either through an admission of wrongdoing and acceptance of responsibility, or through the judgment of the people acting through a jury. Such an event was the explosion in San Bruno on September 9, 2010, and the physical and emotional injuries suffered by so many that terrible day.

In the aftermath of the explosion, our office, along with the District Attorney of San Mateo and the California Attorney General's Office, charted a course to examine whether PG&E had complied with the federal regulations designed to keep people safe, or willfully disregarded those regulations. To honor the memory of those who perished in the explosion required nothing less. The jury has determined that PG&E management chose willfully not to follow certain of those regulations.

This verdict in no way diminishes or calls into question the hard, honest work done by PG&E's employees in the field, as they labor tirelessly day and night to provide us with light and heat. It is a reflection only of the choices and priorities set at the top.

PG&E provides gas and electricity to the citizens of Northern California and must adhere to certain safety requirements and financial limitations. We hope that the verdict today insures that PG&E's management will adhere faithfully to this compact in the future.

I want to thank the many prosecutors and team members whose singular focus and dedication was nothing short of heroic. The Assistant United States Attorneys who tried the case to the jury -- Hallie Hoffman, Jeff Schenk, and Hartley West -- represented the Department of Justice with highest degree of professionalism.

Our office was teamed up with the California Attorney General's Office, the San Mateo County District Attorney's Office, and the San Bruno Police Department. This was a shared responsibility and we are deeply appreciative of their commitment to joining us in the pursuit of justice.

In addition, the Federal Bureau of Investigation and the U.S. Department of Transportation Office of Inspector General were relentless in their pursuit of facts.

Finally, the City of San Bruno is a strong community with deep civic pride. It has steadfastly supported this prosecution and advocated for reform. Today's verdict is an important step toward achieving the lasting change that San Bruno so very much deserves.

"We are very pleased with the verdict and commend the jury for their hard work and thoughtful deliberation," said California Attorney General Kamala D. Harris. "The California Department of Justice is proud to have worked with the U.S. Attorney's Office and various federal and state partners to investigate and ultimately prosecute this important case."

"We are grateful to the US Attorney's Office for outstanding work with the support of San Bruno Police Department and our office," said San Mateo County District Attorney Stephen M. Wagstaffe. "Justice was done today and PG&E was properly convicted of multiple felonies insuring justice for our community."

"These guilty verdicts against PG&E are a sobering reminder to those entrusted with ensuring public safety that we have a solemn obligation to place that safety foremost in our actions," said William Swallow, regional Special Agent-in-Charge, USDOT OIG. "We appreciate the committed efforts of everybody who helped achieve this result, including our law enforcement peers and prosecutorial colleagues. DOT OIG remains committed to working with them to prosecute to the fullest extent of the law those who endanger public safety. On behalf of the Inspector General, I offer our deepest condolences to the family and friends of those who perished in the San Bruno explosion."

"The San Bruno Police Department is extremely proud of the complex investigative work that led to a conviction in this case," said San Bruno Police Chief Ed Barberini. "We are very grateful to the United States Attorney's Office and all of the partners that contributed to a successful conclusion to this case."

The maximum statutory penalty for each count for a corporation is \$500,000. Judge Henderson has scheduled post-trial motions to be heard on October 11, 2016.

The prosecution is the result of an investigation conducted by the U.S. Attorney's Office for the Northern District of California, the California Attorney General's Office, the San Mateo County District Attorney's Office, the United States Department of Transportation Office of Inspector General, the FBI, the Pipeline and Hazardous Material Safety Administration, and the City of San Bruno Police Department.

Updated September 20, 2016

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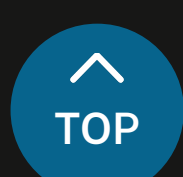
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dated as of [\_\_\_\_\_]

between

[\_\_\_\_\_]<sup>1</sup>,

and

U.S. DEPARTMENT OF ENERGY,

for

[\_\_\_\_\_]<sup>2</sup>

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<sup>1</sup> Insert name of Owner, Operator, or Authorized Representative.

<sup>2</sup> Insert name of Nuclear Reactor.

product or service would increase the overall cost of the fuel assembly by more than twenty-five (25) percent.

(b) Owner/Operator shall retain all books and records necessary to substantiate its performance under subsection (a) and will make such books and records available to DOE promptly upon request.

#### **SECTION 4.10. U.S. Manufacturing Best Efforts.**

The Owner/Operator will use best efforts to maximize U.S.-manufactured content acquired or used in Nuclear Reactor facilities and components, taking into account availability, cost, technical performance, reliability, efficiency, warranty coverage and related commercial terms during the Award term.

#### **SECTION 4.11. Award Period Financial Projections.**

(a) The Owner/Operator has provided a hard copy of, and a computer disk, CD-ROM, or other customary computer storage media, containing the Award Period Financial Projections for the Nuclear Reactor setting forth the projected operating results and the underlying models and assumptions (which assumptions are believed by the Owner/Operator to be reasonable) and explanations thereto for the Nuclear Reactor for fiscal years 2023–2026.

(b) The Award Period Financial Projections:

(i) are complete and based on reasonable assumptions;

(ii) are the same as those submitted in the Nuclear Reactor's Certification Application, consistent with the requirements of the set forth in the U.S. Department of Energy Guidance for the Civil Nuclear Credit Program dated April 19, 2022;

(iii) have been prepared in good faith and with due care; and

(iv) fairly represent the Owner/Operator's expectation as to the matters covered thereby as of any date on which this representation is made.

#### **SECTION 4.12. U.S. Government Requirements.**

(a) Central Contractor Registration. The Owner/Operator has registered in the CCR database.

(b) Foreign Asset Control Regulations. Neither the payment of Credits nor the use of the proceeds thereof by the Owner/Operator or at the direction of the Owner/Operator will violate the Foreign Asset Control Regulations.

(c) Prohibited Persons. Neither the Owner/Operator nor any of their respective Principal Persons is a Prohibited Person. No event has occurred and no condition exists that is likely to result in Owner/Operator nor any of its respective Principal Persons becoming a Prohibited Person.

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# 2 CFR § 180.800 - What are the causes for debarment?

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## § 180.800 What are the causes for debarment?

A Federal agency may debar a person for -

**(a)** Conviction of or civil judgment for -

(1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction;

(2) Violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging;

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or

(4) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility;

**(b)** Violation of the terms of a public agreement or transaction so serious as to affect the integrity of an agency program, such as -

(1) A willful failure to perform in accordance with the terms of one or more public agreements or transactions;

(2) A history of failure to perform or of unsatisfactory performance of one or more public agreements or transactions; or

(3) A willful violation of a statutory or regulatory provision or requirement applicable to a public agreement or transaction;

**(c)** Any of the following causes:

(1) A nonprocurement debarment by any Federal agency taken before October 1, 1988, or a procurement debarment by any Federal agency taken pursuant to 48 CFR part 9, subpart 9.4, before August 25, 1995;

(2) Knowingly doing business with an ineligible person, except as permitted under § 180.135;

(3) Failure to pay a single substantial debt, or a number of outstanding debts (including disallowed costs and overpayments, but not including sums owed the Federal Government under the Internal Revenue Code) owed to any Federal agency or instrumentality, provided the debt is uncontested by the debtor or, if contested, provided that the debtor's legal and administrative remedies have been exhausted;

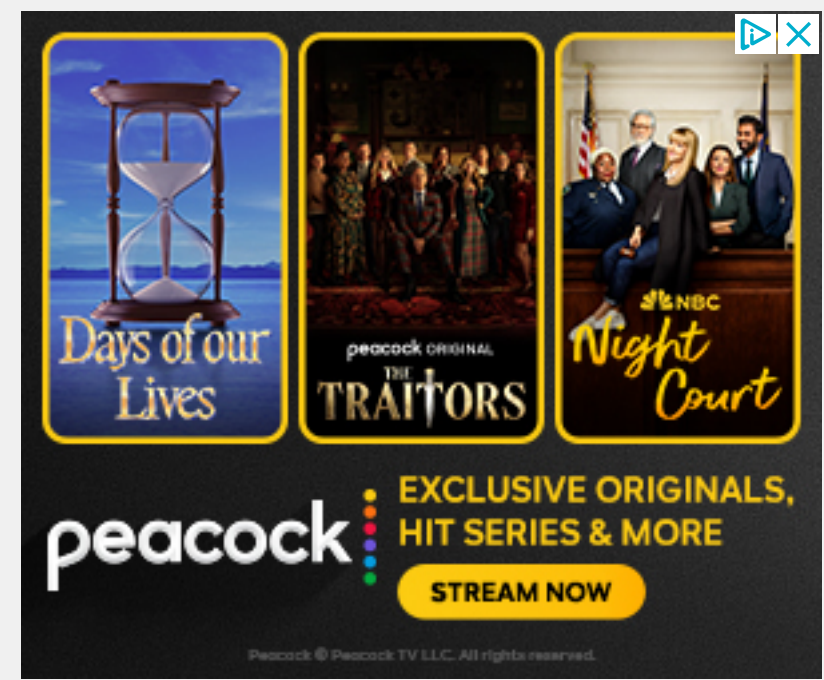
(4) Violation of a material provision of a voluntary exclusion agreement entered into under § 180.640 or of any settlement of a debarment or suspension action; or

(5) Violation of the provisions of the Drug-Free Workplace Act of 1988 (41 U.S.C. 701); or

**(d)** Any other cause of so serious or compelling a nature that it affects your present responsibility.

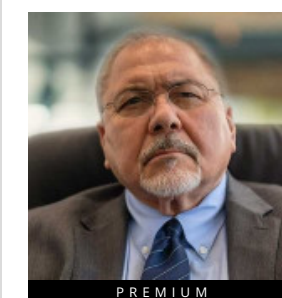
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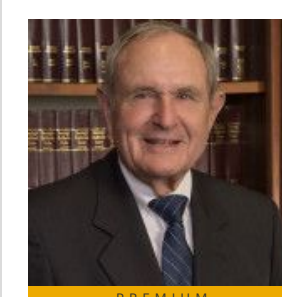
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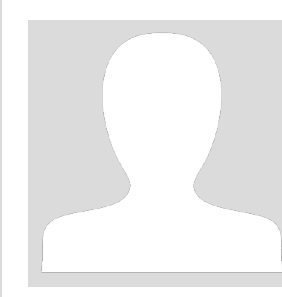
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# 2022 California Code Public Resources Code - PRC DIVISION 15 - ENERGY CONSERVATION AND DEVELOPMENT CHAPTER 6.3 - Diablo Canyon Powerplant Section 25548.3.

**Universal Citation:** [CA Pub Res Code § 25548.3 \(2022\)](#)

25548.3. (a) It is the intent of the Legislature to make available a one billion four hundred million dollar (\$1,400,000,000) loan from the General Fund to the Department of Water Resources for the purpose of being loaned to the borrower for extending operations of the Diablo Canyon powerplant facility, to dates that shall be no later than November 1, 2029, for Unit 1, and no later than November 1, 2030, for Unit 2. The Legislature intends to transfer an initial six hundred million dollars (\$600,000,000) from the General Fund to the department. It is the intent of the Legislature that the remaining eight hundred million dollars (\$800,000,000) shall require future legislative authorization before the transfer of funds.

(b) (1) To facilitate the extension of the operating period, the department may make a loan or loans to the borrower out of any funds that the Legislature transfers to the Diablo Canyon Extension Fund established pursuant to Section 25548.6, up to a total principal amount not to exceed one billion four hundred million dollars (\$1,400,000,000). Of this amount, up to three hundred fifty million dollars (\$350,000,000) may be paid out by the department upon the execution of, and according to the terms of, loan agreements described in subdivision (c). For any additional amount beyond that three hundred fifty million dollars (\$350,000,000), but not more than a total of six hundred million dollars (\$600,000,000), the department shall submit a written expenditure plan requesting the release of additional funding pursuant to this section to the Department of Finance and the Joint Legislative Budget Committee. The Department of Finance may provide funds not sooner than 30 days after notifying, in writing, the Joint Legislative Budget Committee, or any lesser time determined by the chairperson of the joint committee, or the chairperson's designee.

(2) The department shall not disburse the entire loan amount in one lump sum, but shall disburse the loan amount pursuant to a loan disbursement schedule established pursuant to paragraph (3) of subdivision (c).

(c) The department may enter into a loan agreement with the borrower. In addition to any terms and conditions determined necessary by the department, the loan agreement shall include all of the following:

(1) (A) A covenant by the borrower that it shall take all steps necessary to secure a grant or other funds available for the operation of a nuclear powerplant from the United States Department of Energy, and any other potentially available federal funds, to repay the loan.

(B) **If the operator is not deemed eligible by the United States Department of Energy for a federal funding program by March 1, 2023, or the earliest date set by the Department of Energy for determining eligibility pursuant to the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code, the operator shall return all unexpended and uncommitted loan moneys and the department shall immediately terminate the loan.**

(2) An interest rate that the department may charge, set at a rate less than the Pooled Money Investment Account rate.

(3) A provision that the loan shall be provided in tranches, with any disbursements following the initial disbursement made contingent upon the semiannual true-up review pursuant to Section 25548.4, and which shall be based on milestones set forth in annual plans for the purpose of project costs, operations and maintenance, internal and external labor, capital improvement costs, fuel purchase, fuel storage, regulatory compliance costs, transition fees, and other expenses associated with the extension of the operating periods and current expiration dates, to cover incremental costs incurred by the borrower in its efforts to extend the operating period. Covered costs shall be limited to those necessary to preserve the option of extending the Diablo Canyon powerplant or to extend the Diablo Canyon powerplant's operation to maintain electrical reliability.

(4) **Events that would trigger loan repayment obligations by the borrower, including, but not limited to, any of the following:**

(A) Failure of the borrower to submit a timely and complete application for funding from the Department of Energy for determining eligibility pursuant to the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code.

(B) **Failure to disclose to the department any known safety risk, seismic risk, environmental hazard, or material defect that would disqualify the application of the borrower for grants or funds for the operation of a nuclear powerplant from a funding program of the United States Department of Energy or otherwise disallow or substantially delay any necessary permitting or approvals necessary for the extension of operating the Diablo Canyon powerplant.**

(C) A change in ownership of the Diablo Canyon powerplant, as determined by the Public Utilities Commission pursuant to Section 851 of the Public Utilities Code, before August 26, 2025.

(5) Events that would trigger a suspension or early termination of the loan agreement, including, but not limited to, any of the following:

(A) A determination by the department that the borrower has not obtained the necessary license renewal, permits, and approvals.

(B) A determination by the department that license renewal, permit, or approval conditions are too onerous, or will generate costs that exceed the maximum amount of loan authorized pursuant to paragraph (1) of subdivision (b).

(C) A determination by the Public Utilities Commission that an extension of the Diablo Canyon powerplant is not cost effective or imprudent, or both.

(D) A determination by the commission, pursuant to Section 25233.2 and voted upon at a commission's business meeting, that the state's forecasts for the calendar years 2024 to 2030, inclusive, do not show reliability deficiencies if the Diablo Canyon powerplant is retired by 2025, or that extending the Diablo Canyon powerplant to at least 2030 is not necessary for meeting any potential supply deficiency.

(E) A unexpected early retirement of the Diablo Canyon powerplant.

(F) A determination by the department that permitted timeframes are not viable to accomplish the purposes of this chapter.

(G) A determination by the department that expenses are unexpected or too large, or that repayment is less likely than initially anticipated.

(H) A final determination by the United States Department of Energy that the Diablo Canyon powerplant is not eligible for the Civil Nuclear Credit Program established by Section 18753 of Title 42 of the United States Code.

(6) Conditions that would result in forgiveness, in whole or in part, of the loan by the department, provided that any amount forgiven is limited to amounts already committed or incurred and that any unspent or uncommitted remainder of the loan proceeds is required to be repaid.

(7) No loan proceeds shall be treated as shareholder profits or be paid out as dividends.

(8) A provision prohibiting shareholder dividends from being deemed eligible costs under the loan.

(9) A covenant that, if the United States Nuclear Regulatory Commission or any state agency requires, during the process of relicensing the Diablo Canyon powerplant, seismic safety or other safety modifications to the powerplant that would exceed the loan amount specified in paragraph (1) of subdivision (a), any application or approval to extend the operation period the commission shall promptly evaluate whether the extension of the Diablo Canyon powerplant remains a cost-effective means to meet California's mid-term reliability needs, before any subsequent authorization and appropriation by the Legislature of an amount in excess of the loan amount.

(10) A covenant that the operator shall allocate all revenues received as a result of federal or state tax credits or incentives, excluding funds specifically allocated by a federal program for the costs of extending power plant operations, on a cost-share basis of 10 and 90 percent between the operator corporation and ratepayers of a load-serving entity responsible for the costs of the continued operation, respectively.

(11) A covenant addressing circumstances in which the operator must indemnify the department and the state for liability associated with the Diablo Canyon powerplant.

(12) A covenant requiring the operator to comply with the conditions specified in Section 25548.7.

(13) A covenant that the operator shall conduct an updated seismic assessment.

(14) A covenant that the operator shall commission a study by independent consultants to catalog and evaluate any deferred maintenance at the Diablo Canyon powerplant and to provide recommendations as to any risk posed by the deferred maintenance, potential remedies, and cost estimates of those remedies, and a timeline for undertaking those remedies.

(15) A covenant that the operator shall report to the commission no later than March 1, 2023, on the available capacity of existing wet and dry spent fuel storage facilities and the forecasted amount of spent fuel that will be generated by powerplant operations through the retirement dates for both units as of August 1, 2022, and November 1, 2029, for Unit 1 and November 1, 2030, for Unit 2.

(16) A monthly performance-based disbursement equal to seven dollars (\$7) for each megawatt-hour generated by the Diablo Canyon powerplant during the period before the start of extended operations. The disbursement is contingent upon the operator's ongoing pursuit of an extension of the operating period and continued safe and reliable Diablo Canyon powerplant operations.

(d) Except for this section and the loan agreement provided for under subdivision (c), notwithstanding Section 11019 of the Government Code or any other law, the department may disburse the tranches of funds specified in paragraph (3) of subdivision (c) to the borrower in advance of the borrower having committed to, or incurred, eligible costs.

*(Added by Stats. 2022, Ch. 239, Sec. 5. (SB 846) Effective September 2, 2022.)*

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**Subject:** [Records Center] Public Records Request :: R000299-051723

--- Please respond above this line ---



## STATE OF CALIFORNIA – CALIFORNIA NATURAL RESOURCES A DEPARTMENT OF WATER RESO



RE: PUBLIC RECORDS REQUEST of May 17, 2023, Reference # R000299-051723.

Dear John Geesman:

This is in response to your May 17, 2023 request, pursuant to the California Public Records Act, Government Code Section 7920 et seq. to the Department of Water Resources (DWR) regarding:

“Regarding the PG&E-DWR October 18, 2022 Loan Agreement for Diablo Canyon Nuclear Power Plant, please provide (1) Copies of any information received by DWR since April 1, 2022 from PG&E disclosing that the company’s 2014 indictment and 2016 conviction for violation of 18 U.S.C § 1505 conflicts with the definition of “Prohibited Person” contained in the draft Credit Redemption Agreement included in DOE’s June 30, 2022 Guidance for the Civil Nuclear Credit Program (Revision 1) or its successor document, the Credit Award and Redemption Agreement.

(2) Copies of any information received by DWR since April 1, 2022 from PG&E reporting whether the company has, or has not, informed DOE of the company’s 2014 indictment and 2016 conviction for violation of 18 U.S.C § 1505.

(3) Copies of any information received by DWR since April 1, 2022 from PG&E identifying the date of any disclosure to DOE of the company’s 2014 indictment and 2016 conviction for violation of 18 U.S.C § 1505.

(4) Copies of any information received by DWR since April 1, 2022 from PG&E concerning any request by the company to DOE for a waiver of enforcement of the “Prohibited Person” provisions in the draft Credit Redemption Agreement included in DOE’s June 30, 2022 Guidance for the Civil Nuclear Credit Program (Revision 1) or its successor document, the Credit Award and Redemption Agreement.

(5) Copies of any information received by DWR since April 1, 2022 from PG&E concerning any request by the company to DOE for modification of the definition of “Prohibited Person” in the draft Credit Redemption Agreement included in DOE’s June 30, 2022 Guidance for the Civil Nuclear Credit Program (Revision 1) or its successor document, the Credit Award and Redemption Agreement.”

Following a diligent search, it has been determined that DWR does not have records responsive to the criteria described in your request.

Sincerely,

Public Records Act Team  
Department of Water Resources

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