

Robert D. Conaway

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October 31, 2011

STATE WATER RESOURCES CONTROL BOARD
Office of Chief Counsel, Jeannette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento CA 95812-0100

Re the following action items:

- (1) PG&E's Petition [and request for Stay regarding the Amended Cleanup and Abatement Order No. R6V-2011-0005a1 (WDID NO. 6B369107001) for the Hinkley Compressor Station issued on October 11, 2011] should be denied for not naming and serving the real parties in interest; the real parties in interest include myself [there is a pending Petition filed by my wife Jacquese and I on November 12, 2010 on the propriety of what PG&E is now trying to keep doing BEFORE Singer's order issued October 11, 2011] and the Community Advisory Committee (CAC) for the PG&E Hinkley site--all whom are stakeholders or represent stakeholders in the community -- all of whose due process rights should not be violated by a stealth petition filed after cancelling not only a scheduled CAC meeting but a CAC subcommittee meeting dedicated to discuss an independent review panel (IRP). The CAC process is being used as a ploy, a PR gambit as rather than narrow the stay requested to only the unacceptable components, it strikes at everything Harold Singer ordered;
- (2) PG&E's petition, in the event it is not denied, I alternatively urge the State Water Resources Control Board to defer ruling on until such time my petition filed on Nov. 12, 2010 is ruled on (copy follows via fax), as it may make the PG&E petition moot;
- (3) I petition the State Water Resources Control Board to order the current Community Action Committee (CAC) be joined as a real party in interest to this Petition/Appeal and any other Petitions/ Appeals, and that copies of all papers & supporting documents be served on all members of the Community Advisory Committee and that counsel be retained for the Community Advisory Committee to represent their representative interest as a community representative in any disputes before the State Water Resources Control Board at PG&E's expense;

(4) I seek via a cross petition to require an independent review program and Community Advisory Committee be set up without PG&E involvement or Committee participation, except to pay bills for agreed upon scope of work, to respond to inquiries from the Independent Community Advisory Committee and Independent Review Program's professionals as called upon by the Independent CAC;

(5) PG&E's petition for a stay as to the investigation orders should be denied, as it is little more than an obstruction of an official investigation involving a water resource being prejudiced by every needless day of delay

Dear Ms. Bashaw:

(1) Please make this a part of the record.

(2) I am a well owner in the affected area that WAS NOT polluted with Chromium 6 before the Lahontan Board approved the expanded in situ treatment program in late 2010.

(3) I am a member of the community at large & a resident in Hinkley

(4) I have been directly impacted by PG&E's actions authorized by the Lahontan Board in 2010 and the subject of an appeal petition filed in November of 2010 but not ruled upon, a delay by the State Water Board that has caused irreparable damage to State Water Resources in the Hinkley and now Water Valley areas, an area in which my well lies;

(5) My 245+ foot well on the West Side of the plant which reported zero total chromium and zero hexavalent chromium per PG&E's & Lahontan's data, is now after the expansion of the in situ program in late 2010, which I objected to in my petition you received November 12, 2010, is now reporting concentrations of both in my well;

(6) Due to the procedural issues and foundational problems with factual misstatements material to the review of PG&E's petition, please consider this at least a petition to at minimum intervene as to the misstatements of fact to the extent joinder is not ordered of all real parties in interest;

(7) As to my 2010 Petition filed, please consider the issues raised therein, if my petition is not first ruled on, a the timely filing of a paper to toll the time, until such time the petition and support documents are served on me by PG&E and that a reasonable period of time given to prepare and file a detailed opposition be ordered by the Board.

WHAT HAPPENED TO MY PETITION RECEIVED NOVEMBER 12, 2010—ADDRESSING IT MAY HAVE MADE PG&E CURRENT PETITION MOOT!

In case anyone forgot, attached is a copy of my Petition relating to the same PG&E site. Ruling on it may have been dispositive and have avoided the current situation, which involves an expansion of the plume in not only the north, northwest and northeast directions, but now movement to the West AND into the lower aquifer.

As the State Water Board may recall, on September 5, 2007, when the risks of the PG&E in situ injection approach was objected to by me [as likely to cause a spreading of the chromium 6 plume to not only other areas above the clay aquitard, but that lower water aquifers not contaminated with chromium 6, would soon be due to the lack of full characterization of the plume and clay aquitard broke up and the questionable data from the "pilot study"—data which peer review reports are corroborating as unreliable—funny how those reports are not being brought to the attention of the Water Board by PG&E's letter], the then Executive Director of the State Water Board stated "[my] petition fails to raise substantial issues that are appropriate for review by the State Water Resources Control Board. ...Accordingly the Petition is Dismissed as of this date."

My 2010 petition complained about the appropriateness of rescinding order(s) and approving new ones without AT LEAST an Supplemental Environmental Impact Report (SEIR) to assess the impact of an expanded (and non peer reviewed) remediation technology given the hydrology—SEIR's that would appear to be required by 14 CCR 15162 & Public Resources Code 21166—why? As stated in relevant part in the 2010 Petition:

(1) PG&E not be allowed to expand their injection-to-treat- clean-up processes until the full extent of the plume be established, the full extent of the risk to, dilution of quality of and damage to the drinking water is established.

(2) PG&E be required to do a supplemental EIR in which the full extent of a cracked or crumbling clay barrier is on the viability of the proposed approach by PG&E and approved by Lahontan, over the 2006 objection of petitioner.

My petition needs to be ruled upon before more damage to the water resources are done.

AS FOR PG&E'S PETITION, AS A CONCERNED MEMBER OF THE HINKLEY & WATER VALLEY AREAS, I DEMAND IT BE REJECTED DUE TO FACTUAL

MISSTATEMENTS, OR IN THE ALTERNATIVE, THE COMMUNITY ACTION COMMITTEE BE DEEMED A REAL PARTY IN INTEREST, JOINED & THAT PG&E APPOINT THE CURRENT COMMUNITY ADVISORY COMMITTEE, COUNSEL OF THEIR CHOICE (NOT ME) AT PG&E'S EXPENSE TO REPRESENT THE COMMUNITY ADVISORY COMMITTEE IN THE PETITION PROCESS

First, PG&E who created the CAC does not serve the members with copies of the Petition. The CAC has a legal interest, standing and a right to know what rights PG&E is trying to take and get representation they need, yet the CAC cannot begin that inquiry without being served copies of petitions & the supposedly supporting documentation—all of which violates minimum notions of procedural and substantive due process;

Second, as a member of the Community Advisory Committee and a prior & current petitioner in this ongoing environmental dispute, I am personally shocked at misleading statements made in PG&E's October 25, 2011 cover letter to their petition (more on that later), am troubled at the disregard of individual petitions filed directly relating and bearing upon the problems at Hinkley & Water Valley and but for the Regional Water Board's approval of a non-peer reviewed expanded in situ treatment program, the current expanded plume would not likely be in issue.

Misleading statement #1: The bottled water program provides water which tolerates up to 50 ppb of total Chromium, which is 10-20 times more concentration experienced by people being bought out. The water has not been tested. It may be worse than the problem. Is the bottled water program a solution or a bigger & newer problem?

Misleading statement #2: PG&E's "public commitment" to explore whole household water replacement options, is undermined by the request in the PG&E October 25, 2011 cover letter where they ask for a STAY of the entire order. Further, accordingly to Lahontan staff, when PG&E made presentations in Sacramento(?) about what they were considering BEFORE PG&E came to make their presentation to the public at the CAC meeting in Hinkley at the Hinkley School, they DID NOT include in their talk to the state regulators, developing a municipal water treatment system as one of the options. The importance of that "omission" is that such a municipal water system may be the only ALTERNATIVE AVAILABLE since PG&E is already posturing (before the test data is in) that the water treatment technologies at the house inlet, will not get the water to the proposed .02 ppb level.

Misleading statement #3: It is the height of dishonesty for PG&E to say to the public that they are considering all the potential options, but then tell the State regulators in

Sacramento they are picking only two of the technologies available, which they are already prejudging as being unable to meet the .02 ppb level .

Misleading statement #4: The Community Resource Office in Hinkley is a joke. The public does not have an area to go to review regulations, orders, reports, maps or a computer to access any of the information. Jessica is a capable worker, but there is no dedicated resource footprint nor library a member of the public can walk into to review records, reports and documents.

Misleading statement #5: The PG&E members on the Community Advisory Committee and certain committee members handpicked by PG&E for their PG&E apologist leanings, are keeping the process ineffectual. Meetings are moved by PG&E after they set a schedule for an entire year, input is restricted by an agenda that PG&E makes up, by a facilitator and co-chair process that restricts the process and subject matter (at the last meeting people from the audience were charging to the front and yelling) and by, when there is a question they don't want to answer, tossing the ball to an engineer who takes two minutes to qualify everything he says, before partially, if at all, answering the member of the public's questions. It is a tightly regulated process that they will not allow anyone to videotape or record. It is a process where PG&E's is not a participant, but the ring master, whip and all. In words of a co-CAC member, the CAC all seemed to be a "ploy"—PG&E's cover letter to their petition demonstrates how they intended to use it.

Misleading statement #6: The independent panel of technical experts?? PG&E wants to be able to veto certain people, wants reports before bills get paid (reports in various EPA models for Technical Advisory Groups, the PRP does not get), wants to be the party contracting with the experts (effectively turning them into a PG&E vendor) and wants to control the drafting of the contract—like they would any vendor working for them.

Third, PG&E delayed for 20 years and only after a draft order was issued by Harold Singer, did they START to look into clean-up technologies for total house water, and now with the test data on two systems not even in (much less reported on) they are claiming an inability to meet the proposed .02 ppb level the water board wants to use.

Fourth, on the background levels—PG&E methodology is infirmed. The raw data says it is. Many wells were reported as non-detect for years for BOTH total chromium and chromium 6—my well in particular. To degrade the true background data to support PG&E's predetermined technological and budgetary approach, is nothing less than unbelievable. The peer review reports coming in now support that.

PG&E poisoned a community, is expanding their poison and now wants the regulatory process to forgive it (and we have not even talked about the new "releases" their in situ treatment processes are creating—the releasing of manganese and arsenic, which PG&E is already hedging on the full clean-up of by qualifying their statement on cleaning up those new releases, by saying, "for what we caused"—introducing another level of fight for an already wearied community).

RELIEF SOUGHT:

(1) Deny PG&E's Petition [and request for Stay regarding the Amended Cleanup and Abatement Order No. R6V-2011-0005a1 (WDID NO. 6B369107001) for the Hinkley Compressor Station issued on October 11, 2011] due to their failure to join real parties in interest & for denial of those parties' due process rights;

(2) PG&E's petition, in the event it is not dismissed, I alternatively urge the State Water Resources Control Board to defer ruling on until such time my petition filed on November 12, 2010 is ruled on (copy follows), as it may make the PG&E petition moot;

(3) To order the current Community Action Committee (CAC) be joined as a real party in interest to this Petition/Appeal, in the event the petition is not denied on due process and notice grounds and that copies of all papers & supporting documents be immediately served on all members of the Community Advisory Committee and that counsel be retained for the Community Advisory Committee to represent their representative interest as a community representative in the dispute at PG&E's expense;

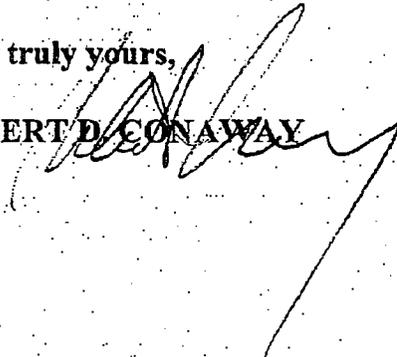
(4) I seek via a cross petition to require an independent review program and Community Advisory Committee be set up without PG&E involvement or Committee participation, except to pay bills for agreed upon scope of work and to respond to inquiries from the Independent Community Advisory Committee and Independent Review Program's professionals;

(5) PG&E's petition for a stay as to the investigation orders should be denied, as it is little more than an obstruction of an official investigation involving a water resource being prejudiced by every needless day of delay

Please call should you have any questions. I do hope to hear from you.

Very truly yours,

ROBERT D. CONAWAY





Robert Conaway <rdconaway@gmail.com>

**APPEAL OF BRD ORDER R6V-2010-0046(R6V-2007-0032)
& BRD ORDER R6V-2010-0045
(R6V-2006-0054), replacement with a R6V-2008-0014 &
Demand for a Supplemental EIR to be Ordered**

5 messages

Robert Conaway <rdconaway@gmail.com>

Fri, Nov 12, 2010 at 4:01 PM

To: jbashaw@waterboards.ca.gov

Cc: drew@jdp-law.com, epj@pge.com

Bcc: "D. Norman Diaz" <dnormdiaz@gmail.com>, Peg Diaz <pegik@earthlink.net>, John Coffey <jcoffey9992311@yahoo.com>, Mcurrarv@aol.com, Barb Stanton <letstalkwithbarb@msn.com>, Bill Lansville <wlansville@aol.com>, citydesk@inlandnewspapers.com, Dale Jensen <dtjensen49@msn.com>, Kelly Donovan <invitations@linkedin.com>, Dholland@vwdailynews.com, Eddie Garcia <fs1830garcia@yahoo.com>, editorial@dailynews.com, editorial@desertdispatch.com, Et Snell <etsnell@yahoo.com>, Al Foth <ALFOTH@hotmail.com>, "Larry D. Halstead" <larrydhalstead@gmail.com>, John Plutko <jrp_pulitiko@yahoo.com>, jackieconawayfor25cd <jackieconawayfor25CD@gmail.com>, keith johnson <keith_johnson8@yahoo.com>, Joe Nelson <joe.nelson@inlandnewspapers.com>, paul friend <princeofphelan@gmail.com>, Ron Wall <premierehab@msn.com>, ygiddyuphorse@msn.com

This is an appeal of Lahonton Regional Water Quality Board's

(1) Rescission of Waste Discharge Requirements for the Pacific Gas and Electric Company Source Area and Central Area In-Situ Remediation Projects, Hinkley, California BOARD ORDER R6V-2010-0046(R6V-2007-0032) & BOARD ORDER R6V-2010-0045 (R6V-2006-0054) and replacement with a R6V-2008-0014,

(2) Refusal to Require PG&E to do a supplemental Environmental Impact Report for the effect of PG&E's remediation activities that has created at 145, starting at Monitoring Well 23C a NEW plume BELOW the clay barrier.

DATA REQUIRED BY THE STATE WATER RESOURCES CONTROL BOARD

Petitioner: ROBERT D. & JACQUESE L. CONAWAY

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Appealed matter:

This is an appeal of Lahonton Regional Water Quality Board's

(1) Rescission of Waste Discharge Requirements for the Pacific Gas and Electric Company Source Area and Central Area In-Situ Remediation Projects, Hinkley, California BOARD ORDER R6V-2010-0046(R6V-2007-0032) & BOARD ORDER R6V-2010-0045 (R6V-2006-0054) and replacement with a R6V-2008-0014 [date of action October 13, 2010; notice mailed 10/25/2010]

(2) Refusal to Require PG&E to do a supplemental Environmental Impact Report for the effect of PG&E's remediation activities that has created at 145, starting at Monitoring Well 23C a NEW plume BELOW the

clay barrier [date of action October 13, 2010; notice mailed 10/25/2010--see No. 6 in each of the appealed orders]

RELEVANT FACTS

It has been 23 years of half measures and corporate chipping away of orders issued by the Board and not only is there not substantive progress, but the plume is appears to be growing above the presumed clay barrier (we have gone from non-detect to now detectable levels in areas outside the original plume) and now we have a new plume in the drinking water aquifer below the clay barrier that was not there just 4 years ago.

It has been reported that in the drinking water aquifer BELOW the clay barrier (the clay barrier has been relied upon by PG&E & Lahonton to model its clean-up operations), Chromium 6 has gone from below background levels before PG&E started injecting reagents into the fallow or unused upper aquifer area (above the clay barrier) to roughly 19-22 ppb.

While PG&E and Lahonton are very careful to not use the words PLUME and NEW, it is clear there has been a massive change in chromium concentrations in what was previously pristine drinking water, water which I believe is connected to the aquifer system which affects not just the Hinkley Valley (where I have a domestic well and use it to feed livestock), but the likely recharge plain for the Mojave River which services Barstow, Daggett, Yermo, Newberry Springs and the various county areas surrounding when the river recedes.

Whether the 19-22 ppb plume is caused by the effect of the injected volume of water from the remediation activities of PG&E (that caused the clay to soften and break up and let chromium 6 tainted water to seep deeper) or whether there are as petitioner suggested in a 2006 appeal, extensive irregularities and cracks in the clay barrier through which chromium 6 laced water would get pushed by PG&E's injection activity, is not known. Whether the data was misreported is not known as Lahonton does not appear to have done any auditing or independent sampling, choosing instead to take the data submitted by PG&E's vendors.

It was stated by Lisa Dernbach of Lahonton at the meeting on October 13, 2010 in Barstow (of the Lahonton Board), that the effect of the Board's actions would be to take the 35% capacity cap off PG&E's injection processes. The potential effect could be catastrophic. If PG&E clean-up could triple the volume of water potentially injected, they could accelerate the weakening of the clay barrier at the edges of it where it is thinnest and or the tripled water volume could, rather than treat, push the chromium 6 ahead of the injected water into the suspected cracks in the clay.

ARGUMENT

PG&E and Lahontan gambled with our drinking water supply from 2006 to the current, have created a new & serious potential risk and they conclude no Supplemental EIR is needed [See October 25, 2010 Notice of RESCISSIONS OF WASTE DISCHARGE REQUIREMENTS for the PG&E SOURCE AREA AND CENTRAL AREA IN-SITU REMEDIATION PROJECTIONS, HINKLEY, SAN BERNARDINO COUNTY, item No. 6]--copy being faxed.

The injection process should not be accelerated until the cause of the new contamination is established to a scientific certainty, so therefore the Orders which permit that result, should be held in abeyance.

Further the clay barrier needs to be fully characterized and once that information is known to a scientific certainty, a supplemental EIR should be done to determine IF the proposed injection processes are a greater risk to public health and water quality than benefit.

Under 14 CCR § 15162 & Public Resources Code § 21166, a subsequent or supplemental EIR are required where the

- (1) changes in the project would result in new impacts that were not considered in the prior EIR;
- (2) changes in circumstances under which the project was undertaken that lead to significant new impacts;
- or
- (3) availability of significant new information that was not known and could not have been known when the previous EIR was certified

The original EIR cannot be used and doing so is in violation of 14 CCR § 15162 and 15153(d)

There is a new plume, a twenty fold increase in Chromium in a previously tested monitoring well and the only change in the area has been PG&E injections and the apparent new admission the clay has an edge and it is crumbling.

What rescinding the two prior orders R6V-2007-0032 & R6V-2006-0054 does, is take the current reagent injection cap for the pilot project of the injections being only allowed up to 35% of design capacity, to 100% capacity, in effect putting more fluid into the aquifer above the clay barrier and driving it to the cracks in the barrier, which PG&E and Lahontan previously ignored and summarily dismissed in their response to an appeal approving the injection methodology in late December 2006 by Petitioner. The concern then was that the plume had not been fully characterized and the presumption the clay barrier was continuous and uninterrupted was unsupported by any evidence presented by PG&E.

What is clear from the reports, is that PG&E assumed the clay barrier was solid and continuous and that there would be no risk to injecting high volumes of treated water and pushing chromium 6 to other areas outside the plume and potentially downward into the drinking water report, despite the discovery of the creation of a new chromium plume by the prior remediation actions of PG&E as approved by the Lahontan Board that being the new order.

Lahontan has issued a November 8, 2010 investigative order [R6V-2010-0055] in an attempt to head off it seems this and other appeals, but it misses the point--the underlying question of the effectiveness of the current remediation plan (which had the capacity cap taken off of it) is being challenged by the reported spikes in Chromium and by the evidence the clay barrier is not continuous and a barrier to further remediation injection-related migration of the Chromium 6 contaminated waters.

ACTION REQUESTED

- (1) PG&E not be allowed to expand their injection-to-treat clean-up processes until the full extent of their plume be established, the full extent of the risk to, dilution of quality of and damage to the drinking water is established;
- (2) PG&E be required to do a supplemental EIR in which the full extent of the effect of a cracked or crumbling clay barrier in the visibility of the treatment approach proposed by PG&E and approved by Lahontan, over the 2006 objection of petitioner.
- (3) The replacement order of the Board needs to be put in abeyance until the viability and risk of PG&E's injection activity can be fully assessed in light of the limits of the clay barrier and the new plume

DOCUMENTS BEING FAXED TO WATER BOARD (mailed to interested parties)

- (1) 10-25-2010 RESCISSION NOTICES (7 pages):
- (2) 11-2-2010 LAHONTON RESPONSE TO CARMELA GONZALES (3 pages)
- (3) 11-8-2010 LAHONTON INVESTIGATIVE ORDER (4 pages)

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December 6, 2006

California State Resources Control Board
Office of Chief Counsel

Attention: Elizabeth Miller Jennings, Senior Staff Counsel

Post Office Box 100

Sacramento CA 95812-0100 Fax (916) 341-5199

1. Petitioner is on the letterhead above. My email is rdconaway@earthlink.net; I own property (and a well in the potentially impacted zone)
2. Resolution No. R6V-2006-0053 "APPROVING THE INITIAL STUDY/CHECKLIST AND CERTIFYING A MITIGATED NEGATIVE DECLARATION FOR IN-SITU SOURCE AREA REMEDIATION PROJECT" (to be sent with mail copy of the Appeal)

BOARD ORDER No. R6V-2006-0054 [WDID No. 6B369107001] entitled "NEW WASTE DISCHARGE REQUIREMENTS FOR PACIFIC GAS AND ELECTRIC COMPANY IN-SITU SOURCE AREA REMEDIATION PROJECT"

3. Date of adverse action: 11/9/06
4. RELIEF SOUGHT: A full EIR is needed & discharge plans should be abated until the full impacts are studied.
5. REASONS FOR RELIEF SOUGHT:

A. PG & E's in situ treatment program & the related orders (involving the injecting into chromium 6 contaminated soils, lactate, whew, emulsified vegetable oil with up to a half million gallons of water per day) should not have been approved by the Regional Water Board without a full environmental impact report having been done.

California Courts have made it clear that acceptability of a scientific analysis is determined by whether the scientific technique meets certain criteria : (1) has the technique gained general acceptance in the scientific field to which it belongs, (2) is the witness (the unidentified PG&E people and Ms. Dernbach of the Lahontan Regional Board) testifying on

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general acceptance properly qualified as (an) expert(s) on the subject (and success/failure issues) on in situ remediations of the kind proposed (as opposed to having a general scientific knowledge) and (3) has the proponent (the Regional Board and PG&E) of the evidence established that the correct scientific procedures were used in the analysis before making the conclusions they did?

Ms. Dernbach of the Regional Board below was the only testifying geologist. It has long been held in courts of competent jurisdiction that the testimony of a single witness is insufficient to establish general acceptance. *People v Dellinger* (1984) 163 Cal. App. 3d 284, 293--yet that is what PG&E has been able to get the Regional Board to rubber stamp.

There also must be proof that each of the outside experiments and tests relied upon (the lab test & one small pilot test) were conducted using correct scientific procedures and that is frequently done by looking at whether there has been peer review to validate the approach making. To adopt PG&E's junk science is something that would never pass muster in federal court. *Daubert v Merrell Dow Pharmaceuticals, Inc* (1993) 509 U.S. 579, 113 S. Ct 2786. There is no indication that ANY peer review survey was attempted, much less available to validate the PG & E testing before the Regional Water Board staff and the Board gave PG&E the blessing to try another shortcut (they have had nearly two decades to get it right).

There are no facts to show that the experiments were conducted under the same or similar conditions as those will exist in a full in situ application making the extrapolation potentially dangerous to the area's water resources. *Di Rosario v Havens* (1987) 196 Cal. App. 3d 1224, 1231.

The Public Resource Code is not at odds with the court on the criterion as under § 21100, 21151 and 14 CCR 15064(a) (1), (f) (1) where a project MAY cause a significant effect on the environment, the lead agency must prepare an EIR.

Potentially adverse changes in the environment trigger under 14 CCR 15382 and Public Resources Code 21068 an obligation to require an EIR and it can be "ANY ASPECT" of the project. 14 CCR 15063(b) (1).

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The lead agency cannot weigh competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact which is exactly what was done for incredibly a corporation that has done nothing for a decade, all the while the plume continued to move; the evidence in support of a full EIR is as follows:

(1) What was heard from the Regional Water Board's staff, was that there are problems with the approach proposed and now approved. Lisa Dernbach of the Regional Board on November 9, 2006 stated after (which the project was approved by a 4-1 vote), the intention of the project was to "spread the reagents as far as possible" [minute 32 of the oral testimony on November 9], that "some of the reagents and plume will be bypassed" (by the extraction well process), up to 30% of the water in the treatment zone may escape their extraction wells [minute 32 of the oral testimony on November 9, 2006 at minute 35].

(2) The testimony at the hearing from Ms. Dernbach at the Water Board was that if the injected water migrates beyond the extraction wells, it will be degraded [minute 1:06] and that the injected slurry is a "designated waste" [11/9/06 statement of Lisa Dernbach at minute].

(3) In the submissions in support of the project, it has been said that roughly a half million gallons of water is going to be pulled up and injected daily and it will take 5 years to reduce a majority of the chromium 6 with the project likely to take up 6-10 years [minute 36 of the 11/9/06 hearing].

(4) If up to 30% of that water will escape the extraction process, that means that 150,000 gallons of degraded water will be released into the groundwater outside of the approved area of operations. My well is within several hundred yards of that operation and there are no monitoring wells to the west to see if the broadcast of injected slurry is going to push any of the degraded water into the western well field. The concern about the flow of the groundwater is shared by Ms. Dernbach who states at minute 47 of the 11/9/06 meeting "the groundwater is not defined" and admits that a "deep stream" monitoring well(s) are needed [minute 47:20].

(5) In addition it has been suggested that the Chromium 6 plume is moving a foot a day—the extent to which it potentially is accelerated is never discussed and the impact is not discussed in

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relation to the blue clay barrier [see 11/9/06 hearing at 1:02] that is assumed to separate the upper contaminated aquifer and the lower pristine aquifer.

(6) Despite requests made for information on subsurface geology, Lisa Dernbach (who told me prior to the hearing that it broke up before Sante Fe Road to the North), nothing was provided pre-hearing. What was provided AFTER public comment was closed is Figure 3 entitled North-South Cross Sections in the Vicinity of Well 27-25, which shows that at approximate Monitoring Well 47, the clay barrier breaks up. The head of the Chromium 6 plume, is less than 1,200 feet away--which means that at the travel rate of 1 ft per day, the Chromium 6 contaminated water in the upper aquifer will contaminate the pristine drinking aquifer below and the project approved will do nothing to protect that water.

(7) The suggestion that "nothing is expected to happen/migrate beyond the project boundaries" and "if it does we have monitoring wells in place to monitor it and a contingency plan" assumes that they know where pressurized injections will travel is not only contradicted by other Board testimony and record, but it is just plain illogical. The area is one that has laid inactive (subsurface wise, except to the extent of the plume metals still moving) for nearly 2 decades. Once water injection with reagents begins, there is no scientific basis to support that if there is any escapement, it will only travel in the direction of PG&E's monitoring wells (by the way, there are no monitoring wells to the west where my domestic well is located). What "spread[-ing] the reagents as far as possible" [minute 32 of the oral testimony on November 9] means and how that will impact a field area that has not been irrigated and has had native soil evacuated as part of soil remediation plan, is not talked about.

The sheer impact of over a half million gallons of pumped and injected water misses the point of the testimony of a local (former) rancher by name of Mr. Grooms [in either minute 21 or 27 of the 11/9/06 hearing] who said that with an 840 gallon per minute pump, the draw down in his well is 15 feet and that such a draw down took 3-4 days for his wells to come back up. PG&E is going to be pumping day after day and the effect of 500,000 plus gallons a day to the surrounding water (which my well is in the potentially affected zone) for not just a season, but for 5-10 years, is not studied. Percolation time is not instantaneous and with the added

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fluid hydraulic distortion of extraction wells pulling up 500,000 gallons daily, well level will be affected and other clean water, may well get drawn in. That is not being studied, nor commented on.

(8) What is amazing is that the monitoring wells that are being drilled in the "recovery zone" are behind the majority of the plume and the intended recirculation will take place under the former unlined settling ponds and the former oil-water separator [minute 26 of the 11/9/2006 hearing], doing nothing to stop the advance of the plume [See figure 4 called "Distribution of Total and Hexavalent Chromium in Groundwater, August 2006"]; the entire treatment zone is within 1200 feet of where the pollution entered the ground. The chromium 6 plume reaches at least 10,000 BEYOND the treatment zone (actually the Regional Board said it was 1,400 long at minute 1:10 of the 11/9/06 hearing, which is longer than their published data suggests.

B. Who at PG & E came up with the in situ treatment approach is never identified (the word "they" & "conducted" is all we have reference to), the facts they considered or what peer review there was if any is not established, makes PG&E's & the Regional Board's approval of the in situ treatment process a gamble at best and the type of speculation that public policy should not be based on.

What was heard from the Regional Water Board's staff, was that there are problems with the approach proposed and now approved. Lisa Dernbach of the Regional Board on November 9, 2006 stated after (which the project was approved by a 4-1 vote), the intention of the project was to "spread the reagents as far as possible" [minute 32 of the oral testimony on November 9], that "some of the reagents and plume will be bypassed" (by the extraction well process), up to 30% of the water in the treatment zone may escape their extraction wells [minute 32 of the oral testimony on November 9, 2006]. The testimony at the hearing from Ms. Dernbach at the Water Board was that if the injected water migrates beyond the extraction wells, it will be degraded [minute 1:06].

In the submissions in support of the project, it has been said that roughly a half million gallons of water is going to be pulled up and injected daily and it will take 5 years to reduce a majority of the chromium 6 with the project likely to take up 6-10 years [minute 36 of the 11/9/06 hearing].

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If up to 30% of that water will escape the extraction process, that means that 150,000 gallons of degraded water will be released into the groundwater outside of the approved area of operations. My well is within several hundred yards of that operation and there are no monitoring wells to the west to see if the broadcast of injected slurry is going to push any of the degraded water into the western well field (or alternatively draw my well down).

In addition it has been suggested that the Chromium 6 plume is moving a foot a day--the extent to which it potentially is accelerated is never discussed and the impact is not discussed in relation to the blue clay barrier that is assumed to separate the upper contaminated aquifer and the lower pristine aquifer.

Despite requests made for information on subsurface geology, Lisa Dernbach (who told me prior to the hearing that it broke up before Sante Fe Road to the North), nothing was provided pre-hearing. What was provided AFTER public comment was closed is Figure 3 entitled North-South Cross Sections in the Vicinity of Well 27-25, which shows that at approximate Monitoring Well 47, the clay barrier breaks up. The head of the Chromium 6 plume, is less than 1,200 feet away--which means that at the travel rate of 1 ft per day, the Chromium 6 contaminated water in the upper aquifer will contaminate the pristine aquifer below.

The suggestion that "nothing is expected to happen/migrate beyond the project boundaries" and "if it does we have monitoring wells in place to monitor it and a contingency plan" assumes that they know where pressurized injections will travel. The area is one that has laid inactive for nearly 2 decades. Once water injection with reagents begins, there is no scientific basis to support that if there is any escapement, it will only travel in the direction of PG&E's monitoring wells (by the way, there are no monitoring wells to the west where my domestic well is located). What "spread[-ing] the reagents as far as possible" [minute 32 of the oral testimony on November 9] means and how that will impact a field area that has not been irrigated and has had native soil evacuated as part of soil remediation plan, is not talked about.

What is amazing is that the monitoring wells that are being drilled in the "recovery zone" are behind the majority of the plume as the intended recirculation will take place under the former unlined settling ponds and the former oil-water separator [minute 26 of the 11/9/2006 hearing], doing nothing to stop the advance of

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the plume [See figure 4 called "Distribution of Total and Hexavalent Chromium in Groundwater, August 2006"]; the entire treatment zone is within 1200 feet of where the pollution entered the ground. The chromium 6 plume reaches at least 10,000 BEYOND the treatment zone (actually the Regional Board said it was 1,400 long at minute 1:10 of the 11/9/06 hearing, which is longer than their published data suggests).

The Board needs to recall it is this same PG&E that tried to "remediate" the chromium problems by volatilizing it through sprinkler irrigation in the 1990's - a practice not good science before it was tried and after. The Board should not allow this project to go forward without competent peer review and a full assessment of potential impacts and mitigations needed.

C. The approach will not protect the drinking water resources in the area in any event on the facts presented by the Board and PG&E

The head of the Chromium 6 plume today, is less than 1,200 feet away from the pinch point of the blue clay barrier--which means that at the travel rate of 1 ft per day, the Chromium 6 contaminated water in the upper aquifer will contaminate the pristine aquifer below in less than 3 years. On a project that will take 5-10 years to work, PG&E not only in the short term degrades the water, creates potential escapement problems to the west and east with the 30% that may get away from the wells, but also risks contaminating pristine water (in which my well is located).

D. Lisa Dernbach did not establish that she had the specialized training and experience in remediation by the type of in situ approach being proposed by PG & E which would make her conclusions re the approach being scientifically feasible or appropriate inadmissible under the Miller v Los Angeles Flood Control District case (1973) 8 Cal. 3d 689 at 700.

General educational background in hydrology and geology does not make Ms. Dernbach an organic chemist (nor an expert the type and potential adverse effects/lack thereof of in-situ approach approved).

Lisa Dernbach admitted in her oral presentation that her basis for supporting the in situ approach picked by PG&E was a 2003 small scale lab test and a small scale pilot test in 2005 (minute 29:08

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of the public hearing)-data from unidentified people at PG&E!

E. The proposed injection treatment program may have significant effect on the environment as that is meant under the No Oil, Inc v City of Los Angeles [(1974) 13 C. 3d 68, 83, n16] and Sundstrom v County of Mendocino [(1988) case 202 CA 3d 296, 309] cases.

If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of a project is beneficial. County Sanitation District No. 2 v County of Kern [(2005) 127 CA 4th 1544, 1580].

Substantial evidence under CEQA [see 14 CCR 15384(a)] is enough relevant information and reasonable inference from that information that a fair argument can be made to support a conclusions, even though other conclusions might be reached. See also Pub Res. Code 21080(e), 21082.2© and 14 CCR 15064(f) (5).

The significant impacts can be found are found in the Resolution Submitted to the Board (Resolution No. R6V-2006 Proposed) in which it states under #8, page 11-005, "the fate and transport of these metals beyond the project boundaries are still being monitored". Under #5 of the same Resolution No. R6V-2006, whether the proposed remediation "threatens to create nuisance conditions" is not known (See p 11-0005). In addition, the Regional Boards's Lisa Dernbach stated in her oral presentation in support of the project and negative declaration "it will cause degradation of water quality, total organic compounds will increase as will volatile fatty acids" [statements found at minute 30 of the oral hearing on November 9, 2006]. Remarkably, Ms. Dernbach also admitted that the process will leave the aquifer with " a less toxic form of chromium" [minute 32 of the oral hearing on November 9, 2006]. Also Ms. Dernbach states that methanes, hydrogen sulfides and mobilized metals will be further impacts to the water [minute 32 of the 11/9/06 hearing].

F. The project area has not been properly characterized

The best evidence is the uncertainty about groundwater flow in which Ms. Dernbach states on one hand it flows generally northerly, she then says the flow is not defined (minute 47 vs minute 57 of the 11/9/06 comments of Ms. Dernbach).

Other problems are found with the ASSUMPTION, that the lower

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aquifer flows the same direction (whatever that ultimately is.

There is NO data to support that. If anything Figure 3 which is attached, shows the gradient from the pinch point on the blue clay barrier runs back toward the river. The velocity of the water below the blue clay was not in issue in the remediation plan as the extraction well process was intended to impact the upper aquifer only (the water above the blue clay barrier). The problem lies in the impacts 2 ½ to 3 years from now when the advancing Ch 6 plume hits the pinch point near monitoring well 47. If it reaches the pinch point near monitoring well 47 in 2 ½ to 3 years, and only a "majority" of the chromium is remediated, you have Ch 6 impact to the rest of the people in Hinkley that PG&E did not get the first time through.

Also Figure 3 creates a problem as it shows that bedrock is hit at 20-30 feet below the blue clay-for a total depth of 180-190 feet. My domestic well is at 240 feet which means the projection data in Figure 3 is plain wrong-clearly the site has not been properly characterized.

Per Norman Diaz, the maps depicting Hinkley were "way off" [11/9/06 testimony at 1:50], that boundaries were inaccurate and the scope of the potentially impacted area is not being accurately stated (Mr. Diaz pointing out that an additional 9 homes were being quietly bought

G. PG & E SHOULD NOT BE ALLOWED TO POLICE THEMSELVES

At the meeting PG&E was seeking (after getting out of having to an EIR) to CEASE maintaining the monitoring wells and the integrity of the land treatment unit at the compressor station [11/9/06 hearing at 45:29].

This same company has a moving plume that their remediation steps in 1991 and 1997 did not stop. To get a plan from them all these years later, without a full EIR, is reckless and invites more risk/hazard to the public.

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H. A FULL EIR SHOULD BE DONE AS THE ORIGINAL NOTICE PROCESS FOR THE NEGATIVE DECLARATION PROCESS WAS SKEWED TO AVOID A LARGE POPULATION OF INTERESTED (AND/OR POTENTIALLY IMPACTED) PEOPLE

I reside within a quarter mile of the compressor station-I did not get notice. Mr. Diaz's whose family has been in the area for 100 years, testified he did not get notice nor did the principal of Hinkley school (11/9/2006 hearing at 1:51). The notice did not get out to most people because mailings of the notice went to people that PG&E apparently picked.

The antidotal story that 60-80 people were at a meeting that was noticed doesn't mean much as PG&E and the consultants probably were half that total.

Finally the affected area is 35% Hispanic-none of the meeting notices were sent out in Spanish and the advertisement that PG&E put in the paper, went to a newspaper that does not even get delivered to the Hinkley.

I. THE ISSUES ABOVE WERE DISCUSSED AT THE HEARING THE EXCEPTION OF THAT ANALYSIS THAT WAS ONLY POSSIBLE AFTER THE BOARD CLOSED PUBLIC COMMENT & DATA (such as Figure 3) WAS HANDED POST PUBLIC COMMENT

Attached in the mail copy will be a copy of the CD for the oral part of the hearing and the original public comment letter I submitted. Figure 3 is attached to the mail copy of this appeal.

Respectfully submitted,

ROBERT D. CONAWAY

cc: California Regional Water Quality Control Board
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fax: 530-544-2271

P.G. & E.
Latham & Watkins
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FAX COVER SHEET

Date: October 31, 2011

To: Christina Bashaw, Office of General Counsel,
State Water Resources Control Board (916) 341-5199

J. Drew Page, Esq. [Counsel for PG&E]
Law Office of J. Drew Page (858) 433-0124

Harold Singer, Executive Officer
Lahontan Regional Water Quality Control Board (530) 544-2271

From: Robert D. Conaway

Total pages including cover: Twenty (20)

MESSAGE :

The attached should be self explanatory. Thank you.

ROBERT D. CONAWAY

WARNING: THIS COMMUNICATION INTENDED FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED & MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAWS. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE NOTIFY THE SENDER BY PHONE ASAP.

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October 31, 2011

STATE WATER RESOURCES CONTROL BOARD
Office of Chief Counsel, Jeannette L. Bashaw, Legal Analyst
P.O. Box 100
Sacramento CA 95812-0100

Re the following action items:

- (1) PG&E's Petition [and request for Stay regarding the Amended Cleanup and Abatement Order No. R6V-2011-0005a1 (WDID NO. 6B369107001) for the Hinkley Compressor Station issued on October 11, 2011] should be denied for not naming and serving the real parties in interest; the real parties in interest include myself [there is a pending Petition filed by my wife Jacquese and I on November 12, 2010 on the propriety of what PG&E is now trying to keep doing BEFORE Singer's order issued October 11, 2011] and the Community Advisory Committee (CAC) for the PG&E Hinkley site--all whom are stakeholders or represent stakeholders in the community -- all of whose due process rights should not be violated by a stealth petition filed after cancelling not only a scheduled CAC meeting but a CAC subcommittee meeting dedicated to discuss an independent review panel (IRP). The CAC process is being used as a ploy, a PR gambit as rather than narrow the stay requested to only the unacceptable components, it strikes at everything Harold Singer ordered;
- (2) PG&E's petition, in the event it is not denied, I alternatively urge the State Water Resources Control Board to defer ruling on until such time my petition filed on Nov. 12, 2010 is ruled on (copy follows via fax), as it may make the PG&E petition moot;
- (3) I petition the State Water Resources Control Board to order the current Community Action Committee (CAC) be joined as a real party in interest to this Petition/Appeal and any other Petitions/ Appeals, and that copies of all papers & supporting documents be served on all members of the Community Advisory Committee and that counsel be retained for the Community Advisory Committee to represent their representative interest as a community representative in any disputes before the State Water Resources Control Board at PG&E's expense;

(4) I seek via a cross petition to require an independent review program and Community Advisory Committee be set up without PG&E involvement or Committee participation, except to pay bills for agreed upon scope of work, to respond to inquiries from the Independent Community Advisory Committee and Independent Review Program's professionals as called upon by the Independent CAC;

(5) PG&E's petition for a stay as to the investigation orders should be denied, as it is little more than an obstruction of an official investigation involving a water resource being prejudiced by every needless day of delay

Dear Ms. Bashaw:

(1) Please make this a part of the record.

(2) I am a well owner in the affected area that WAS NOT polluted with Chromium 6 before the Lahontan Board approved the expanded in situ treatment program in late 2010.

(3) I am a member of the community at large & a resident in Hinkley

(4) I have been directly impacted by PG&E's actions authorized by the Lahontan Board in 2010 and the subject of an appeal petition filed in November of 2010 but not ruled upon, a delay by the State Water Board that has caused irreparable damage to State Water Resources in the Hinkley and now Water Valley areas, an area in which my well lies;

(5) My 245+ foot well on the West Side of the plant which reported zero total chromium and zero hexavalent chromium per PG&E's & Lahontan's data, is now after the expansion of the in situ program in late 2010, which I objected to in my petition you received November 12, 2010, is now reporting concentrations of both in my well;

(6) Due to the procedural issues and foundational problems with factual misstatements material to the review of PG&E's petition, please consider this at least a petition to at minimum intervene as to the misstatements of fact to the extent joinder is not ordered of all real parties in interest;

(7) As to my 2010 Petition filed, please consider the issues raised therein, if my petition is not first ruled on, a the timely filing of a paper to toll the time, until such time the petition and support documents are served on me by PG&E and that a reasonable period of time given to prepare and file a detailed opposition be ordered by the Board.

WHAT HAPPENED TO MY PETITION RECEIVED NOVEMBER 12, 2010—ADDRESSING IT MAY HAVE MADE PG&E CURRENT PETITION MOOT!

In case anyone forgot, attached is a copy of my Petition relating to the same PG&E site. Ruling on it may have been dispositive and have avoided the current situation, which involves an expansion of the plume in not only the north, northwest and northeast directions, but now movement to the West AND into the lower aquifer.

As the State Water Board may recall, on September 5, 2007, when the risks of the PG&E in situ injection approach was objected to by me [as likely to cause a spreading of the chromium 6 plume to not only other areas above the clay aquitard, but that lower water aquifers not contaminated with chromium 6, would soon be due to the lack of full characterization of the plume and clay aquitard broke up and the questionable data from the "pilot study"—data which peer review reports are corroborating as unreliable—funny how those reports are not being brought to the attention of the Water Board by PG&E's letter], the then Executive Director of the State Water Board stated "[my] petition fails to raise substantial issues that are appropriate for review by the State Water Resources Control Board. ...Accordingly the Petition is Dismissed as of this date."

My 2010 petition complained about the appropriateness of rescinding order(s) and approving new ones without AT LEAST an Supplemental Environmental Impact Report (SEIR) to assess the impact of an expanded (and non peer reviewed) remediation technology given the hydrology—SEIR's that would appear to be required by 14 CCR 15162 & Public Resources Code 21166—why? As stated in relevant part in the 2010 Petition:

(1) PG&E not be allowed to expand their injection-to-treat- clean-up processes until the full extent of the plume be established, the full extent of the risk to, dilution of quality of and damage to the drinking water is established.

(2) PG&E be required to do a supplemental EIR in which the full extent of a cracked or crumbling clay barrier is on the viability of the proposed approach by PG&E and approved by Lahontan, over the 2006 objection of petitioner.

My petition needs to be ruled upon before more damage to the water resources are done.

AS FOR PG&E's PETITION, AS A CONCERNED MEMBER OF THE HINKLEY & WATER VALLEY AREAS, I DEMAND IT BE REJECTED DUE TO FACTUAL

MISSTATEMENTS, OR IN THE ALTERNATIVE, THE COMMUNITY ACTION COMMITTEE BE DEEMED A REAL PARTY IN INTEREST, JOINED & THAT PG&E APPOINT THE CURRENT COMMUNITY ADVISORY COMMITTEE, COUNSEL OF THEIR CHOICE (NOT ME) AT PG&E'S EXPENSE TO REPRESENT THE COMMUNITY ADVISORY COMMITTEE IN THE PETITION PROCESS

First, PG&E who created the CAC does not serve the members with copies of the Petition. The CAC has a legal interest, standing and a right to know what rights PG&E is trying to take and get representation they need, yet the CAC cannot begin that inquiry without being served copies of petitions & the supposedly supporting documentation—all of which violates minimum notions of procedural and substantive due process;

Second, as a member of the Community Advisory Committee and a prior & current petitioner in this ongoing environmental dispute, I am personally shocked at misleading statements made in PG&E's October 25, 2011 cover letter to their petition (more on that later), am troubled at the disregard of individual petitions filed directly relating and bearing upon the problems at Hinkley & Water Valley and but for the Regional Water Board's approval of a non-peer reviewed expanded in situ treatment program, the current expanded plume would not likely be in issue.

Misleading statement #1: The bottled water program provides water which tolerates up to 50 ppb of total Chromium, which is 10-20 times more concentration experienced by people being bought out. The water has not been tested. It may be worse than the problem. Is the bottled water program a solution or a bigger & newer problem?

Misleading statement #2: PG&E's "public commitment" to explore whole household water replacement options, is undermined by the request in the PG&E October 25, 2011 cover letter where they ask for a STAY of the entire order. Further, accordingly to Lahontan staff, when PG&E made presentations in Sacramento(?) about what they were considering BEFORE PG&E came to make their presentation to the public at the CAC meeting in Hinkley at the Hinkley School, they DID NOT include in their talk to the state regulators, developing a municipal water treatment system as one of the options. The importance of that "omission" is that such a municipal water system may be the only ALTERNATIVE AVAILABLE since PG&E is already posturing (before the test data is in) that the water treatment technologies at the house inlet, will not get the water to the proposed .02 ppb level.

Misleading statement #3: It is the height of dishonesty for PG&E to say to the public that they are considering all the potential options, but then tell the State regulators in

Sacramento they are picking only two of the technologies available, which they are already prejudging as being unable to meet the .02 ppb level .

Misleading statement #4: The Community Resource Office in Hinkley is a joke. The public does not have an area to go to review regulations, orders, reports, maps or a computer to access any of the information. Jessica is a capable worker, but there is no dedicated resource footprint nor library a member of the public can walk into to review records, reports and documents.

Misleading statement #5: The PG&E members on the Community Advisory Committee and certain committee members handpicked by PG&E for their PG&E apologist leanings, are keeping the process ineffectual. Meetings are moved by PG&E after they set a schedule for an entire year, input is restricted by an agenda that PG&E makes up, by a facilitator and co-chair process that restricts the process and subject matter (at the last meeting people from the audience were charging to the front and yelling) and by, when there is a question they don't want to answer, tossing the ball to an engineer who takes two minutes to qualify everything he says, before partially, if at all, answering the member of the public's questions. It is a tightly regulated process that they will not allow anyone to videotape or record. It is a process where PG&E's is not a participant, but the ring master, whip and all. In words of a co-CAC member, the CAC all seemed to be a "ploy"—PG&E's cover letter to their petition demonstrates how they intended to use it.

Misleading statement #6: The independent panel of technical experts?? PG&E wants to be able to veto certain people, wants reports before bills get paid (reports in various EPA models for Technical Advisory Groups, the PRP does not get), wants to be the party contracting with the experts (effectively turning them into a PG&E vendor) and wants to control the drafting of the contract—like they would any vendor working for them.

Third, PG&E delayed for 20 years and only after a draft order was issued by Harold Singer, did they START to look into clean-up technologies for total house water, and now with the test data on two systems not even in (much less reported on) they are claiming an inability to meet the proposed .02 ppb level the water board wants to use.

Fourth, on the background levels—PG&E methodology is infirmed. The raw data says it is. Many wells were reported as non-detect for years for BOTH total chromium and chromium 6—my well in particular. To degrade the true background data to support PG&E's predetermined technological and budgetary approach, is nothing less than unbelievable. The peer review reports coming in now support that.

PG&E poisoned a community, is expanding their poison and now wants the regulatory process to forgive it (and we have not even talked about the new "releases" their in situ treatment processes are creating—the releasing of manganese and arsenic, which PG&E is already hedging on the full clean-up of by qualifying their statement on cleaning up those new releases, by saying, "for what we caused"—introducing another level of fight for an already wearied community).

RELIEF SOUGHT:

(1) Deny PG&E's Petition [and request for Stay regarding the Amended Cleanup and Abatement Order No. R6V-2011-0005a1 (WDID NO. 6B369107001) for the Hinkley Compressor Station issued on October 11, 2011] due to their failure to join real parties in interest & for denial of those parties' due process rights;

(2) PG&E's petition, in the event it is not dismissed, I alternatively urge the State Water Resources Control Board to defer ruling on until such time my petition filed on November 12, 2010 is ruled on (copy follows), as it may make the PG&E petition moot;

(3) To order the current Community Action Committee (CAC) be joined as a real party in interest to this Petition/Appeal, in the event the petition is not denied on due process and notice grounds and that copies of all papers & supporting documents be immediately served on all members of the Community Advisory Committee and that counsel be retained for the Community Advisory Committee to represent their representative interest as a community representative in the dispute at PG&E's expense;

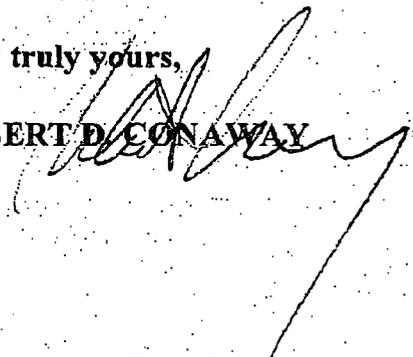
(4) I seek via a cross petition to require an independent review program and Community Advisory Committee be set up without PG&E involvement or Committee participation, except to pay bills for agreed upon scope of work and to respond to inquiries from the Independent Community Advisory Committee and Independent Review Program's professionals;

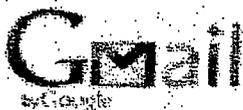
(5) PG&E's petition for a stay as to the investigation orders should be denied, as it is little more than an obstruction of an official investigation involving a water resource being prejudiced by every needless day of delay.

Please call should you have any questions. I do hope to hear from you.

Very truly yours,

ROBERT D. CONAWAY





Robert Conaway <rdconaway@gmail.com>

**APPEAL OF BRD ORDER R6V-2010-0046(R6V-2007-0032)
& BRD ORDER R6V-2010-0045
(R6V-2006-0054), replacement with a R6V-2008-0014 &
Demand for a Supplemental EIR to be Ordered**

5 messages

Robert Conaway <rdconaway@gmail.com>

Fri, Nov 12, 2010 at 4:01 PM

To: jbashaw@waterboards.ca.gov

Cc: drew@jdp-law.com, epj@pge.com

Bcc: "D. Norman Diaz" <dnormdiaz@gmail.com>, Peg Diaz <pegik@earthlink.net>, John Coffey <jcoffey9992311@yahoo.com>, McCurranv@aol.com, Barb Stanton <letstalkwithbarb@msn.com>, Bill Lansville <wlansville@aol.com>, citydesk@inlandnewspapers.com, Dale Jensen <dtjensen49@msn.com>, Kelly Donovan <invitations@linkedin.com>, Dholland@vvdailynews.com, Eddie Garcia <fs1830garcia@yahoo.com>, editorial@dailynews.com, editorial@desertdispatch.com, Et Snell <etsnell@yahoo.com>, Al Foth <ALFOTH@hotmail.com>, "Larry D. Halstead" <larrydhalstead@gmail.com>, John Plutko <jrp_pulitiko@yahoo.com>, jackieconawayfor25cd <jackieconawayfor25CD@gmail.com>, keith johnson <keith_johnson8@yahoo.com>, Joe Nelson <joe.nelson@inlandnewspapers.com>, paul friend <princeofphelan@gmail.com>, Ron Wall <premierehab@msn.com>, ygiddyuphorsey@msn.com

This is an appeal of Lahonton Regional Water Quality Board's

(1) Rescission of Waste Discharge Requirements for the Pacific Gas and Electric Company Source Area and Central Area In-Situ Remediation Projects, Hinkley, California BOARD ORDER R6V-2010-0046(R6V-2007-0032) & BOARD ORDER R6V-2010-0045 (R6V-2006-0054) and replacement with a R6V-2008-0014,

(2) Refusal to Require PG&E to do a supplemental Environmental Impact Report for the effect of PG&E's remediation activities that has created at 145, starting at Monitoring Well 23C a NEW plume BELOW the clay barrier.

DATA REQUIRED BY THE STATE WATER RESOURCES CONTROL BOARD

Petitioner: ROBERT D. & JACQUESE L. CONAWAY

22562 Aquarius Road

Hinkley CA 92347

Contact Phones: (760-256-0603) or (760) 617-8305

email: rdconaway@gmail.com

Appealed matter:

This is an appeal of Lahonton Regional Water Quality Board's

(1) Rescission of Waste Discharge Requirements for the Pacific Gas and Electric Company Source Area and Central Area In-Situ Remediation Projects, Hinkley, California BOARD ORDER R6V-2010-0046(R6V-2007-0032) & BOARD ORDER R6V-2010-0045 (R6V-2006-0054) and replacement with a R6V-2008-0014 [date of action October 13, 2010; notice mailed 10/25/2010]

(2) Refusal to Require PG&E to do a supplemental Environmental Impact Report for the effect of PG&E's remediation activities that has created at 145, starting at Monitoring Well 23C a NEW plume BELOW the

clay barrier [date of action October 13, 2010; notice mailed 10/25/2010--see No. 6 in each of the appealed orders]

RELEVANT FACTS

It has been 23 years of half measures and corporate chipping away of orders issued by the Board and not only is there not substantive progress, but the plume is appears to be growing above the presumed clay barrier (we have gone from non-detect to now detectable levels in areas outside the original plume) and now we have a new plume in the drinking water aquifer below the clay barrier that was not there just 4 years ago.

It has been reported that in the drinking water aquifer BELOW the clay barrier (the clay barrier has been relied upon by PG&E & Lahontan to model its clean-up operations), Chromium 6 has gone from below background levels before PG&E started injecting reagents into the fallow or unused upper aquifer area (above the clay barrier) to roughly 19-22 ppb.

While PG&E and Lahontan are very careful to not use the words PLUME and NEW, it is clear there has been a massive change in chromium concentrations in what was previously pristine drinking water, water which I believe is connected to the aquifer system which affects not just the Hinkley Valley (where I have a domestic well and use it to feed livestock), but the likely recharge plain for the Mojave River which services Barstow, Daggett, Yermo, Newberry Springs and the various county areas surrounding when the river recedes.

Whether the 19-22 ppb plume is caused by the effect of the injected volume of water from the remediation activities of PG&E (that caused the clay to soften and break up and let chromium 6 tainted water to seep deeper) or whether there are as petitioner suggested in a 2006 appeal, extensive irregularities and cracks in the clay barrier through which chromium 6 laced water would get pushed by PG&E's injection activity, is not known. Whether the data was misreported is not known as Lahontan does not appear to have done any auditing or independent sampling, choosing instead to take the data submitted by PG&E's vendors.

It was stated by Lisa Dernbach of Lahontan at the meeting on October 13, 2010 in Barstow (of the Lahontan Board), that the effect of the Board's actions would be to take the 35% capacity cap off PG&E's injection processes. The potential effect could be catastrophic. If PG&E clean-up could triple the volume of water potentially injected, they could accelerate the weakening of the clay barrier at the edges of it where it is thinnest and or the tripled water volume could, rather than treat, push the chromium 6 ahead of the injected water into the suspected cracks in the clay.

ARGUMENT

PG&E and Lahontan gambled with our drinking water supply from 2006 to the current, have created a new & serious potential risk and they conclude no Supplemental EIR is needed [See October 25, 2010 Notice of RESCISSIONS OF WASTE DISCHARGE REQUIREMENTS for the PG&E SOURCE AREA AND CENTRAL AREA IN-SITU REMEDIATION PROJECTIONS, HINKLEY, SAN BERNARDINO COUNTY, item No. 6]--copy being faxed.

The injection process should not be accelerated until the cause of the new contamination is established to a scientific certainty, so therefore the Orders which permit that result, should be held in abeyance.

Further the clay barrier needs to be fully characterized and once that information is known to a scientific certainty, a supplemental EIR should be done to determine IF the proposed injection processes are a greater risk to public health and water quality than benefit.

Under 14 CCR § 15162 & Public Resources Code § 21166, a subsequent or supplemental EIR are required where the

- (1) changes in the project would result in new impacts that were not considered in the prior EIR;
- (2) changes in circumstances under which the project was undertaken that lead to significant new impacts;
- or
- (3) availability of significant new information that was not known and could not have been known when the previous EIR was certified

The original EIR cannot be used and doing so is in violation of 14 CCR § 15162 and 15153(d)

There is a new plume, a twenty fold increase in Chromium in a previously tested monitoring well and the only change in the area has been PG&E injections and the apparent new admission the clay has an edge and it is crumbling.

What rescinding the two prior orders R6V-2007-0032 & R6V-2006-0054 does, is take the current reagent injection cap for the pilot project of the injections being only allowed up to 35% of design capacity, to 100% capacity, in effect putting more fluid into the aquifer above the clay barrier and driving it to the cracks in the barrier, which PG&E and Lahonton previously ignored and summarily dismissed in their response to an appeal approving the injection methodology in late December 2006 by Petitioner. The concern then was that the plume had not been fully characterized and the presumption the clay barrier was continuous and uninterrupted was unsupported by any evidence presented by PG&E.

What is clear from the reports, is that PG&E assumed the clay barrier was solid and continuous and that there would be no risk to injecting high volumes of treated water and pushing chromium 6 to other areas outside the plume and potentially downward into the drinking water report, despite the discovery of the creation of a new chromium plume by the prior remediation actions of PG&E as approved by the Lahontan Board that being the new order.

Lahonton has issued a November 8, 2010 investigative order [R6V-2010-0055] in an attempt to head off it seems this and other appeals, but it misses the point--the underlying question of the effectiveness of the current remediation plan (which had the capacity cap taken off of it) is being challenged by the reported spikes in Chromium and by the evidence the clay barrier is not continuous and a barrier to further remediation injection-related migration of the Chromium 6 contaminated waters.

ACTION REQUESTED

- (1) PG&E not be allowed to expand their injection-to-treat clean-up processes until the full extent of their plume be established, the full extent of the risk to, dilution of quality of and damage to the drinking water is established;
- (2) PG&E be required to do a supplemental EIR in which the full extent of the effect of a cracked or crumbling clay barrier in the visibility of the treatment approach proposed by PG&E and approved by Lahonton, over the 2006 objection of petitioner.
- (3) The replacement order of the Board needs to be put in abeyance until the viability and risk of PG&E's injection activity can be fully assessed in light of the limits of the clay barrier and the new plume

DOCUMENTS BEING FAXED TO WATER BOARD (mailed to interested parties)

- (1) 10-25-2010 RESCISSION NOTICES (7 pages)
- (2) 11-2-2010 LAHONTON RESPONSE TO CARMELA GONZALES (3 pages)
- (3) 11-8-2010 LAHONTON INVESTIGATIVE ORDER (4 pages)

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December 6, 2006

California State Resources Control Board
Office of Chief Counsel
Attention: Elizabeth Miller Jennings, Senior Staff Counsel
Post Office Box 100
Sacramento CA 95812-0100 Fax (916) 341-5199

1. Petitioner is on the letterhead above. My email is rdconaway@earthlink.net; I own property (and a well in the potentially impacted zone)
2. Resolution No. R6V-2006-0053 "APPROVING THE INITIAL STUDY/CHECKLIST AND CERTIFYING A MITIGATED NEGATIVE DECLARATION FOR IN-SITU SOURCE AREA REMEDIATION PROJECT" (to be sent with mail copy of the Appeal)

BOARD ORDER No. R6V-2006-0054 [WDID No. 6B369107001] entitled "NEW WASTE DISCHARGE REQUIREMENTS FOR PACIFIC GAS AND ELECTRIC COMPANY IN-SITU SOURCE AREA REMEDIATION PROJECT"

3. Date of adverse action: 11/9/06
4. RELIEF SOUGHT: A full EIR is needed & discharge plans should be abated until the full impacts are studied.
5. REASONS FOR RELIEF SOUGHT:

A. PG & E's in situ treatment program & the related orders (involving the injecting into chromium 6 contaminated soils, lactate, whew, emulsified vegetable oil with up to a half million gallons of water per day) should not have been approved by the Regional Water Board without a full environmental impact report having been done.

California Courts have made it clear that acceptability of a scientific analysis is determined by whether the scientific technique meets certain criteria: (1) has the technique gained general acceptance in the scientific field to which it belongs, (2) is the witness (the unidentified PG&E people and Ms. Dernbach of the Lahontan Regional Board) testifying on

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general acceptance properly qualified as (an) expert(s) on the subject (and success/failure issues) on in situ remediations of the kind proposed (as opposed to having a general scientific knowledge) and (3) has the proponent (the Regional Board and PG&E) of the evidence established that the correct scientific procedures were used in the analysis before making the conclusions they did?

Ms. Dernbach of the Regional Board below was the only testifying geologist. It has long been held in courts of competent jurisdiction that the testimony of a single witness is insufficient to establish general acceptance. *People v Dellinger* (1984) 163 Cal. App. 3d 284, 293-yet that is what PG&E has been able to get the Regional Board to rubber stamp.

There also must be proof that each of the outside experiments and tests relied upon (the lab test & one small pilot test) were conducted using correct scientific procedures and that is frequently done by looking at whether there has been peer review to validate the approach making. To adopt PG&E's junk science is something that would never pass muster in federal court. *Daubert v Merrell Dow Pharmaceuticals, Inc* (1993) 509 U.S. 579, 113 S. Ct 2786. There is no indication that ANY peer review survey was attempted, much less available to validate the PG & E testing before the Regional Water Board staff and the Board gave PG&E the blessing to try another shortcut (they have had nearly two decades to get it right).

There are no facts to show that the experiments were conducted under the same or similar conditions as those will exist in a full in situ application making the extrapolation potentially dangerous to the area's water resources. *Di Rosario v Havens* (1987) 196 Cal. App. 3d 1224, 1231.

The Public Resource Code is not at odds with the court on the criterion as under § 21100, 21151 and 14 CCR 15064(a) (1), (f) (1) where a project MAY cause a significant effect on the environment, the lead agency must prepare an EIR.

Potentially adverse changes in the environment trigger under 14 CCR 15382 and Public Resources Code 21068 an obligation to require an EIR and it can be "ANY ASPECT" of the project. 14 CCR 15063(b) (1).

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The lead agency cannot weigh competing evidence to determine who has a better argument concerning the likelihood or extent of a potential environmental impact which is exactly what was done for incredibly a corporation that has done nothing for a decade, all the while the plume continued to move; the evidence in support of a full EIR is as follows:

(1) What was heard from the Regional Water Board's staff, was that there are problems with the approach proposed and now approved. Lisa Dernbach of the Regional Board on November 9, 2006 stated after (which the project was approved by a 4-1 vote), the intention of the project was to "spread the reagents as far as possible" [minute 32 of the oral testimony on November 9], that "some of the reagents and plume will be bypassed" (by the extraction well process), up to 30% of the water in the treatment zone may escape their extraction wells [minute 32 of the oral testimony on November 9, 2006 at minute 35].

(2) The testimony at the hearing from Ms. Dernbach at the Water Board was that if the injected water migrates beyond the extraction wells, it will be degraded [minute 1:06] and that the injected slurry is a "designated waste" [11/9/06 statement of Lisa Dernbach at minute].

(3) In the submissions in support of the project, it has been said that roughly a half million gallons of water is going to be pulled up and injected daily and it will take 5 years to reduce a majority of the chromium 6 with the project likely to take up 6-10 years [minute 36 of the 11/9/06 hearing].

(4) If up to 30% of that water will escape the extraction process, that means that 150,000 gallons of degraded water will be released into the groundwater outside of the approved area of operations. My well is within several hundred yards of that operation and there are no monitoring wells to the west to see if the broadcast of injected slurry is going to push any of the degraded water into the western well field. The concern about the flow of the groundwater is shared by Ms. Dernbach who states at minute 47 of the 11/9/06 meeting "the groundwater is not defined" and admits that a "deep stream" monitoring well(s) are needed [minute 47:20].

(5) In addition it has been suggested that the Chromium 6 plume is moving a foot a day-the extent to which it potentially is accelerated is never discussed and the impact is not discussed in

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relation to the blue clay barrier [see 11/9/06 hearing at 1:02] that is assumed to separate the upper contaminated aquifer and the lower pristine aquifer.

(6) Despite requests made for information on subsurface geology, Lisa Dernbach (who told me prior to the hearing that it broke up before Sante Fe Road to the North), nothing was provided pre-hearing. What was provided AFTER public comment was closed is Figure 3 entitled North-South Cross Sections in the Vicinity of Well 27-25, which shows that at approximate Monitoring Well 47, the clay barrier breaks up. The head of the Chromium 6 plume, is less than 1,200 feet away--which means that at the travel rate of 1 ft per day, the Chromium 6 contaminated water in the upper aquifer will contaminate the pristine drinking aquifer below and the project approved will do nothing to protect that water.

(7) The suggestion that "nothing is expected to happen/migrate beyond the project boundaries" and "if it does we have monitoring wells in place to monitor it and a contingency plan" assumes that they know where pressurized injections will travel is not only contradicted by other Board testimony and record, but it is just plain illogical. The area is one that has laid inactive (subsurface wise, except to the extent of the plume metals still moving) for nearly 2 decades. Once water injection with reagents begins, there is no scientific basis to support that if there is any escapement, it will only travel in the direction of PG&E's monitoring wells (by the way, there are no monitoring wells to the west where my domestic well is located). What "spread[-ing] the reagents as far as possible" [minute 32 of the oral testimony on November 9] means and how that will impact a field area that has not been irrigated and has had native soil evacuated as part of soil remediation plan, is not talked about.

The sheer impact of over a half million gallons of pumped and injected water misses the point of the testimony of a local (former) rancher by name of Mr. Grooms [in either minute 21 or 27 of the 11/9/06 hearing] who said that with an 840 gallon per minute pump, the draw down in his well is 15 feet and that such a draw down took 3-4 days for his wells to come back up. PG&E is going to be pumping day after day and the effect of 500,000 plus gallons a day to the surrounding water (which my well is in the potentially affected zone) for not just a season, but for 5-10 years, is not studied. Percolation time is not instantaneous and with the added

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fluid hydraulic distortion of extraction wells pulling up 500,000 gallons daily, well level will be affected and other clean water, may well get drawn in. That is not being studied, nor commented on.

(8) What is amazing is that the monitoring wells that are being drilled in the "recovery zone" are behind the majority of the plume and the intended recirculation will take place under the former unlined settling ponds and the former oil-water separator [minute 26 of the 11/9/2006 hearing], doing nothing to stop the advance of the plume [See figure 4 called "Distribution of Total and Hexavalent Chromium in Groundwater, August 2006"]; the entire treatment zone is within 1200 feet of where the pollution entered the ground. The chromium 6 plume reaches at least 10,000 BEYOND the treatment zone (actually the Regional Board said it was 1,400 long at minute 1:10 of the 11/9/06 hearing, which is longer than their published data suggests.

B. Who at PG & E came up with the in situ treatment approach is never identified (the word "they" & "conducted" is all we have reference to), the facts they considered or what peer review there was if any is not established, makes PG&E's & the Regional Board's approval of the in situ treatment process a gamble at best and the type of speculation that public policy should not be based on.

What was heard from the Regional Water Board's staff, was that there are problems with the approach proposed and now approved. Lisa Dernbach of the Regional Board on November 9, 2006 stated after (which the project was approved by a 4-1 vote), the intention of the project was to "spread the reagents as far as possible" [minute 32 of the oral testimony on November 9], that "some of the reagents and plume will be bypassed" (by the extraction well process), up to 30% of the water in the treatment zone may escape their extraction wells [minute 32 of the oral testimony on November 9, 2006]. The testimony at the hearing from Ms. Dernbach at the Water Board was that if the injected water migrates beyond the extraction wells, it will be degraded [minute 1:06]

In the submissions in support of the project, it has been said that roughly a half million gallons of water is going to be pulled up and injected daily and it will take 5 years to reduce a majority of the chromium 6 with the project likely to take up 6-10 years [minute 36 of the 11/9/06 hearing].

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If up to 30% of that water will escape the extraction process, that means that 150,000 gallons of degraded water will be released into the groundwater outside of the approved area of operations. My well is within several hundred yards of that operation and there are no monitoring wells to the west to see if the broadcast of injected slurry is going to push any of the degraded water into the western well field (or alternatively draw my well down).

In addition it has been suggested that the Chromium 6 plume is moving a foot a day--the extent to which it potentially is accelerated is never discussed and the impact is not discussed in relation to the blue clay barrier that is assumed to separate the upper contaminated aquifer and the lower pristine aquifer.

Despite requests made for information on subsurface geology, Lisa Dernbach (who told me prior to the hearing that it broke up before Sante Fe Road to the North), nothing was provided pre-hearing. What was provided AFTER public comment was closed is Figure 3 entitled North-South Cross Sections in the Vicinity of Well 27-25, which shows that at approximate Monitoring Well 47, the clay barrier breaks up. The head of the Chromium 6 plume, is less than 1,200 feet away--which means that at the travel rate of 1 ft per day, the Chromium 6 contaminated water in the upper aquifer will contaminate the pristine aquifer below.

The suggestion that "nothing is expected to happen/migrate beyond the project boundaries" and "if it does we have monitoring wells in place to monitor it and a contingency plan" assumes that they know where pressurized injections will travel. The area is one that has laid inactive for nearly 2 decades. Once water injection with reagents begins, there is no scientific basis to support that if there is any escapement, it will only travel in the direction of PG&E's monitoring wells (by the way, there are no monitoring wells to the west where my domestic well is located). What "spread[-ing] the reagents as far as possible" [minute 32 of the oral testimony on November 9] means and how that will impact a field area that has not been irrigated and has had native soil evacuated as part of soil remediation plan, is not talked about.

What is amazing is that the monitoring wells that are being drilled in the "recovery zone" are behind the majority of the plume as the intended recirculation will take place under the former unlined settling ponds and the former oil-water separator [minute 26 of the 11/9/2006 hearing], doing nothing to stop the advance of

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the plume [See figure 4 called "Distribution of Total and Hexavalent Chromium in Groundwater, August 2006"]; the entire treatment zone is within 1200 feet of where the pollution entered the ground. The chromium 6 plume reaches at least 10,000 BEYOND the treatment zone (actually the Regional Board said it was 1,400 long at minute 1:10 of the 11/9/06 hearing, which is longer than their published data suggests).

The Board needs to recall it is this same PG&E that tried to "remediate" the chromium problems by volatilizing it through sprinkler irrigation in the 1990's - a practice not good science before it was tried and after. The Board should not allow this project to go forward without competent peer review and a full assessment of potential impacts and mitigations needed.

C. The approach will not protect the drinking water resources in the area in any event on the facts presented by the Board and PG&E

The head of the Chromium 6 plume today, is less than 1,200 feet away from the pinch point of the blue clay barrier--which means that at the travel rate of 1 ft per day, the Chromium 6 contaminated water in the upper aquifer will contaminate the pristine aquifer below in less than 3 years. On a project that will take 5-10 years to work, PG&E not only in the short term degrades the water, creates potential escapement problems to the west and east with the 30% that may get away from the wells, but also risks contaminating pristine water (in which my well is located).

D. Lisa Dernbach did not establish that she had the specialized training and experience in remediation by the type of in situ approach being proposed by PG & E which would make her conclusions re the approach being scientifically feasible or appropriate inadmissible under the Miller v Los Angeles Flood Control District case (1973) 8 Cal. 3d 689 at 700.

General educational background in hydrology and geology does not make Ms. Dernbach an organic chemist (nor an expert the type and potential adverse effects/lack thereof of in-situ approach approved).

Lisa Dernbach admitted in her oral presentation that her basis for supporting the in situ approach picked by PG&E was a 2003 small scale lab test and a small scale pilot test in 2005 (minute 29:08

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of the public hearing)-data from unidentified people at PG&E!

E. The proposed injection treatment program may have significant effect on the environment as that is meant under the No Oil, Inc v City of Los Angeles [(1974) 13 C. 3d 68, 83, n16] and Sundstrom v County of Mendocino [(1988) case 202 CA 3d 296, 309] cases.

If any aspect of the project may result in a significant impact on the environment, an EIR must be prepared even if the overall effect of a project is beneficial. County Sanitation District No. 2 v County of Kern [(2005) 127 CA 4th 1544, 1580].

Substantial evidence under CEQA [see 14 CCR 15384(a)] is enough relevant information and reasonable inference from that information that a fair argument can be made to support a conclusions, even though other conclusions might be reached. See also Pub Res. Code 21080(e), 21082.2© and 14 CCR 15064(f) (5).

The significant impacts can be found are found in the Resolution Submitted to the Board (Resolution No. R6V-2006 Proposed) in which it states under #8, page 11-005, "the fate and transport of these metals beyond the project boundaries are still being monitored". Under #5 of the same Resolution No. R6V-2006, whether the proposed remediation "threatens to create nuisance conditions" is not known (See p 11-0005). In addition, the Regional Boards' s Lisa Dernbach stated in her oral presentation in support of the project and negative declaration "it will cause degradation of water quality, total organic compounds will increase as will volatile fatty acids" [statements found at minute 30 of the oral hearing on November 9, 2006]. Remarkably, Ms. Dernach also admitted that the process will leave the aquifer with " a less toxic form of chromium" [minute 32 of the oral hearing on November 9, 2006]. Also Ms. Dernbach states that methanes, hydrogen sulfides and mobilized metals will be further impacts to the water [minute 32 of the 11/9/06 hearing].

F. The project area has not been properly characterized

The best evidence is the uncertainty about groundwater flow in which Ms. Dernbach states on one hand it flows generally northerly, she then says the flow is not defined (minute 47 vs minute 57 of the 11/9/06 comments of Ms. Dernbach).

Other problems are found with the ASSUMPTION, that the lower

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aquifer flows the same direction (whatever that ultimately is.

There is NO data to support that. If anything Figure 3 which is attached, shows the gradient from the pinch point on the blue clay barrier runs back toward the river. The velocity of the water below the blue clay was not in issue in the remediation plan as the extraction well process was intended to impact the upper aquifer only (the water above the blue clay barrier). The problem lies in the impacts 2 ½ to 3 years from now when the advancing Ch 6 plume hits the pinch point near monitoring well 47. If it reaches the pinch point near monitoring well 47 in 2 ½ to 3 years, and only a "majority" of the chromium is remediated, you have Ch 6 impact to the rest of the people in Hinkley that PG&E did not get the first time through.

Also Figure 3 creates a problem as it shows that bedrock is hit at 20-30 feet below the blue clay-for a total depth of 180-190 feet. My domestic well is at 240 feet which means the projection data in Figure 3 is plain wrong-clearly the site has not been properly characterized.

Per Norman Diaz, the maps depicting Hinkley were "way off" [11/9/06 testimony at 1:50], that boundaries were inaccurate and the scope of the potentially impacted area is not being accurately stated (Mr. Diaz pointing out that an additional 9 homes were being quietly bought

G. PG & E SHOULD NOT BE ALLOWED TO POLICE THEMSELVES

At the meeting PG&E was seeking (after getting out of having to an EIR) to CEASE maintaining the monitoring wells and the integrity of the land treatment unit at the compressor station [11/9/06 hearing at 45:29].

This same company has a moving plume that their remediation steps in 1991 and 1997 did not stop. To get a plan from them all these years later, without a full EIR, is reckless and invites more risk/hazard to the public.

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H. A FULL EIR SHOULD BE DONE AS THE ORIGINAL NOTICE PROCESS FOR THE NEGATIVE DECLARATION PROCESS WAS SKEWED TO AVOID A LARGE POPULATION OF INTERESTED (AND/OR POTENTIALLY IMPACTED) PEOPLE

I reside within a quarter mile of the compressor station—I did not get notice. Mr. Diaz's whose family has been in the area for 100 years, testified he did not get notice nor did the principal of Hinkley school (11/9/2006 hearing at 1:51). The notice did not get out to most people because mailings of the notice went to people that PG&E apparently picked.

The antidotal story that 60-80 people were at a meeting that was noticed doesn't mean much as PG&E and the consultants probably were half that total.

Finally the affected area is 35% Hispanic—none of the meeting notices were sent out in Spanish and the advertisement that PG&E put in the paper, went to a newspaper that does not even get delivered to the Hinkley.

I. THE ISSUES ABOVE WERE DISCUSSED AT THE HEARING THE EXCEPTION OF THAT ANALYSIS THAT WAS ONLY POSSIBLE AFTER THE BOARD CLOSED PUBLIC COMMENT & DATA (such as Figure 3) WAS HANDED POST PUBLIC COMMENT

Attached in the mail copy will be a copy of the CD for the oral part of the hearing and the original public comment letter I submitted. Figure 3 is attached to the mail copy of this appeal.

Respectfully submitted,

ROBERT D. CONAWAY

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