



September 25, 2023

Susan Strachan, Power Plant Decommissioning Manager
San Luis Obispo County Department of Planning & Building
976 Osos St., Rm 300
San Luis Obispo, CA 9340

Sent via email to diablo@co.slo.ca.us

Re: Diablo Canyon Power Plant Decommissioning Draft Environmental Impact Report (DEIR)

Dear Susan Strachan,

On behalf of the Surfrider Foundation (“Surfrider”), including the San Luis Obispo Chapter, we write to ask for additional analysis and public access requirements be assessed in the Diablo Canyon Decommissioning final environmental impact report. Surfrider is a national non-profit, 501(c)(3) organization, made up of a network of passionate grassroots activists dedicated to protecting our ocean and beaches for all people to enjoy. In furtherance of this mission, Surfrider has five core initiatives: coastal preservation, beach access, clean water, ocean protection, and plastic pollution prevention. Consequently, we continue to advocate for improved equitable public access to and along the Diablo Canyon lands. Not only has historic access been inadequate, including when compared to other coastal nuclear power plants in California such as San Onofre, but the proposed access mitigation for decommissioning activities is also inadequate. These comments are in addition to the September 11, 2023 comment letter submitted jointly with Sierra Club Santa Lucia, et al.

The right of beach access is constantly being challenged by private property owners, developers and even sea level rise. The decommissioning of Diablo Canyon Lands presents a unique opportunity to restore coastal access to the public and account for historic blocked access. The Diablo Canyon Lands are one of the last stretches of undeveloped lands along the California Coast, providing unique ocean vistas and recreational opportunities. We strongly encourage Thee County to maximize public benefit as decommissioning goes forward.

To address the public coastal access deficits at the Diablo Canyon Lands site, the DEIR proposes several permit conditions to support that project and ensure long term access, and finds that the development of a Diablo Lands Connector Trail adequately mitigates access concerns during Phase 1, Phase 2, and post-decommissioning operations. Surfrider supports the proposed access mitigation and asks that additional access mitigation be evaluated and applied.

Public access has been inadequate near and across Diablo Canyon Lands for decades. Limited access is provided by the Pecho Coast and Rattlesnake Canyon, and Point Buchon trails. As such,



Surfrider strongly supports efforts to expand access opportunities included in the DEIR, including:

- Permit Condition 1 to require PG&E to record an Irrevocable Offer to Dedicate a Public Access Easement through company-owned lands that would generally connect the area south of the DCPD to the area north of the site, or another alignment that is determined through the trail identification process.
- Permit Condition 2 to require the development of a Trail Alignment Identification Plan that details the process for locating an optimal route (or routes) for a public access trail. The goals of the Plan would include identification of lateral and vertical access, avoiding impacts to cultural and ecological resources, and ensuring an appropriate safety margin.
- Permit Condition to require a Trail Access Plan after the Identification Plan is approved. The Access Plan would include a completed Environmental Assessment for the selected routes.
- Permit Condition 3 to require, within 90 days of approval of the Trail Access plan, an application for the appropriate land use permit must be sent to the County.
- Permit Condition 4 to require, within 180 days of termination of the NRC Part 50 license, a building permit application must be submitted for the construction of the trail. The County would also have to approve the Final Trail Operations and Management Plan for implementation Diablo Lands Connector Trail to be developed and managed in perpetuity.

However, this mitigation falls short of true restorative mitigation, and we request further evaluation of access impacts in accordance with California Coastal Act requirement to maximize coastal access. There is a coastal access deficit according to the Coastal Commission referenced in past permit reviews.¹ We suggest that the EIR ensure that PG&E's mitigation requirement is quantifiably proportionate to the access lost. The "Rough proportionality" doctrine provides that: "no precise mathematical calculation is required, but the city must make some sort of individualized determination that the required dedication is related both in nature and extent to the impact of the proposed development."² Therefore, the agency imposing mitigation requirements must make "some effort to quantify" its findings.³

While the DEIR explains the nature of the impacts and how the mitigation is conceptually related, it fails to describe individualized determinations that the extent of the mitigation is proportionate to the amount of access lost.⁴ Surfrider requests a more specific determination comparing the extent of access lost and access mitigated by the Connector Trail. We also

¹ California Coastal Commission, Coastal Development Permit E-06-011/A-3-SLO-06-017.

² *Ocean Harbor House Homeowners Assn. v. California Coastal Com.*, 163 Cal. App. 4th 215, 229 (2008).

³ *Id.* at 230 (quoting *Dolan v. City of Tigard*, 512 U.S. 374, 395-96 (1994)).

⁴ See Diablo Canyon DEIR at p. 4.12-26, 4.12-34.



request an updated valuation of lost access that considers the specific impacts of decommissioning activities.

The DEIR suggests that more specific permit conditions will be presented to the County Planning Commission after the Final EIR is certified.⁵ Surfrider requests more specific information be included in the final EIR to ensure adequate opportunity for public input.

Additionally, Surfrider calls for more assurances that construction activities and waste transport will not impact access. In the Staff Report recommending approval of Laska Application 6-22-0694 in Mission Beach, the Coastal Commission required the applicants to submit a weekly construction schedule to confirm that no work would occur during summer.⁶ Surfrider requests a similar provision requiring PG&E to submit weekly reports that there are not plans to perform closures during peak hours.

In summary, we urge your consideration of adequate public access evaluation and mitigation via permit conditions, considering the historic inadequate public access to over 7 miles of pristine California coastline.

Thank you for the opportunity to comment.

Sincerely,

Madelyn Sickle
Legal Intern
Surfrider Foundation

Mandy Sackett
Senior California Policy Coordinator
Surfrider Foundation

⁵ Diablo Canyon DEIR at p. 4.12-30.

⁶ California Coastal Commission, Staff Report: Application No. 6-22-0694 (January 18, 2023) (available online at <https://documents.coastal.ca.gov/reports/2023/2/Th6a/Th6a-2-2023-report.pdf>).