CALENDAR ITEM
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A 17

06/28/16
W 26721
PRC 4307.1
PRC 4449.1
P. Huber
C. Oggins

S 35

D. Simpkin

CONSIDER TERMINATION OF LEASE NOS. PRC 4307.1 AND 4449.1, A GENERAL LEASE – RIGHT-OF-WAY USE AND A GENERAL LEASE – INDUSTRIAL USE, AND AN APPLICATION FOR A NEW GENERAL LEASE – INDUSTRIAL USE, FOR A COOLING WATER DISCHARGE CHANNEL, WATER INTAKE STRUCTURE, BREAKWATERS, AND ASSOCIATED INFRASTRUCTURE AT THE DIABLO CANYON POWER PLANT, NEAR AVILA BEACH, SAN LUIS OBISPO COUNTY

APPLICANT/LESSEE:

Pacific Gas and Electric Company
245 Market Street – Mail Code N10A
San Francisco CA 94105

BACKGROUND:

Pacific Gas and Electric Company (PG&E) has submitted an application requesting the termination of two existing leases and the issuance of a new limited-term General Lease – Industrial Use for the continued use and maintenance of water intake structures, breakwaters, cooling water discharge channel, and other structures associated with the Diablo Canyon Power Plant (DCPP), a nuclear power plant located near Avila Beach, San Luis Obispo County. [1]

PG&E completed construction of the DCPP in 1973 and has operated the facility since 1985, upon receipt of all required approvals for operation. The facility includes a once-through cooling system that uses seawater drawn in from offshore. Consequently, a portion of the cooling facilities, including the cooling

[1] After the original publication of this staff report, Commission staff received notification of an uncited seismic report relevant to the discussion of the Hosgri and Shoreline faults. The seismic report, now cited below, improves staff's report but does not change staff's original recommendation. Staff thanks Dan Hirsch from the University of California at Santa Cruz for notifying staff of the seismic report.

water discharge channel, water intake structure and breakwaters, are located on state-owned sovereign land.

On August 28, 1969, the Commission authorized a 49-year lease to PG&E for the water intake structures and breakwaters associated with the DCPP (Lease No. PRC 4307.1). This lease expires on August 27, 2018. On May 28, 1970, the Commission authorized a 49-year lease to PG&E for a cooling water discharge channel associated with the DCPP (Lease No. PRC 4449.1). This lease expires on May 31, 2019.

PG&E has requested that these two leases be replaced by a new lease to run coterminously with the current operating licenses and expire at the same time as the expiration of its Nuclear Regulatory Commission (NRC) licenses for operation of the nuclear facility located onshore.[2] There are no operational or physical changes to the DCPP in connection with the subject lease application.

At its December 18, 2015 public meeting, the Commission deferred action on PG&E's lease application, directing staff to analyze the level of review required under CEQA and as trustee pursuant to the common law Public Trust Doctrine. At both its February 9th meeting and April 5th meeting, the Commission heard informational reports concerning various elements of the status of PG&E's lease application and federal relicensing application.

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land located in and adjacent to the Pacific Ocean, Avila Beach, San Luis Obispo County.

AUTHORIZED USE:

Continued use and maintenance of an existing cooling water discharge channel, water intake structure, breakwaters, boat dock, storage facility, office facilities, intake electrical room, intake maintenance shop, equipment storage pad, and spare tri-bar storage associated with the Diablo Canyon Power Plant.

LEASE TERM:

Beginning June 28, 2016, and ending August 26, 2025, unless sooner terminated as provided under this Lease.

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[2] Information on the NRC's license renewal process can be found at: www.nrc.gov/reactors/operating/licensing/renewal/applications/diablo-canyon.html

CONSIDERATION:

$279,450 per year, with an annual Consumer Price Index adjustment.

SPECIFIC LEASE PROVISIONS:

1. Liability insurance in an amount no less than $10,000,000 per occurrence, or equivalent staff-approved self-insurance program.

2. Surety bond or other security in an amount no less than $1,000,000.

3. If, as of August 27, 2018, Lessee has not withdrawn its application, or has submitted a new application, with the Nuclear Regulatory Commission to renew one or more of its operating licenses for the Diablo Canyon Power Plant, and if the Commission has not received from Lessee an application for reconsideration of its approval of this Lease by that date, this Lease shall terminate on August 27, 2018. In considering such new application, the Commission shall complete any and all analyses it deems necessary and appropriate to evaluate the new application with respect to its effect on the Public Trust and the best interests of the State, with all costs of such analyses to be fully reimbursed by Lessee. If the Commission also determines that an EIR is necessary and appropriate under the CEQA before the new application may be approved, then Lessee shall not pursue any legal challenge to that decision, nor take any action to prevent the preparation or completion of that EIR, and shall fully reimburse the Commission for all costs incurred in the preparation and completion of that EIR; provided, however, that PG&E's agreement not to challenge the decision to prepare an EIR for such new application shall not constitute a waiver of its right to pursue a legal challenge to any other aspects of the Commission's determination with respect to such new application. If, after completion of the Public Trust analysis and, if prepared by the Commission, the EIR, the Commission denies Lessee the lease for which the application was submitted, this Lease shall terminate immediately.

THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

CEQA requires public agencies to consider project impacts to the existing conditions of the environment.[3] When a public agency determines that a

[3] Pub. Resources Code, § 21080.

proposed project will have a potentially significant effect on the environment, the agency, generally, must prepare an EIR.

Approvals and permits for existing facilities, however, are generally categorically exempt from review. The State CEQA Guidelines, in fact, provide as an example "[e]xisting facilities of both investor and publicly-owned utilities used to provide electric power. . . ."[4] Further, the "leasing" of an existing facility is specifically listed as an exempt action by CEQA Guidelines section 15301. An exception to applying the categorical exemption, however, applies where there is a "reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances."[5]

The activity in this situation is the authorization of a limited-term lease for the continued use and maintenance of existing facilities located on state sovereign land and used to support the DCPP. The infrastructure that is the subject of this proposed lease has existed for over 40 years and are considered part of the existing environmental baseline. There are no operational or physical changes to the DCPP, an existing facility, in connection with the subject lease application.

The DCPP, located along the Pacific Coast, is the only active nuclear power plant in California. However, there are many other power plants along California's coast in active seismic regions, including the Moss Landing Power Plant, Ormond Beach Gas Power Plant, AES Redondo LLC Gas Power Plant, El Segundo Power Plant, AES Huntington Beach, Mandalay Generating Station, and Haynes Gas Power Plant. Until recently, this list also included the San Onofre Nuclear Generating Station.

Given that California's entire landscape is built on a network of earthquake fault lines, DCPP is proximate to several earthquake fault lines, including, the Hosgri, Shoreline, San Andreas, San Simeon, San Luis Bay, and Los Osos faults. In 2008, a geologist, Jeanne Hardebeck, from the United States Geological Survey discovered the Shoreline fault, which is approximately ~~25~~ 45 kilometers in length and runs along the coast near the DCPP.[6] ~~PG&E designed and constructed the DCPP to withstand ground shaking produced by these surrounding faults, with the exception of the Shoreline and especially in light of the Hosgri fault which~~

[4] Cal. Code Regs. tit. 14, § 15301, example (b).
[5] Cal. Code Regs. tit. 14, § 15300.2, subd. (c).
[6] Pacific Gas and Electric Company. "Hazard Sensitivity and Impact Evaluation - GEO.DCPP.TR.14.08." 8 June 2014. Web. Pg. 7. 23 June 2016.
~~Hardebeck, Jeanne L. "Geometry and Earthquake Potential of the Shoreline Fault, Central California." *Bulletin of the Seismological Society of America* 103 (2013): 447, 458. Print.~~

~~could produce a 7.5 magnitude earthquake and ground shaking of 0.75 g[7] at the DCPP site.[8]~~ The critical infrastructure at DCPP is designed to withstand ground shaking up to 0.83 g[9].[10] To date, the largest ground motion recorded at the DCPP is a peak ground acceleration of 0.042 g, which resulted from the 2003 San Simeon earthquake.[11]

There is substantial disagreement between experts regarding the characteristics of the Shoreline fault. Hardebeck believes that the Shoreline fault connects to the Hosgri with the potential of jointly rupturing with the Hosgri, causing a large earthquake.[12] ~~PG&E believes that the Shoreline fault is segmented into northern, central, and southern segments and is not capable of jointly rupturing with the Hosgri fault. The significance is that larger fault lines produce larger earthquakes; gaps between fault segments act as barriers, lowering the intensity of possible earthquakes.~~ Hardebeck's research and findings rely on the relocation and reinterpretation of earthquake data recorded by the USGS and the PG&E Central Coast Seismic Network. Using these data, Hardebeck concluded that the Shoreline fault is a continuous, unsegmented fault that is connected to the Hosgri fault.[13]

~~Because of the extreme depth of the seismogenic level, collecting data of the fault characteristics is extremely difficult. In 2012, the Commission authorized PG&E to perform seismic imaging tests to help reveal the Shoreline fault's characteristics. However, the California Coastal Commission, also having permit authority over the imaging testing proposal, denied PG&E's request for a permit due to concerns about impacts to marine life. Consequently, the actual characteristics of the Shoreline fault remain largely unknown.~~

Hardebeck's research and findings rely mostly on mathematical modeling to map the seismogenic level of the fault line, whereas PG&E's research relies mostly on surface trace testing of the fault line. Hardebeck reexamined earthquake data

~~[7] "g" refers to the acceleration that the Earth imparts to objects on or near its surface due to gravity.~~
~~[8] Pacific Gas and Electric Company. "Seismic Hazard Re-evaluation Report." 11 Mar. 2015. Pg. 37. Web. 14 June 2016.~~
[9] "g" refers to the acceleration that the Earth imparts to objects on or near its surface due to gravity.
[10] Pacific Gas and Electric Company. "Seismic Hazard Re-evaluation Report." 11 Mar. 2015. Pg. 9. Web. 14 June 2016.
[11] Pacific Gas and Electric Company. "Seismic Hazard Re-evaluation Report." 11 Mar. 2015. Pg. 9. Web. 14 June 2016.
[12] Hardebeck, Jeanne L. "Geometry and Earthquake Potential of the Shoreline Fault, Central California." *Bulletin of the Seismological Society of America* 103 (2013): 447, 458. Print.
[13] Hardebeck, Jeanne L. "Geometry and Earthquake Potential of the Shoreline Fault, Central California." Bulletin of the Seismological Society of America 103 (2013): 448-57. Print

and attempted to relocate and reinterpret the recorded seismicity to study the geometry of the Shoreline fault.[14] ~~Hardebeck interpreted the data to support the conclusions that the Shoreline fault is a continuous, unsegmented fault, connecting to the Hosgri fault.[15]~~

PG&E instead relies largely upon data from the Shoreline seismicity lineament.[16] A lineament is a topographic feature believed to reflect underlying structures. PG&E identifies the Shoreline seismicity lineament more precisely as three sublineaments: northern, central, and southern.[17] PG&E concludes that there must be three fault segments causing these three distinctive features and seismic trends because there are three distinct sublineaments with variations in the features and seismic trends.

Also, using numerical modeling and examples from earthquakes worldwide, PG&E concluded that the Shoreline fault was oriented such that a joint rupture with the Hosgri fault would continue only a few km onto the northern part of the Shoreline fault and not affect the strength of shaking at the DCPP. Nevertheless, PG&E conducted sensitivity tests to evaluate the consequences of a joint Hosgri-Shoreline rupture. Using current models for the strength of shaking of the ground motion, these sensitivity tests indicated that the strong ground shaking from a joint Hosgri-Shoreline rupture was bounded by PG&E's design spectrum even though the distance from DCPP to this joint rupture is shorter than the distance used in the development of the 1977 design spectrum. This reflects the conservatism in the 1977 ground-motion models. There has been a large increase in the number of earthquake recordings since 1977 leading to improved ground-motion models, particularly for sites close to large earthquakes. These new ground-motion models show that the 1977 models over-estimated the ground motion close to large earthquakes. As a result, there is additional margin in the design spectrum to cover the ground motions from large magnitude

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[14] Hardebeck, Jeanne L. "Geometry and Earthquake Potential of the Shoreline Fault, Central California." Bulletin of the Seismological Society of America 103 (2013): 448-57. Print

~~[15] Hardebeck, Jeanne L. "Geometry and Earthquake Potential of the Shoreline Fault, Central California." *Bulletin of the Seismological Society of America* 103 (2013): 457-58. Print.~~

[16] Pacific Gas and Electric Company. "Report on the Analysis of the Shoreline Fault Zone, Central Coastal California, Report to the U.S. Nuclear Regulatory Commission." Pacific Gas and Electric Company. Jan. 2011. Pg. 4-1. Web. 14 June 2016.

[17] Pacific Gas and Electric Company. "Report on the Analysis of the Shoreline Fault Zone, Central Coastal California, Report to the U.S. Nuclear Regulatory Commission." Pacific Gas and Electric Company. Jan. 2011. Pg. 4-1. Web. 14 June 2016.

earthquakes at short distances.[18] An Independent Peer Review Panel (IPRP) commented on PG&E's research, questioning some of the results. PG&E has responded to the IPRP's comments and believes that its responses adequately address the IPRP's questions.[19]

From 2009 to 2012, PG&E studied the Shoreline fault zone using high-resolution geophysical mapping of the sea floor and shallow (< 1 km) subsurface as well as earthquake data. These studies extended the possible maximum length of the Shoreline fault zone from 25 to 45 km and increased the maximum size of an earthquake that could occur on the Shoreline fault from M 6.5 to M 6.7.[20]

In 2012, the Commission authorized PG&E to conduct a seismic imaging survey to help reveal the Shoreline fault's characteristics at depths greater than 1 km. However, the California Coastal Commission, also having permit authority over the imaging testing proposal, denied PG&E's request for a permit due to concerns about impacts to marine life.

Despite this limitation, PG&E believes that all of the available the data indicate that the Shoreline and Hosgri faults are unlikely to rupture together during large earthquakes. ~~Moreover, finding differences in seismicity between the Shoreline and Hosgri faults and relying on the lack of intersection of surface traces between the two faults, PG&E concludes that the Shoreline and Hosgri faults do not connect and are not capable of jointly rupturing.~~

The Nuclear Regulatory Commission (NRC) also reached this conclusion:

> [l]arge earthquakes from simultaneous rupture on the two faults (i.e., those greater than M7) would produce large surface displacement, which are [sic] not evident in the geologic record. The NRC concludes that the lack of significant horizontal displacement across the Shoreline fault rules out the possibility of joint rupture.[21]

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[18] Pacific Gas and Electric Company. "Hazard Sensitivity and Impact Evaluation - GEO.DCPP.TR.14.08." 8 June 2014. Web. 23 June 2016; GeoPentech. "Southwestern United States Ground Motion Characterization SSHAC level 3 - Technical Report Rev. 2." 10 Mar. 2015. Web. 23 June 2016.

[19] IPRP's comments and PG&E's responses are online: http://www.cpuc.ca.gov/General.aspx?id=11370.

[20] Pacific Gas and Electric Company. "Hazard Sensitivity and Impact Evaluation - GEO.DCPP.TR.14.08." 8 June 2014. Web. Pg. 7. 23 June 2016.

[21] U.S. Nuclear Regulatory Commission. "Research Information Letter 12-01: Confirmatory Analysis of Seismic Hazard at the Diablo Canyon Power Plant from the Shoreline Fault Zone." Sept. 2012. Pg. 36. Web. 14 June 2016.

The issuance of the proposed limited-term lease fits squarely into the categorical exemption for existing facilities under CEQA. The question is whether the exception to this exemption applies. It is within the Commission's authority to use its independent judgment, based on the facts, to determine whether there is a reasonable possibility that the issuance of the proposed limited-term interim lease will have a significant effect on the environment due to unusual circumstances based on substantial evidence. If the Commission determines that there is not a reasonable possibility that the issuance of a limited-term lease for existing facilities will have a significant effect on the environment due to unusual circumstances then consideration of the proposed limited term lease is exempt from CEQA.

JOINT PROPOSAL:

On June 21, 2016, PG&E, Friends of the Earth, Natural Resources Defense Council, Environment California, International Brotherhood of Electrical Workers Local 1245, Coalition of California Utility Employees, and Alliance for Nuclear Responsibility announced a Joint Proposal governing the closure of the DCPP at the expiration of its existing NRC operating licenses and the orderly replacement of the DCPP with a portfolio of greenhouse gas-free energy resources, including a commitment by PG&E to provide 55 percent of its total retail sales from eligible renewable energy resources. According to the Joint Proposal the parties "agree that the orderly replacement of Diablo Canyon with GHG free resources will be the reliable, flexible, and cost-effective solution for PG&E's customers."

Through the Joint Proposal PG&E agrees to withdraw its NRC operating license renewal application upon California Public Utilities Commission (CPUC) approval of the Joint Proposal Application. Such application will include, but not be limited to the following:

a. Procurement and implementation of a GHG free portfolio of renewable energy resources, energy efficiency and energy storage replacement resources, including a voluntary 55 percent renewable energy portfolio standard commitment.
b. An Employee Retention and Severance program containing an employee severance program, a retention program to ensure adequate staffing of critical employees and a retraining and development program to facilitate redeployment of a portion of plant personnel to the decommissioning project.
c. A commitment to a Community Impacts Mitigation Program to address community needs and concerns, given that DCPP is one of

the largest employers, taxpayers, and charitable contributors in the San Luis Obispo County area.

As a showing of good faith consistent with the terms of the Joint Proposal, PG&E submitted a request to NRC on June 21, 2016, to suspend consideration of their DCPP license renewal application pending withdrawal of the NRC application, subject to CPUC approval of the Joint Proposal.

PUBLIC TRUST AND BEST INTERESTS OF THE STATE ANALYSIS:

As general background, the State of California acquired sovereign ownership of all tidelands and submerged lands and beds of navigable lakes and waterways upon its admission to the United States in 1850. Pursuant to the common law Public Trust Doctrine the State holds these lands for the benefit of all people of the State for statewide Public Trust purposes and needs that include, but are not limited to, waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. Uses that otherwise do not fit squarely into the traditional Public Trust purposes identified by the common law, but that do not significantly interfere with the trusts upon which such lands and resources are held, are water-dependent, and otherwise are in the best interests of the State, are generally consistent with the common law Public Trust Doctrine and the Commission's responsibilities, as trustee, under that doctrine. In *Marks v. Whitney*, the court emphasized that "the public uses to which tidelands are subject are sufficiently flexible to encompass changing public needs. In administering the trust the state is not burdened with an outmoded classification favoring one mode of utilization over another."[22] In administering its responsibilities and exercising its discretionary authority, the Commission applies the principles of the Public Trust Doctrine in harmony with other legal requirements and policy objectives, with consideration given to the specific factual context of the proposal and the needs and values of a healthy California society.

California's landmark renewable portfolio standard requires investor-owned utilities and electric service providers to increase procurement from eligible renewable energy resources to 33 percent by 2020. In October 2015, Governor Edmund G. Brown Jr. signed into legislation Senate Bill 350 which requires retail sellers and publicly-owned utilities to procure 50 percent of their electricity from eligible renewable energy resources by 2030. California is on a path to achieve

[22] *Marks v. Whitney* (1980) 6 Cal.3d 251, 259 (also citing (*Colberg, Inc. v. State of California ex rel. Dept. Pub. Wks.*, 67 Cal.2d 408, 421-422 [62 Cal.Rptr. 401, 432 P.2d 3].)

its 33 percent renewable energy portfolio standard for 2020, and gearing up to achieve a 50 percent goal in 2030.

On May 4, 2010, the State Water Resources Control Board (SWRCB) approved a policy (OTC Policy) requiring operators of California power plants, including the DCPP, that were withdrawing State coastal and estuarine waters using a single-pass system (also known as once-through-cooling) to come into compliance with technology-based standards to reduce the harmful effects associated with cooling water intake structures on marine and estuarine life by 2024. The OTC Policy included recommendations made by the California Independent System Operator, California Energy Commission, and the CPUC to achieve water quality goals, including protection of public trust resources, while ensuring electrical grid reliability. The OTC Policy became an effective regulation on October 1, 2010. The OTC Policy requires modifications to the DCPP for any operations after 2025. While the SWRCB decides how PG&E complies with the OTC Policy after shutdown in 2025 and during the decommissioning process, based on what was learned following the shutdown at the San Onofre Nuclear Generating Station, if once through cooling flow at the DCPP falls below 7 percent of existing volume, PG&E would likely be in compliance with the OTC Policy.

The intake structures, discharge channel and other infrastructure on state lands has existed for over 40 years. These facilities support the DCPP, providing an important public purpose by supplying nearly 10% of California's electricity generation. While there are documented impacts to marine life due to the impingement and entrainment associated with once through cooling, the OTC Policy enforced by the SWRCB appropriately regulates these impacts, protecting Public Trust resources, as described above. Weighing these existing, baseline impacts in the context of the OTC Policy, the State's broader renewable energy policies and laws, and the terms of the Joint Proposal, including the commitment that PG&E will not seek to operate the DCPP beyond 2025, staff believes that approval of the proposed limited-term lease for the existing facilities will not significantly interfere with the trusts upon which such lands are held or substantially impair the public rights to navigation, fisheries, or other Public Trust needs and values at this time, at this location and for the limited-term lease beginning June 28, 2016, and ending August 26, 2025.

The California Supreme Court in *National Audubon Society v. Superior Court* emphasized the duty of the state as sovereign to retain continuing supervisory control over its navigable waters and the lands beneath those waters.[23] The

[23] *National Audubon Society v. Superior Court* (1983) Cal.3d 419, 445.

proposed lease contains numerous provisions that provide for the Commission's exercise of continuing supervisory control over the Public Trust lands leased for the subject existing facilities. The proposed lease does not alienate the State's fee simple interest or permanently impair public rights. The proposed lease is limited to an approximate 9-year term, ending on August 26, 2025, and ensures that the term of operations would not be any longer than what the original licensing of the plant contemplated.

Importantly, the Joint Proposal, when implemented in its entirety under the oversight of the CPUC and others, will address significant statewide policy concerns associated with the shutdown of the DCPP in 2025, including replacement energy with non-GHG sources, workforce transition, and community impacts. In addition, questions about the DCPP's potential long-term operational impacts are moot, given PG&E-'s agreement to shut down the DCPP in 2025. Of particular importance is the voluntary commitment by PG&E to provide 55 percent of its total retail sales from eligible renewable energy resources, as defined in the California Energy Commission Renewables Portfolio Standard Guidebook, in each of the years beginning 2031 and ending in 2045. This is 5 percent above the requirements of SB 350. Through the Joint Proposal, PG&E also commits to retaining its highly skilled and qualified personnel at the DCPP during the remaining years of operations and throughout decommissioning. Specifically, PG&E's Employee Program will include an employee severance program, a retention program to ensure adequate staff levels, and a retraining and development program to facilitate redeployment of a portion of plant personnel to the decommissioning project and elsewhere with PG&E. PG&E has also committed to a robust Community Impacts Mitigation Program valued at approximately $49.5 million to address the impacts to the greater San Luis Obispo County area associated with the DCPP's closure. The Joint Proposal provides a blueprint to a successful transition in achieving State various and progressive policy objectives, all in the State's best interests.

Moreover, the lease provides that in the event PG&E does not withdraw its application to renew its operating licenses for the DCPP pending with the Nuclear Regulatory Commission, and if the Commission has not received an application for a new lease for the existing facilities by August 27, 2018, this lease shall terminate. In addition, the proposed lease will provide for insurance, bonding and indemnity in favor of protecting the State's interests. For all these reasons, staff recommends finding that authorizing the proposed limited-term lease does not substantially interfere with public trust needs and values, is in the best interests of the State, and is otherwise consistent with the common law Public Trust Doctrine.

Should the Commission find that the subject issuance of a new lease is exempt from the requirements of CEQA as a categorically exempt project, staff recommends authorizing the subject lease as it does not substantially interfere with public trust needs and values, is in the best interests of the State, and is otherwise consistent with the common law Public Trust Doctrine.

OTHER PERTINENT INFORMATION:

1. PG&E will be required to submit a new and separate lease application to the Commission for the use of state land for the intake structure, discharge channel and other associated infrastructure for the period of time necessary to accommodate decommissioning activities. The Commission's review of the decommissioning project will be subject to environmental review under CEQA.

2. Commission staff conducted a review of the DCPP's vulnerability to sea-level rise impacts using the State of California Sea-level Rise Guidance Document and the National Research Council 2012 Report, *Sea-Level Rise for the Coasts of California, Oregon, and Washington*. These documents project up to 0.98 feet of sea-level rise for 2030 and 2.0 feet for 2050. The DCPP itself is situated on the top of the bluff, well above sea level. However, the intake structure and the breakwaters protecting the intake bay were evaluated. For the breakwaters, wave action/overtopping could become slightly more frequent but damage to the breakwater or impairment of its function is not expected. Inside the bay, the intake structure's top deck is about 20 feet above the water level and its components extend down into the water approximately 28 feet, according to design sketches submitted by PG&E. The auxiliary salt water system is a safety-related feature; its pump motors are housed in watertight compartments within the intake structure, and the vents ("snorkels") are over 35 feet above the water level. Because these elevations are significantly above the projected future conditions, even with compounding effects such as storms and high tides, Commission staff has determined that sea-level rise will have no impact on the safe function of the DCPP for the limited term of the proposed lease.

3. In 1969, the Commission entered into a Boundary Line Agreement (File No. BLA 113) with PG&E and others to fix the boundary between the State-owned sovereign tidelands and the private uplands. The boundary established in BLA 113 represents the landward extent of the State's sovereign ownership interests at this site.

4. This action is consistent with Strategy 1.1 of the Commission's Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission's jurisdiction.

5. The termination of the two leases is not a project as defined by the California Environmental Quality Act (CEQA) because it is an administrative action that will not result in direct or indirect physical changes in the environment.

   Authority: Public Resources Code section 21065 and California Code of Regulations, Title 14, section 15378, subdivision (b)(5).

6. The subject issuance of a new lease is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

   Authority: Public Resources Code section 21084 and California Code of Regulations, Title 14, section 15300 and California Code of Regulations, Title 2, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code section 6370 et seq., but such activity will not affect those significant lands. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is the staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBITS:

A. Land Description
B. Location and Site Map

RECOMMENDED AUTHORIZATION:

It is recommendation that the Commission:

1. Terminate Lease Nos. PRC 4307.1 and 4449.1, a General Lease – Right-of-Way use and a General Lease – Industrial Use, effective June 27, 2016.

2. Find that the subject issuance of a new lease is exempt from the requirements of CEQA pursuant to California Code of Regulations, Title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, Title 2, section 2905, subdivision (a)(2).

3. Find that the proposed lease will not substantially interfere with the public trust needs and values at this location and for the term of the lease, is in the State's best interests, and is otherwise consistent with the common law Public Trust Doctrine.

4. Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

5. Authorize issuance of a General Lease – Industrial Use to the Pacific Gas and Electric Company beginning June 28, 2016, and ending on August 26, 2025, for the continued use and maintenance of an existing cooling water discharge channel, water intake structure, breakwaters, boat dock, storage facility, office facilities, intake electrical room, intake maintenance shop, equipment storage pad, and spare tri-bar storage associated with the Diablo Canyon Power Plant, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; consideration in the amount of $279,450 per year, with an annual Consumer Price Index adjustment; and liability insurance in an amount no less than $10,000,000 per occurrence, or equivalent staff-approved self-insurance program, and a surety bond or other security in an amount no less than $1,000,0000.

EXHIBIT A

W 26721

LAND DESCRIPTION

Two (2) parcels of tide and submerged land situate in the bed of the Pacific Ocean adjacent to those lands as described in Rancho Canada de Los Osos Y Pecho Y Islay and patented September 23, 1869, County of San Francisco, and more particularly described as follows:

Parcel 1 (Formerly PRC 4307)

Commencing at USCGS Triangulation Station "Cove" having CCS27, Zone 5 coordinates N(y)=633,933.238 feet and E(x)=1,146,621.796 feet from which a 12 inch oak with tag (stamped L.S. 2685) set in the northeasterly boundary line of Rancho Canada de Los Osos y Pecho y Islay marking corner No. 15 of said rancho bears N84°56'21.1"E 14,533.372 feet as shown on that unrecorded map titled "Diablo Canyon Boundary Agreement, BLA 113 – Exhibit "B" " recorded, as an exhibit, in that Boundary Line Agreement (BLA) having Document No. 18495 Volume 1529, Page 331 Official Records of said county; thence S17°41'05.6"E 136.305 feet to MHTL station 534 as shown on said map and in said BLA also being the POINT OF BEGINNING; thence along said BLA line the following ninety three (93) courses:

1) N67° 59' 26.4"E 84.037 feet;
2) S33° 24' 02.2"E 39.528 feet;
3) N87° 43' 26.9"E 58.406 feet;
4) N89° 29' 45.6"E 114.905 feet;
5) S40° 51' 55.4"E 45.898 feet;
6) N76° 01' 50.0"E 41.384 feet;
7) S52° 51' 06.1"E 58.125 feet;
8) S62° 01' 53.4"E 73.969 feet;
9) S83° 24' 19.6"E 64.950 feet;
10) N10° 43' 09.5"W 34.247 feet;
11) N22° 47' 42.1"E 32.238 feet;
12) N72° 15' 20.3"E 12.862 feet;
13) N26° 31' 28.3"E 25.326 feet;
14) N84° 45' 00.7"E 28.198 feet;
15) S80° 28' 12.7"E 91.929 feet;
16) S04° 18' 04.5"W 56.930 feet;
17) S65° 13' 50.2"W 12.533 feet;
18) S30° 32' 42.3"E 15.013 feet;
19) S63° 53' 42.9"W 27.316 feet;
20) S56° 04' 34.3"E 51.158 feet;
21) S61° 33' 00.5"E 12.386 feet;
22) S81° 59' 38.7"E 31.588 feet;
23) S02° 34' 47.8"W 35.325 feet;
24) S65° 31' 46.6"W 30.203 feet;
25) S12° 12' 59.9"E 15.500 feet;

26) N83° 47' 52.0"E 50.908 feet;
27) S85° 12' 00.7"E 43.031 feet;
28) N34° 39' 52.4"E 30.469 feet;
29) S72° 38' 00.7"E 21.479 feet;
30) S30° 28' 08.2"E 16.033 feet;
31) S76° 39' 18.0"E 29.507 feet;
32) N37° 00' 38.7"E 20.100 feet;
33) N78° 05' 59.2"E 18.957 feet;
34) N39° 56' 40.9"E 17.740 feet;
35) S69° 55' 18.9"E 17.972 feet;
36) S21° 02' 51.4"E 19.491 feet;
37) S65° 04' 16.6"E 25.220 feet;
38) S75° 19' 44.6"E 24.519 feet;
39) S27° 24' 33.2"W 37.646 feet;
40) S50° 10' 08.6"E 22.528 feet;
41) S85° 56' 38.0"E 45.243 feet;
42) S88° 01' 40.0"E 70.912 feet;
43) N77° 40' 26.3"E 28.999 feet;
44) S36° 28' 41.3"W 18.368 feet;
45) S49° 16' 28.9"W 29.122 feet;
46) S47° 08' 29.8"E 16.834 feet;
47) S75° 53' 14.8"E 25.881 feet;
48) S56° 09' 49.5"E 22.826 feet;
49) N54° 09' 15.3"E 12.842 feet;
50) S42° 35' 41.9"E 23.256 feet;
51) S88° 53' 30.5"E 74.984 feet;
52) N11° 23' 04.5"E 94.785 feet;
53) S79° 37' 21.0"E 80.995 feet;
54) S45° 57' 30.6"E 39.731 feet;
55) S81° 34' 47.7"E 28.204 feet;
56) N76° 23' 54.1"E 25.979 feet;
57) N70° 17' 56.4"E 27.500 feet;
58) S18° 38' 04.1"W 19.154 feet;
59) S53° 58' 23.6"E 13.329 feet;
60) N66° 43' 40.8"E 17.994 feet;
61) S22° 40' 21.9"E 12.453 feet;
62) S55° 39' 24.0"E 17.283 feet;
63) S16° 00' 31.3"E 10.226 feet;
64) S45° 20' 21.2"E 18.952 feet;
65) S18° 25' 37.0"W 22.145 feet;
66) S62° 08' 57.1"E 25.730 feet;
67) S26° 53' 33.4"E 37.584 feet;
68) S24° 41' 59.7"W 23.093 feet;
69) S27° 33' 07.2"E 21.057 feet;
70) S01° 38' 18.4"E 16.087 feet;
71) N88° 16' 02.0"W 44.310 feet;

72) S60° 05' 04.5"W 19.209 feet;
73) S15° 42' 00.4"E 18.957 feet;
74) S74° 07' 51.1"W 27.207 feet;
75) N84° 19' 36.7"W 44.297 feet;
76) S26° 49' 33.8"W 31.444 feet;
77) S04° 23' 57.7"E 65.835 feet;
78) N82° 15' 16.4"W 41.034 feet;
79) S15° 29' 00.7"W 27.570 feet;
80) S56° 49' 34.4"E 37.813 feet;
81) S11° 05' 13.1"W 44.358 feet;
82) S86° 12' 59.9"W 36.660 feet;
83) S25° 49' 27.8"W 53.281 feet;
84) S51° 57' 05.2"E 39.899 feet;
85) S87° 29' 01.2"E 58.767 feet;
86) S34° 57' 05.4"E 38.420 feet;
87) S26° 14' 39.3"W 52.691 feet;
88) S24° 32' 33.5"E 21.162 feet;
89) S82° 43' 51.4"E 22.128 feet;
90) S34° 21' 55.2"E 66.824 feet;
91) S60° 36' 00.1"W 44.650 feet;
92) S71° 45' 26.1"W 23.291 feet;
93) S32° 09' 16.8"E 27.140 feet to MHTL station 500 per said BLA also being the terminus of said BLA from which USCGS Triangulation Station "Patton" having CCS27, Zone 5 coordinates N(y)=633,169.174 feet and E(x)=1,148,540.161feet bears N59° 16' 43.2"E 519.723 feet;

thence leaving said BLA line and along the following forty two (42) courses:

1) S32° 09' 16.8"E 34.511 feet;
2) S75° 39' 32.3"W 116.193 feet;
3) N74° 27' 21.0"W 66.114 feet;
4) N08° 55' 37.5"W 43.344 feet;
5) S78° 16' 01.5"W 60.001 feet;
6) N85° 42' 39.2"W 80.225 feet;
7) N75° 30' 00.0"W 119.817 feet;
8) N60° 07' 28.1"W 47.380 feet;
9) S32° 23' 53.6"W 39.705 feet;
10) N83° 28' 50.4"W 54.177 feet;
11) N69° 41' 45.4"W 285.029 feet;
12) S67° 03' 48.2"W 145.699 feet;
13) S19° 08' 31.8"W 133.761 feet;
14) S61° 31' 36.5"W 144.369 feet;
15) N60° 53' 11.4"W 39.655 feet;
16) N29° 06' 48.6"E 42.162 feet;
17) N00° 00' 00.0"E 23.343 feet;
18) N64° 22' 09.4"W 32.251 feet;

19) S65° 06' 44.5"W 55.240 feet;
20) N28° 07' 30.1"W 39.165 feet;
21) S61° 52' 29.9"W 63.829 feet;
22) N88° 33' 20.2"W 30.678 feet;
23) N53° 42' 48.6"W 50.606 feet;
24) N47° 46' 03.8"W 24.601 feet;
25) N06° 42' 13.9"W 65.255 feet;
26) N16° 48' 41.7"E 65.533 feet;
27) N81° 29' 58.4"E 31.555 feet;
28) N22° 24' 31.9"E 69.727 feet;
29) N48° 33' 34.8"W 59.368 feet;
30) N14° 39' 16.1"W 98.442 feet;
31) N13° 18' 12.4"W 51.539 feet;
32) N05° 01' 23.7"E 65.238 feet;
33) N12° 02' 18.8"W 117.504 feet;
34) N14° 51' 14.8"E 29.618 feet;
35) N23° 45' 43.4"W 69.338 feet;
36) N12° 26' 23.3"W 54.854 feet;
37) N41° 19' 42.3"E 76.620 feet;
38) N33° 30' 14.3"W 54.315 feet;
39) N50° 47' 46.2"E 87.347 feet;
40) N32° 19' 11.0"W 57.983 feet;
41) N50° 29' 32.3"W 73.878 feet;
42) N13° 39' 49.7"W 7.593 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM the following described three parcels of land:

Rock 1

BEGINNING at a point on the boundary of the above described "Parcel 1" from which said USCGS Triangulation Station "Cove" bears N28° 42' 18.4"W 219.306 feet; thence S78° 40' 28.2"E 26.615 feet; thence S13° 47' 34.5"W 26.723 feet; thence N32° 19' 11.0"W 36.895 feet to the POINT OF BEGINNING.

Rock 2

BEGINNING at a point in the above described "Parcel 1" from which said USCGS Triangulation Station "Cove" bears N58° 11' 56.9"W 289.468 feet; thence along the following twenty one (21) courses:

1) S76° 10' 37.6"E 173.566 feet;
2) S55° 38' 01.8"E 98.250 feet;
3) S77° 04' 28.0"E 21.146 feet;
4) S25° 29' 10.2"E 47.503 feet;
5) S56° 04' 22.9"W 33.540 feet;
6) N63° 21' 10.0"W 18.707 feet;

7) S38° 00' 00.3"W 10.444 feet;
8) S57° 59' 40.6"E 6.792 feet;
9) S17° 29' 14.4"E 22.563 feet;
10) S82° 54' 12.2"W 47.514 feet;
11) N87° 59' 04.6"W 68.813 feet;
12) N76° 05' 32.0"W 15.144 feet;
13) S77° 46' 04.6"W 21.570 feet;
14) N73° 49' 02.1"W 65.984 feet;
15) N03° 53' 04.2"E 9.742 feet;
16) N87° 34' 01.0"W 64.308 feet;
17) N54° 41' 02.1"W 27.954 feet;
18) N35° 15' 41.7"W 23.159 feet;
19) N05° 47' 36.7"E 57.061 feet;
20) N11° 05' 53.4"E 44.574 feet;
21) N61° 30' 58.2"E 54.895 feet to the POINT OF BEGINNING.

Rock 3

BEGINNING at a point on the boundary of the above described "Parcel 1" from which said USCGS Triangulation Station "Patton" bears N66° 43' 39.5"W 665.554 feet; thence along the following thirteen (13) courses:

1) S78° 16' 01.5"W 60.001 feet;
2) N85° 42' 39.2"W 80.225 feet;
3) N75° 30' 00.0"W 119.817 feet;
4) N60° 07' 28.1"W 47.380 feet;
5) N34° 45' 13.5"E 54.878 feet;
6) N04° 24' 54.7"E 29.227 feet;
7) N32° 31' 17.8"W 34.263 feet;
8) S80° 03' 49.7"E 77.716 feet;
9) S28° 13' 14.6"E 21.211 feet;
10) N51° 33' 49.2"E 21.282 feet;
11) S72° 18' 03.1"E 121.733 feet;
12) S36° 39' 50.6"E 81.157 feet;
13) S23° 48' 51.0"E 32.288 feet to the POINT OF BEGINNING.

Parcel 2 (Formerly PRC 4449)

Commencing at USCGS Triangulation Station "Cove" having CCS27, Zone 5 coordinates N(y)=633,933.238 feet and E(x)=1,146,621.796 feet from which a 12 inch oak with tag (stamped L.S. 2685) set in the northeasterly boundary line of Rancho Canada de Los Osos y Pecho y Islay marking corner No. 15 of said rancho bears N 84°56'21.1"E 14533.372 feet as shown on that unrecorded map titled "Diablo Canyon Boundary Agreement, BLA 113 – Exhibit "B" " recorded, as an exhibit, in that Boundary Line Agreement (BLA) having Document No. 18495 Volume 1529, Page 331 Official

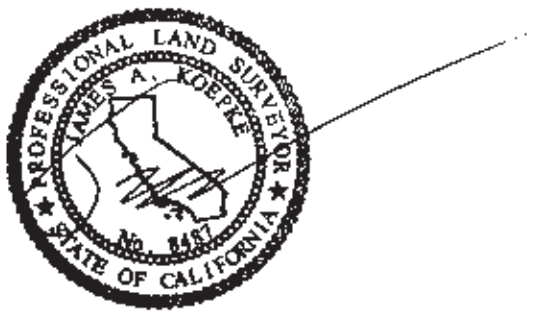
Records of said county; thence N 29°18'55.4"E 1019.389 feet to a point on the shoreline of the Pacific Ocean also being the POINT OF BEGINNING; thence along the following five (5) courses:

1) N67° 00' 00.0"E 25.000 feet;
2) S23° 00' 00.0"E 100.000 feet;
3) S67° 00' 00.0"W 100.000 feet;
4) N23° 00' 00.0"W 100.000 feet;
5) N67° 00' 00.0"E 75.000 feet to the POINT OF BEGINNING.

EXCEPTING THEREFROM all those lands lying above the ordinary high water mark of said ocean.

END OF DESCRIPTION

PREPARED 4/24/15 BY THE CALIFORNIA STATE LANDS COMMISSION BOUNDARY UNIT



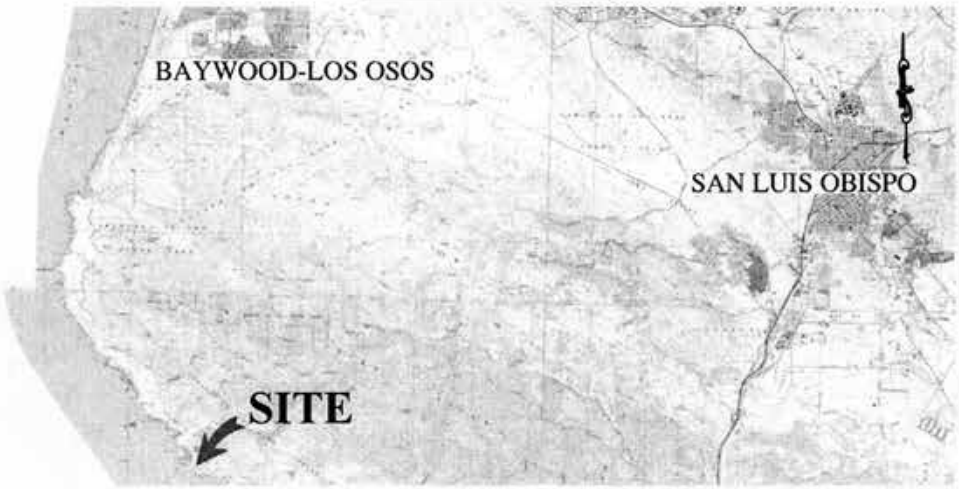
NO SCALE

SITE

Diablo Canyon NPP, south of Baywood-Los Osos, Pacific Ocean

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

W 26721
PG&E
GENERAL LEASE -
INDUSTRIAL USE
SAN LUIS OBISPO COUNTY

MJF 4/22/15