

September 23, 1998

Ms. Maureen Gorsen
General Counsel
The Resources Agency
1416 Ninth Street
Sacramento, CA 95814
Attention: Nadell Gayou

Mr. Bruce Kaneshiro, Project Manager
Environmental Science Associates
225 Bush Street, Ste. 1700
San Francisco, CA 94104

Dear Ms. Gorsen and Mr. Kaneshiro:

Staff of the California State Lands Commission (CSLC or Commission) has reviewed the Draft Environmental Impact Report for Pacific Gas and Electric Company's Application for Authorization to Sell Certain Generating Plants and Related Assets Application No. 98-01-008, prepared for the California Public Utilities Commission. Based on this review, we offer the following comments.

Background

The State acquired sovereign ownership of all tidelands and submerged lands and beds of navigable waterways upon its admission to the United States in 1850. The State holds these lands for the benefit of all the people of the State for statewide Public Trust purposes which include waterborne commerce, navigation, fisheries, water-related recreation, habitat preservation, and open space. The landward boundaries of the State's sovereign interests are generally based upon the ordinary high water marks of these waterways as they last naturally existed. Thus, such boundaries may not be readily apparent from present day site inspections. The State's sovereign interests are under the jurisdiction of the Commission.

It also manages approximately 500,000 acres of school land owned in fee and approximately 700,000 acres of State-retained mineral interests in patented "school lands". The State's "school lands" are held in trust for the betterment of the common schools of the State and revenue, but statute, goes to the support of the State Teachers Retirement System.

Jurisdiction

[Begin BX1]

The Draft Environmental Impact Report for Pacific Gas and Electric Company's Application for Authorization to Sell Certain Generating Plants and Related Assets, Application No. 98-01-008, dated August 5, 1998, involves a number of facilities currently owned by PG&E

which are located on the State's sovereign lands and school lands and under lease with the California State Lands Commission. These leases are as follows:

- PRC 415.1 Sovereign land; water intake and pipelines, San Joaquin River near Antioch, Contra Costa County
- PRC 3124.1 Sovereign lands; barge dock near West Island, San Joaquin River near Antioch, Contra Costa County
- PRC 4444.1 Sovereign lands; Pittsburg Power Plant, Sacramento River at Pittsburg, Contra Costa County
- PRC 6794.2 School land; the operations and maintenance of existing access roads; Lake and Sonoma Counties
- PRC 7083.2 School land near Trout Creek for a road right of way (Sections 27-34, T 18 N, R 11 W), Mendocino County

[End BX1]

[Begin BX2]

Pursuant to the lease terms of these leases, the leases cannot be assigned without the prior approval of the Commission. The following information is required by the Commission for review as part of any request for these assignments.

1. The name and complete business organization and operational structure of the proposed assignee, and the nature of the use of and interest in the lease premises proposed by the assignee. If the proposed assignee is a general or limited partnership, or a joint venture, we will require a copy of the partnership agreement or joint venture agreement, as applicable.
2. The terms and conditions of the proposed assignment, sublease, or encumbrancing or other transfer.
3. Audited financial statements of the two most recently completed fiscal years of the proposed assignee, and pro forma financial statements showing the projected income, expense and financial condition resulting from the use of the leased premises.
4. Any additional or supplemental information as the Commission may reasonably request concerning the proposed assignee.

Upon receipt and review of the above information, the Commission will evaluate the proposed assignee and grant approval or disapproval according to standards of commercial reasonableness considering the following factors within the context of the proposed use: the proposed assignee's financial strength and reliability, their business experience and expertise, their personal and business reputation, their managerial and operational skills, as well as other relevant factors.

[End BX2]

Enclosed is the Commission's standard application form that will need to be completed by the applicant and assignee. Please contact Diane Jones, Public Land Management Specialist, at 916-574-1843 concerning these assignments.

Sincerely,

MARY GRIGGS
Assistant Chief
Division of Environmental
Planning and Management

Note: Included with this comment were 17 pages of Form 54.2 (Rev. 1/12/96) documents. Since these cannot be reasonably duplicated here on this web page they are not available electronically. Should the viewer require a copy of these, please contact Webmaster for a printed copy.

BX. CALIFORNIA STATE LANDS COMMISSION

BX1 The commenter is partially correct. The cooling water intakes for the Contra Costa Power Plant extend approximately 250 feet into the San Joaquin River, which lies within the jurisdiction of the State Lands Commission (SLC). In addition, ten discharge pipelines extend into the river. Use of these facilities is subject to the terms of Lease No. PRC 415.1 with the SLC. The Contra Costa Power Plant also uses a marine terminal connected to the mainland, which is subject to Lease No. PRC 3124.1. PG&E’s Contra Costa plant personnel are not familiar with the barge dock near West Island referenced in the comment, and do not use it for plant operations.⁵ The Pittsburg Power Plant utilizes two offshore cooling water intakes and six offshore discharge outfalls that are subject to Lease No. PRC 4444.1 with the SLC. The referenced school land associated with Lease No. PRC 7083.2 is not included in the properties to be sold under the proposed project and would therefore not be subject to SLC action. Lease No. PRC 6794.2 is associated with the Geysers, but PG&E will retain the lease. The lease is for a non-exclusive easement for the operation and maintenance of existing roads used to access utility facilities in the Geysers area. The lease will be required by PG&E after the sale for continued access to its retained assets. Table 2.3 on page 2-44 notes that the Pittsburg plant is subject to a public lands lease with the SLC. The table is hereby modified to include the Contra Costa Power Plant:

| Agency | Permit Type/ Approval Required | Potrero | Contra Costa | Pittsburg | Geysers |
|---------------------------|---------------------------------------|---------|-----------------|-----------|---------|
| State Lands Commission | Marine Terminal/Public Lands Lease | | <u>X</u> | X | |

BX2 The information provided in the comment elaborates on the requirements of SLC approval of public lands leases that would be required for divestiture of the PG&E facilities. In response to Comment BX1, Table 2.3 of the DEIR has been modified to include the Contra Costa Power Plant as requiring SLC approval.

⁵ Sharon Maves, Environmental Coordinator, PG&E, personal communication, October 9, 1998.