

May 16, 2023

Ms. Jennifer Lucchese, Executive Officer
California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825

TRANSMITTED VIA EMAIL

Re: Extension of PG&E Diablo Canyon Lease for Existing Facilities Within CSLC Jurisdiction

Dear Ms. Lucchese:

The Land Conservation and Economic Development Plan issued last week by the California Natural Resources Agency pursuant to SB 846 suggests that the State Lands Commission ("CSLC") will consider PG&E's Diablo Canyon lease extension at its June 5, 2023 meeting.

My client, the Alliance for Nuclear Responsibility ("A4NR"), believes there are two necessary commitments from PG&E required for the CSLC to satisfy its duties as a fiduciary on behalf of the people of California: (1) that PG&E's "updated seismic assessment" required by Public Resources Code § 25548.3(c)(13) will expressly include those existing facilities within CSLC jurisdiction, and analyze any risk of prolonged plant outage posed by their potential seismic vulnerabilities; and (2) that the License Termination Plan PG&E eventually submits to the Nuclear Regulatory Commission ("NRC"), as applied to onshore and offshore lands within CSLC jurisdiction, shall require the lowest dose-based levels, measured by millirems per year, previously approved by the NRC in a License Termination Plan for a commercial nuclear power plant in the United States.

As you know, A4NR is a non-profit organization which for many years has focused on the regulatory processes of various California state agencies affecting nuclear power plants. A4NR was an early intervenor in the California Public Utilities Commission ("CPUC") investigation of the premature SONGS 2&3 shutdown, and was instrumental in forcing the modification of the CPUC-approved settlement of shareholder/ratepayer cost liabilities to debit shareholders an additional \$775 million and reduce ratepayer collections by \$883 million.¹ In 2019, A4NR worked successfully with the CSLC and Southern California Edison Company to reduce the future size of the SONGS exclusion area in order to maximize public recreation opportunities at the site after the power plant is decommissioned.

¹ CPUC Decision No. 18-07-037, pp. 19 - 20.

PG&E's traditional seismic evaluations have rightfully focused on what the NRC characterizes as Class I structures, systems, and components ("SSCs") that pose a threat of damage to the reactor core and/or a release of radioactivity that could endanger the public. This excludes many so-called Class II SSCs, whose primary safety risk in an earthquake would be posed to the onsite work force rather than the offsite public, but whose post-earthquake restoration to service are critical to avoiding a lengthy interruption of electricity generation at Diablo Canyon. NRC requirements are designed to ensure a safe shutdown after an earthquake, while the State has an economic interest in a prompt and sustained restart. SB 846, which makes the taxpayer a \$1.4 billion lender² for the Diablo Canyon extension and the ratepayer a first-loss indemnitor of even imprudently incurred replacement power costs up to \$300 million per year,³ significantly expands the State's interest in the operability of the plant. Based on PG&E's calculation of replacement power costs for 149.2 days of forced outages (non-seismic) at Unit 2 between July 2020 and November 2021, an earthquake which shut down both Diablo Canyon reactors would have cost \$2.4 million per day irrespective of the additional costs for any necessary SSC repairs or replacements.

In 2010, PG&E contractors conducted an assessment of some 300 Design Class II SSCs in response to the California Energy Commission's 2008 AB 1632 Report. The AB 1632 Report had observed:

The non-safety related systems, structures, and components (SSCs) of the plants are most vulnerable to damage from earthquakes. Damage to non-safety related SSCs is **the greatest source of seismic-related plant reliability risk** for SONGS and Diablo Canyon. Damage to non-safety related SSCs could pose risks of injury and loss of life to plant workers and occupants but damage would not pose a direct safety hazard to the public; however, **it could result in extended outages for repairs lasting weeks or months**. The seismic-related reliability risk of non-safety related SSCs is not well understood in large part because the nuclear industry and the NRC historically have focused on safety related SSCs. (emphasis added)⁴

The CEC's observation reflected testimony it received from one of PG&E's primary geoscientists, Dr. Norman Abrahamson:

When we talk about reliability we are generally looking at the performance of the plant for a below design basis earthquake that is actually likely to happen.

² AB 180 added \$75 million which apparently is not expected to be repaid.

³ While ratepayers have traditionally been liable for all prudently incurred costs, SB 846 establishes a ratepayer-funded, annually replenishable, liquidated damages balancing account of \$300 million to absorb liability for replacement power costs when an unplanned outage is the result of PG&E's failure to meet the CPUC's reasonable manager standard.

⁴ CEC, An Assessment of California's Nuclear Power Plants: AB 1632 Report (2008), pp. 11 – 12.

For example, at Diablo Canyon we would be concerned with a magnitude say 6.25 earthquake on the Hosgri Fault that might give us .2 or .3 Gs of peak acceleration. Less than half of what our design basis is. But it is the non-safety-related systems that are potentially being damaged, would be damaged by those **and then would put us out of operation, even though all our safety systems performed properly** ... Really reliability is going to be driven by a more frequent but lower level of shaking for which our non-safety related systems are not designed for ... **we think reliability is going to be driven by a much more frequent, smaller magnitude earthquake for which our non-safety-related systems would be damaged** ... That has not been addressed by the industry in general. **It has been so focused on safety that we have let that part go.** (emphasis added)⁵

Given the unprecedented magnitude of taxpayer investment and ratepayer exposure, A4NR believes it imperative to understand what potential exists for preventative engineering that can cost-effectively reduce the seismic risks to the reliable operation of Diablo Canyon. The U.S. Supreme Court's landmark, unanimous decision in *Pacific Gas and Elec. Co. v. State Energy Resources Conservation & Development Com'n* (1983) 461 US 190 established that, while Congress intended that the federal government regulate the radiological safety aspects involved in the construction and operation of a nuclear power plant, "the States retain their traditional responsibility in the field of regulating electrical utilities for determining questions of need, reliability, cost and other related state concerns."⁶ Indeed, SB 846's qualification as an urgency statute is based upon the necessity of "ensuring electrical reliability in the California electrical system."⁷ In approving the Diablo Canyon lease extension, the CSLC should obtain a binding commitment from PG&E that its updated seismic assessment will include all CSLC-jurisdictional facilities, and analyze any risk of prolonged plant outage posed by their potential seismic vulnerabilities

The second PG&E commitment A4NR urges the CSLC to secure, regarding the radiation cleanup standard to be applied to CSLC-jurisdictional onshore and offshore lands after Diablo Canyon's closure, would bring Californians the same safeguards already approved by the NRC for New York, Massachusetts, Maine, and Vermont. Abandoning its earlier incorrect claims of federal preemption, PG&E last year made four material admissions in CPUC proceeding A.21-12-007:

- In response to discovery, PG&E acknowledged, "In some states, state and public stakeholders have worked with the licensees to agree to a lower level to be

⁵ CEC transcript, Docket Nos. 07-AB-1632 and 08-IEP-1F, September 25, 2008, pp. 83 – 85.

⁶ 461 US 190, 205.

⁷ SB 846 (Dodd – Statutes of 2022), Section 18.

implemented, outside of the NRC release criteria. In these cases, the LTP processes can still be used to validate to the other stakeholders that a lower release criterion is met.”⁸

- PG&E also admitted, in correcting its rebuttal testimony at the commencement of the November 15, 2022 evidentiary hearing, that the federal pre-emption of cleanup standards for NRC-licensed sites only applies “until termination of the Part 50 operating license.”⁹
- With its testimony so corrected, PG&E witness Philippe Soenen agreed with the following California Coastal Commission jurisdictional finding cited by A4NR: “The Coastal Commission findings herein address only those state concerns related to conformity to applicable policies of the Coastal Act, and do not evaluate or condition the proposed project with respect to nuclear safety or radiological issues during the term of NRC’s regulatory oversight. However, because the [decommissioning] project will result in termination of PG&E’s NRC-licensed activities ... the state has jurisdiction over post license site conditions, including those related to radiological concerns.”¹⁰
- PG&E’s witness also agreed that, if PG&E wanted to, it could voluntarily agree to a limit lower than 25 millirem for inclusion in the DCNPP License Termination Plan.¹¹

A4NR intends to seek meetings with CSLC members or their staffs, remotely or in person, to discuss these two recommendations prior to the June 5 meeting. Needless to say, if you believe similar discussion with your staff would be of interest, please do not hesitate to let me know.

Sincerely,

/s/ John L. Geesman
Dickson Geesman LLP
Attorney for A4NR

cc: CSLC members

⁸ A.21-12-007 PG&E data response NuclearDecomCostTri2021_DR_A4NR_001-Q001.

⁹ CPUC Transcript (PG&E – Trevor Rebel), p. 10, ln. 27 – p. 11, ln. 3.

¹⁰ CPUC Transcript (PG&E – Philippe Soenen), p. 26, ln. 27.

¹¹ CPUC Transcript (PG&E – Philippe Soenen), p. 27, lns. 19 – 20; p. 28, lns. 13 – 15.

From: ahseastrand@
To: [CSLC CommissionMeetings](#)
Cc: ahseastrand@
Subject: June 5, 2023 Agenda Item 90 * PACIFIC GAS AND ELECTRIC COMPANY (LESSEE/APPLICANT)
Date: Thursday, June 1, 2023 10:35:32 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

June 1, 2023

To the Members of the State Lands Commission:

Agenda Item 90 PACIFIC GAS AND ELECTRIC COMPANY (LESSEE/APPLICANT)

The State of California's directive in Senate Bill 846 is giving the Diablo Canyon Power Plant (DCPP) a reprieve from closure.

I am requesting that the State Lands Commission vote for a five year extension of PG&E's lease for the use of tidal lands accommodating the Diablo Canyon Power Plant (DCPP) intake and discharge structures.

I am a supporter of DCPP, recognizing the need for it to continue its operation in order to supply the necessary energy for the people of California.

Respectfully,

Andrea Seastrand
Former U.S. Congresswoman
California District 22

Grover Beach, California

From: [Robert Robert](#)
To: [CSLC CommissionMeetings](#)
Cc: [Eric Daniels](#); [Matt Bronson](#)
Subject: Urgent Appeal to Extend the Lease for Diablo Canyon Power Plant
Date: Thursday, June 1, 2023 1:04:26 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Dear Commissioners,

While I am a member of the Grover Beach City Council, I am writing to you today as a concerned citizen who strongly believes in the importance of clean and reliable energy sources for the future of our community. With the State Lands Commission scheduled to vote on the extension of the lease for Diablo Canyon Power Plant (DCPP) on Monday, June 5, I would like to express my unwavering support for keeping the plant operational.

First and foremost, I would like to highlight that the proposed extension aligns with the provisions set forth in Senate Bill 846, which explicitly directs state agencies to extend the operation of DCPP until 2030. This legislation demonstrates a commitment

to recognizing the significant value that Diablo Canyon Power Plant brings to our region.

Diablo Canyon Power Plant has been a cornerstone of our energy infrastructure, providing a substantial amount of clean, reliable, and affordable electricity to our homes and businesses. The plant's contribution to our local economy cannot be overstated, as

it has created numerous job opportunities and stimulated economic growth in the surrounding areas.

One of the primary advantages of Diablo Canyon Power Plant is its ability to generate electricity without emitting harmful greenhouse gases. As we strive to combat climate change and reduce our carbon footprint, it is crucial that we maintain access to low-carbon energy sources. The plant's continued operation will significantly contribute to achieving our environmental goals and securing a sustainable future for our community.

Furthermore, Diablo Canyon Power Plant has an exemplary safety record. The plant's operators have consistently upheld the highest safety standards, ensuring the well-being of its employees and the surrounding community.

Advanced technology, stringent regulatory

measures, and ongoing improvements in safety protocols have made accidents highly unlikely. By keeping the plant open, we can continue to benefit from its safe and reliable operation.

I understand that concerns regarding the impact of the plant on tidal lands and the marine environment may arise.

However, it is essential to consider the extensive environmental studies and mitigation measures that have been undertaken throughout the plant's

operation. Diablo Canyon Power Plant has a long history of responsibly managing its impact on the surrounding ecosystem, and I trust that any lease modifications will be made in alignment with best practices to ensure the preservation of our natural resources.

In light of these factors, I kindly request that the State Lands Commission votes in favor of extending the lease for Diablo Canyon Power Plant. This decision will not only secure our energy stability but also preserve the economic benefits and environmental

advantages that the plant brings to our community. I urge you to consider the long-term implications of your decision and prioritize the well-being and future prosperity of our region.

Thank you for your time and consideration. I sincerely hope that you will take into account the voices of the community and make a decision that aligns with our collective interests. Should you require any further information or wish to discuss this matter

in detail, please do not hesitate to contact me.

With utmost appreciation,
Robert Robert

Grover Beach CA

Robert Robert

From: [Glenn Morris](#)
To: [CSLC CommissionMeetings](#)
Subject: Diablo Canyon Power Plant Extension (060523 Agenda, Item 90)
Date: Thursday, June 1, 2023 12:18:12 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Commissioners:

On behalf of the members and board of directors for the Santa Maria Valley Chamber, I wish to express our strong support for extending operations at the Diablo Canyon Power Plant (DCPP). We strongly encourage the State Lands Commission members to take those steps necessary to align your agency with SB 846, passed by the California State Legislature and signed into law by Governor Newsom.

Our support for this course of action stems from our recognition of the following points:

- DCPP employs approximately 1200 employees who live in our community and the surrounding region. Their children go to our schools. Their spouses also work in our business. They contribute greatly to the fabric of our community. Additionally, a number of local businesses of all sizes and industries provide product and services in support of the operation of DCPP, further enhancing the economic impact of this site to California's Central Coast region.
- DCPP produces about 18,000 gigawatt-hours of electricity annually, which is about 9 percent of California's in-state generation. Its baseload power, without being impacted by time of day or weather conditions. DCPP has provided this power supply for decades safely and reliably, both critical conditions!
- Recent extreme heat events and wildfires have highlighted the need to plan for additional risk to California's energy reliability. In 2020, a heat event resulted in rotating outages. In 2021, dry conditions resulted in a wildfire in Oregon that impacted transmission lines that California depends on for reliability. The fire resulted in a loss of 3,000 megawatts of imported electricity to California. In 2022, California again experienced abnormally high temperatures, creating flex alerts and warning. On September 6, 2022, California experienced a new record peak load at 52,061 megawatts, nearly 2,000 megawatts higher than the previous record, despite significant efforts to reduce load during this peak period.
- Electricity demand in California continues to increase – and will do so for the foreseeable future. This increase is due in no small part to the growing electrification of businesses, homes, and modes of transportation. Couple this change in electricity consumption with more frequent record-breaking high temperatures, and higher peaks in demand are the result. Removing a reliable, safe source of the scope provided by DCPP in this environment is an unnecessary self-inflicted wound in our communities.
- Although DCPP is not legally defined as a renewable energy resource, its energy generation produces no green-house gases. So, its continued operation is essential to help us meet the State's climate goals while ensuring our energy needs are met. As California continues to become more and more reliant on renewable and zero-carbon generating resources, the transition to solar, wind, and similar sources has not kept up with demand, putting grid reliability in jeopardy. In their recent study of this subject, the California Energy Commission (CEC) determined that it is prudent to extend energy production at Diablo Canyon Power Plant to protect against energy supply shortfalls, while growth in renewable generation grows to ultimately supplant the DCPP's production. The CEC has determined that this is consistent with the state's emission reduction goals. SB 846 echoed this need.

Please join the CEC and the Legislature's and Governor's passage of SB 846 by supporting the continued safe operation of DCPP so we can all enjoy the clean energy it provides while we ultimate transition to a truly renewable portfolio. We encourage the Commission to approve Item 90, extension of lease terms for up to five years for DCPP's continued operation as authorized by SB 846.

Glenn Morris, ACE
President & CEO



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phone: 805.925.2403 x825 | cell: 559.909.1012 | glenn@santamaria.com
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COUNTY OF SAN LUIS OBISPO
BOARD OF SUPERVISORS

Dawn Ortiz-Legg *District Three Supervisor*

June 2nd, 2023

Honorable Lands Commission,

Thank you for the opportunity to provide public comment to the commission regarding the Diablo Canyon Nuclear Power Plant extension of operations.

Since December 2020, I have served as county supervisor representing the Diablo Canyon region. Our office has ongoing interactions such as monitoring agency regulator reports, meeting monthly with PG&E's Diablo leadership team, site visits, and responding to my constituent requests for specific information and updates.

The safety oversight of Diablo Canyon by the Nuclear Regulatory Commission is well documented and accessible to all. It demonstrates the highest standard of redundancy, inspections, and oversight to ensure safe operations.

Regarding your agency's oversight, PG&E has demonstrated excellent land stewardship, which includes monitoring intake and outfall structures. While every form of power has environmental impacts, the permit exemption requested for extended operations must be compared to the potential of replacing Diablo Canyon with fossil fuel-based power generation. The amount of power needed can be compared to dumping 60 tons of greenhouse gas into the atmosphere. It is clear when nuclear plants go offline, greenhouse gas emissions rise to fill the void. We all love our ocean and must realistically review what this could mean for our beloved ocean and the species.

In March of 2022, the San Luis Obispo Board of Supervisors submitted a letter of request to Governor Gavin Newsom requesting assistance for Diablo Canyon's extension of operations. That letter is attached for reference.

For many residents of SLO County and many in Santa Barbara County, the potential of continued plant operations is a welcome relief regarding the 1200 head of household jobs, hundreds of related subcontractor opportunities, and many other economic benefits.

Lastly, Diablo Canyon's 24/7 operations, safely generating carbon-free electricity supplying nearly 10% of California's power, is produced on less than 600 acres of land is notable and a huge point of pride for our County.

Thank you for your review and efforts on behalf of our state and county.

Sincerely,

Dawn Ortiz-Legg
District 3 Supervisor
San Luis Obispo County

County of San Luis Obispo Government Center

1055 Monterey Street | San Luis Obispo, CA 93408 | (P) 805-781-5450 | (F) 805-781-1350
info@slocounty.ca.gov | slocounty.ca.gov



COUNTY OF SAN LUIS OBISPO BOARD OF SUPERVISORS

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Debbie Arnold *District Five Supervisor*

March 8, 2022

The Honorable Gavin Newsom
1021 O Street, Suite 9000
Sacramento, CA 95814

Subject: Diablo Canyon Power Plant Assistance with State Approvals to Continue Operations

Dear Governor Newsom:

On February 15, 2022, the San Luis Obispo County Board of Supervisors received a presentation by the authors of the Stanford University and Massachusetts Institute of Technology study titled, "An Assessment of the Diablo Canyon Nuclear Power Plant for Zero Carbon Electricity, Desalination, and Hydrogen Production." This study examines how continuing operation of the Diablo Canyon Power Plant (DCPP) could provide value in the following areas:

- Contributing to California's zero-carbon electricity production goals,
- Providing power to a large-scale desalination plant to produce water for drought-stricken areas,
- Providing a carbon-free source of hydrogen production for the transportation and manufacturing sectors, and
- Configuring and operating the DCPP as a "polygeneration" facility, generating electricity and producing desalinated water and hydrogen simultaneously.

Based on the presentation, the Board, by a vote of 3 to 1 (with one abstention), elected to send you a letter requesting your assistance in securing the required state approvals, should PG&E seek to extend the operation of the DCPP. Specifically, the plant would need an extension from the State Water Resources Control Board on DCPP's use of once through cooling water. In addition, the term of PG&E's lease with the California State Lands Commission would require an extension. Lastly, the California Public Utilities Commission would need to reverse its decision on the DCPP closure.

The San Luis Obispo County Board of Supervisors would greatly appreciate your assistance in securing the required state approvals. These efforts would assist California in continuing on the path toward a greenhouse gas free energy supply and keeping the lights on for its citizens.

Sincerely,



John Peschong, Vice Chair
San Luis Obispo County Board of Supervisors

cc; Assemblyman Jordan Cunningham
Senator John Laird
Tom Jones, PG&E
Eric Daniels, PG&E

From: [1](#)
To: [CSLC Commission Meetings](#)
Subject: June 5 hearing re: Agenda Item 90 PG&E tidal lands lease extension
Date: Saturday, June 3, 2023 2:27:03 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

Dear CA State Lands Commissioners,

I'm Barbara Harmon, a 30-year resident of San Luis Obispo County and former Arroyo Grande City Council Member.

My email is regarding Agenda Item 90. I'm writing to declare my support for the five-year extension of PG&E's lease for use of tidal lands for Diablo Canyon Power Plant (DCPP) intake and discharge structures.

This lease is a vital component required to fulfill Senate Bill 846 and Governor Newsom's request to extend DCPP's operations beyond 2025.

Given the increasing cost of electricity that is burdening our low-income communities, and that the transition to renewable energy resources has taken longer than originally projected, California needs the annual 18,000 gigawatt hours of electricity (or about 9% of in-state electricity generation,) that is provided by Diablo Canyon.

PG&E's Diablo Canyon Power Plant has an exemplary safety record. PG&E has been steadfast in their protections of our marine life and coastal environments.

Extending this lease would provide an affordable, reliable, zero-emission, safe, energy source that is necessary to augment the on-going transition to renewable energy.

Respectfully, I urge you to move approval on Agenda Item 90.

Thank you for your time and consideration,

Barbara

From: [Scott Lathrop](#)
To: [CSLC CommissionMeetings](#)
Subject: 06.05.23 item 90
Date: Monday, June 5, 2023 1:22:56 PM

Attention: This email originated from outside of SLC and should be treated with extra caution.

I understand this comment may not become part of the official record. But I thought it best to send it anyway. My original plan was to deliver during today's commission meeting but now unable to attend.

Comment

My name is Scott Lathrop I live in San Luis Obispo California currently serving as the CEO of the ytt Northern Chumash Nonprofit representing the yak tityu tityu yak tilhini Northern Chumash Tribe, (also known as ytt)

First, for the record, I would like to point out that under SB 846 Sec 9 - 712.8, that state agencies are required to consult with **appropriate** Native American Tribes in all matters regarding Diablo Canyon Lands.

To date, ytt is the only Tribe with a documented ancestral connection to the Diablo Canyon Lands, that has been recognized by both the County of San Luis Obispo and the California Public Utilities Commission.

With that said, Ytt is the appropriate Tribe to be consulted in this matter.

On behalf of ytt I'm expressing tribal support for the lease extension and would recommend approval without any additional requirements that would increase costs to ratepayers.

In closing, I would like to thank the commission for the opportunity to provide comments today.

--

Scott R. Lathrop, CEO
ytt Northern Chumash Nonprofit
1-805-801-8401
ytnorthernchumash.org



State Lands Commission (SLC)

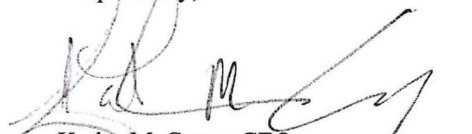
The South County Chambers of Commerce asks the State Lands Commission to fully support the request before you today to approve the request from Pacific Gas and Electric to continue operating and managing the Diablo Canyon Power Plant (DCPP).

Important Points:

- DCPP employs approximately 1200 employees who live in our communities. Their children go to our schools. Their spouses also work in our business. They contribute greatly to the fabric of our community.
- More importantly, DCPP produces about 18,000 gigawatt-hours of electricity annually, which is about 9 percent of California's in-state generation. Its baseload power sustains us through good and bad weather, especially through the hot summer months when energy usage is at its highest.
- Recent extreme heat events and wildfires have highlighted the need to plan for additional risk to California's energy reliability. In 2020, a heat event resulted in rotating outages. In 2021, dry conditions resulted in a wildfire in Oregon that impacted transmission lines that California depends on for reliability. The fire resulted in a loss of 3,000 megawatts of imported electricity to California. In 2022, California experienced record-high temperatures, creating flex alerts and warning. On September 6, 2022, California experienced a new record peak load at 52,061 megawatts, nearly 2,000 megawatts higher than the previous record, despite significant efforts to reduce load during this peak period.
- Electricity demand in California has also increased. This increase is due in no small part to the growing electrification of businesses, homes, and modes of transportation. Couple this change in electricity consumption with more frequent record-breaking high temperatures, and higher peaks in demand are the result.
- In their recent study of this subject, the California Energy Commission (CEC) determined that it is prudent to extend energy production at Diablo Canyon Power Plant to protect against energy supply shortfalls, while growth in renewable generation grows to ultimately supplant the DCPP's production. The CEC has determined that this is consistent with the state's emission reduction goals. SB 846 echoed this need.
- Diablo Canyon Power Plant is a safe, clean, and vital energy resource for our state and communities.

Please join the CEC and the Legislature's and Governor's passage of SB 846 by supporting the continued safe operation of DCPP so we can all enjoy the clean energy it provides while we ultimate transition to a truly renewable portfolio.

Respectfully,



Kathy McCorry, CEO
South County Chambers of Commerce