

December 9, 2013

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FR: *Coalition to Decommission San Onofre (CDSO)*  
*(A Project of Citizens Oversight, Inc.)*

SUBJ: ***CDSO Protest of SCE Advice Letter 2968-E***

1           The Coalition to Decommission San Onofre (CDSO), a Party in I.12-10-013 and A.12-  
2 12-012/013, hereby protests Southern California Edison (SCE) Advice Letter (A.L.) 2968-E,  
3 dated November 18, 2013, in accordance with the Commission's General Order (G.O.) 96-B.

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## I. OVERVIEW

1           This advice letter is inappropriate, overreaching, and a disgusting attempt by SCE to  
2 circumvent both the SONGS OII proceeding (I.12-10-013) and the Nuclear Decommissioning  
3 Cost Triennial Proceeding (NDCTP) – A.12-12-012/013. This A.L. seeks to quickly institute  
4 procedures -- with almost no review or discussion -- that will allow SCE to prematurely access  
5 funds from the Decommissioning Trusts prior to completing the prescribed Post Shutdown  
6 Activities Report (PSDAR) and the detailed site-specific decommissioning plans. SCE also  
7 suggests a method to launder trust funds through a proposed “SONGS Operations and  
8 Maintenance Balancing Account” (SOMBA) and then into the Energy Resource Recovery  
9 Account (ERRA) to cover for overspending by SCE; and suggests an inappropriate allocation  
10 of the trust funds so as to improperly over-allocate funds that SCE can spend on non-  
11 radiological decommissioning, while under-allocating funds for U.S. Nuclear Regulatory  
12 Commission (NRC)-mandated radiological decommissioning. These plans provide for an  
13 inappropriate low level of oversight by both this Commission and the public, exemplifying  
14 embarrassing disregard for the integrity of the decommissioning trust funds.

15           We will expand on these issues in the remainder of this protest and propose an  
16 appropriate response by the Commission to address the legitimate planning expenses while  
17 deferring the remaining issues for resolution in the aforementioned proceedings, and until the  
18 PSDAR and detailed plans are submitted and reviewed by the NRC and other parties.

## II. BACKGROUND

19           The entire nuclear energy industry has only recent experience with the  
20 decommissioning of plants, and in California, there have been only a few cases that provide  
21 learning experiences for this Commission and the public regarding providing effective  
22 oversight. There are two major opportunities for oversight, the Nuclear Decommissioning Cost  
23 Triennial Proceedings (NDCTP) and the Advice Letter procedure.

### ***Nuclear Decommissioning Cost Triennial Proceedings (NDCTP)***

24           These proceedings occur every three years, as the title implies, and include 1) cost  
25 estimates for the decommissioning of each plant; 2) determination of the rates that will be  
26 charged to the ratepayer to fund the Decommissioning Trusts; 3) investment policies and  
27 procedures used by the utilities to manage and invest the funds; and 4) review of any actual  
28 decommissioning projects to insure effective and reasonable use of the funds. As this protest  
29 is being written, the Commission is in the midst of NDCTP proceedings (A.12-12-012/013).

1 Although reviewing the cost estimates for **future** decommissioning can proceed at a  
2 snail's pace, since almost nothing will change in three years and investment policies and  
3 procedures probably do not need to change substantially in three years either, monitoring the  
4 actual trust funds available and forecast is an important task to complete at least as often as  
5 every three years. The same cannot be said for monitoring **actual** decommissioning projects,  
6 which may change dramatically within days, weeks, or months, and in fact, the entire project  
7 may mostly be completed within a three-year period. Therefore, the triennial proceedings are  
8 hardly a prudent method to provide adequate oversight for actual decommissioning.

### **SONGS Unit 1**

9 The SONGS Unit 1 decommissioning project is an example of very poor oversight and  
10 record keeping – so poor in fact, that at this point, it is not possible to learn much from this  
11 project. The Commission provided very minimal oversight and all the records are now  
12 essentially lost, since SCE used tracking and accounting software written in-house, which is  
13 now conveniently unusable to retrieve data in response to data requests during the current  
14 NDCTP<sup>1</sup>. To provide reasonable oversight of future decommissioning projects, having this  
15 historical record available would be beneficial. The fact that SCE cannot provide historical  
16 data on this project is a poor reflection on the propriety of this utility and the requirements for  
17 transparency exerted by the Commission, which are minimal.

18 During the SONGS Unit 1 Decommissioning, there was a presumption that if the  
19 project could be completed within the cost estimates previously generated by consultants and  
20 reviewed in the NDCTP, that the work by SCE to perform the work would be deemed  
21 "reasonable." This reasonableness standard has now changed to the "Reasonable Manager"  
22 standard, such that the project is only reasonable if a reasonable manager acted  
23 appropriately based on the information s/he had or should have had at the time. It is pretty

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1 NDCTP 2012 (A.12-12-012/013) Transcript Page 689, Line 1:

MR. LUTZ: Q I'm sorry. Page 4 of SCE-08, lines 8 and 9. It says: "As explained in the responses to data requests, SCE was unable to provide detailed records for each contingency draw down because the database that was used at the time is no longer fully functional." Do you see that sentence?

A (Optiz for SCE) Absolutely.

Q Okay. So my question is did SCE produce reports and extract data from the old system so that it could be available for access in the future?

A No, the system is partially decommissioned. There's some -- some information that's available, but, you know, all the cost records for Phase 1 -- and that's what that particular database was used for. Since it was litigated and judged as reasonable, when we found ourselves in a position where our cost accounting system was going to be replaced, we -- as you know, we went to SAP. We retired some of our older mainframe systems, and when we did that, all the linkages and some of the software to extract data out of it were decommissioned. So I have limited access, but I don't have a full set of reports and everything that the system could have provided.

Q Was the UIDCOM -- do you happen to know was that made by yourselves?

A It's a homegrown system.

1 clear that this could be renamed "ignorant manager" because the utility constantly argues that  
2 they know almost nothing about the industry in which they find themselves, and can produce  
3 almost no documentation of any decision this corporation ever makes.

4 At this point, Phase 1 of the SONGS 1 decommissioning project is considered  
5 "completed" even though some tasks are still incomplete, such removal of the reactor  
6 pressure vessel (RPV) from the site, and there is no clear path forward to do so.

### ***Independent Panel and the use of Advice Letters***

7 In 2011, after the vast majority of work was already completed in the decommissioning  
8 process for SONGS 1, the Commission published Decision (D.) 11-07-003 on July 14, 2011,  
9 entitled: "Decision Adopting Recommendations Of The Independent Panel On Nuclear  
10 Decommissioning Costs, Estimates, Assumptions, And Format"<sup>2</sup>

11 This decision provided a method for expressing information about the various plants so  
12 they could be more conveniently compared, as well as steps to improve the oversight  
13 available for the Humboldt Unit 3 decommissioning project, utilizing the "Advice Letter"  
14 procedure already in use by the Commission for other purposes<sup>3</sup>.

15 At Page 37 of this decision, the Commission described problems with the process  
16 used in SONGS 1 and proposed a new method based on Advice Letters, to be used in the  
17 Humboldt Bay Power Plant Unit 3 Decommissioning project, as follows:

### **8. Transparency of Major Decommissioning Expenditures**

To date, the Commission has only its experience with the decommissioning of SONGS 1 as a basis to develop its methods for exercising oversight of the utilities' decommissioning activities. PG&E, as its own contractor, has recently begun to decommission Humboldt Bay Power Plant and has used Advice Letters to communicate with the Commission about its activities. The procedures followed by PG&E and SCE for SONGS are different due to a lack of direction from the Commission. Further, PG&E's Advice Letters have not contained all of the information necessary for the Commission to adequately or promptly review how closely actual costs are following estimated costs during the major decommissioning phase where the vast majority of activities and expenses occur. We think this is an essential part of our oversight and waiting for triennial review

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2 [http://docs.cpuc.ca.gov/PublishedDocs/WORD\\_PDF/FINAL\\_DECISION/139321.PDF](http://docs.cpuc.ca.gov/PublishedDocs/WORD_PDF/FINAL_DECISION/139321.PDF)

3 CPUC General Order 96-B -- General Rules govern advice letters and information-only filings submitted to the Commission by public utilities that are gas, electrical, telephone, water, sewer system, pipeline, or heat corporations, as defined in the Public Utilities Code. -- [http://docs.cpuc.ca.gov/word\\_pdf/GENERAL\\_ORDER/164747.pdf](http://docs.cpuc.ca.gov/word_pdf/GENERAL_ORDER/164747.pdf)

after hundreds of millions of dollars may be spent, perhaps well in excess of what has been previously estimated, is unreasonable.

Therefore, at the March 14, 2011 evidentiary hearing in Phase 2 of this proceeding, representatives of the utilities agreed to meet with Energy Division to discuss the Advice Letter process for notice and authorization to withdraw funds from the nuclear decommissioning trust funds. PG&E agreed to a periodic Advice Letter process under Tier 2 to request approval for anticipated trust fund disbursements and which will include, inter-alia, specific information about the activities, prior cost estimates, actual costs, and whether trust fund reimbursement has been obtained. A description of the process and contents of the Advice Letters is attached hereto as Attachment B.

SCE and SDG&E expressed their preference to not have this process apply to SONGS 1 until Phase 3 and commencement of SONGS 2 and 3 decommissioning. We agree at this time because the ongoing decommissioning expenses at SONGS 1 are minor, **giving the Commission time to evaluate the Advice Letter process for HBPP to determine whether it is appropriate and sufficient review before extending it to other decommissioning activities.** (Emphasis added.)

1 From the same decision, Conclusion of Law #2 is also relevant:

2. The Commission should establish the Advice Letter Process set forth in Attachment B for utilities to notify the Commission of decommissioning activities, expenses, and trust fund reimbursements related to nuclear decommissioning. **It is reasonable to first apply the process to PG&E, which has the only active decommissioning project within the Commission's jurisdiction, so the Commission may evaluate its efficacy for future decommissioning projects.** (Emphasis added.)

2 As is Ordering Paragraph #3:

3. Pacific Gas and Electric Company shall adhere to the Advice Letter Process set forth in Attachment B to notify the Commission of decommissioning activities, expenses, and trust fund reimbursements related to nuclear decommissioning of the Humboldt Bay nuclear power plant. During the major decommissioning phase, Pacific Gas and Electric Company shall file the Advice Letters at least once during each calendar year.

3 Attachment B of this decision provides the details for processing advice letters, specific  
4 to the Humboldt Bay Unit 3 decommissioning project (underlining added):

**Information to be Included in Nuclear Trust Fund Disbursement Advice Letter Filings**

Future advice letter filings will continue to be made on a periodic basis and in the

general format used for previous advice letters for Humboldt Bay Power Plant Unit 3. Humboldt Bay Power Plant Unit 3 advice letters will be made under Tier 2, and will request approval for anticipated Trust Fund disbursements. In addition, each advice letter will contain the following information:

- Summary of Previous Advice Letter Approvals and Trust Withdrawals
  - Previously identified activities
  - Amount previously requested for each activity
  - Actual expenditures
  - Total Trust disbursements
  - Comparison of any advances to actual expenditures
  
- Anticipated Disbursements
  - Activity
  - Amount estimated to be spent in next period
  - Correlation of cost to the most recent NDCTP cost study, including nominal dollar adjustment
  - Explanation for differences (amount and timing) from NDCTP cost study estimate (e.g. schedule accelerated)
  
- Comparison Chart
  - Graph tracking NDTCP forecast and actual decommissioning expenditures

As is the case presently, during the calendar year, PG&E would be able to seek reimbursement from the Trusts for up to the total amount authorized, i.e., PG&E could withdraw funds for a particular activity in excess of the annual request for that activity so long as the total disbursements were within the advice letter authorization. Any such variances would be identified in the next advice letter.

The format for the above information will be in the form of an excel spreadsheet, with the exception of any explanation, which will be in a narrative attachment.

### III. DISCUSSION

1       1.     **Advice Letter Process is better, but not sufficient**

2           The advice letter procedure prescribed in D.11-07-003 for the Humboldt Bay Unit 3  
3           Decommissioning does improve tracking and oversight over just the once-in-three-  
4           years NDCTP, but it is still not sufficient.

5           (a) **Too Rare:**

6           Advice letters are required to be submitted only once per year. A decommissioning  
7           project should be monitored on a month-by-month basis during critical intervals,  
8           where much of the work will be accomplished in a single year.

9           (b) **Compare with wrong cost estimates:**

10          There is no reference to the detailed and site-specific cost estimates required to be  
11          developed per NRC regulations, and which provide a means to more closely track  
12          spending being done on the project. Comparing with the conceptual estimates used  
13          in the NDCTP to determine an adequate funding level and investment strategy is of  
14          value, but those estimates are too rough and do not include completion times  
15          sufficient to track the actual project, plus they include a 25% contingency, which  
16          may not be necessary in the actual project, and can result in a "slush fund" with  
17          little control or oversight.

18          (c) **Was never intended for tracking construction, demolition, and  
19          decommissioning projects.**

20          There is no mention of this type of use -- i.e. construction, demolition, and  
21          decommissioning project -- in General Order 96-B. The California Public Contract  
22          Code (PCC) defines standard methods for conducting projects using either the  
23          traditional "design-bid-build" methodology or the alternative "design-build" method.  
24          These regulations establish mechanisms for similar projects with an eye toward  
25          lowest-cost and effective execution. The Advice Letter process does not include any  
26          of these procedures, such as Request for Proposal (RFP), competitive bidding,  
27          change order processing, escrow accounts, etc. that are normal in any public works  
28          project, and have been determined over many years of bitter experience<sup>4</sup>.

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4     See State Contracting Manual - Vol. 1 -- The State Contracting Manual (SCM), Vol. 1 is provided as a resource to those in California state government who are involved in the state's contracting process. It provides the policies, procedures and guidelines to promote sound business decisions and practices in securing necessary services for the state.  
<http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx>

1 The method proposed to be employed by this Commission and SCE in this case is  
2 a sole-source contract, where SCE is contracting with itself, and has nearly  
3 unlimited access to funds to spend them as it wishes, with a limited report provided  
4 after-the-fact. This provides very little, if any, opportunity for real oversight to ensure  
5 the public funds are not lost to waste, fraud, or abuse.

**2. Advice letter process was not explicitly approved for SONGS.**

6 The advice letter process as described in D.11-07-003 is explicitly approved only for  
7 the Humboldt Bay Power Plant Unit 3 decommissioning project on an experimental  
8 basis.

9 Per D.11-07-003 "Conclusion of Law #2": "It is reasonable to first apply the process to  
10 PG&E, which has the only active decommissioning project within the Commission's  
11 jurisdiction, so the Commission may evaluate its efficacy for future decommissioning  
12 projects."

13 Unfortunately, the commission has not evaluated its efficacy and SCE is proposing to  
14 start using the same process without any evaluation or explicit direction to do so by the  
15 Commission.

**3. SCE is asking for more than is necessary for the planning process, PSDAR and Detailed cost estimates.**

16 SCE is asking for \$214 million, but at this point SCE should only be requesting funds  
17 sufficient to plan decommissioning, which is listed by SCE in their Advice Letter  
18 Attachment A as \$14 million (through 2014), and that is extremely generous. Instead,  
19 SCE attempts to lump all kinds of costs into this advice letter, including costs for  
20 employees that are not even directly connected with SONGS, the "non-SONGS  
21 personnel."

**4. SCE is attempting to treat this as one massive project, and not a project with identifiable phases and components that can be individually tracked.**

22 SCE hopes to keep the project as "one big chunk" so it will be difficult to determine  
23 what is going on. There is no attempt to correlate these costs to tasks identified in the



1 conceptual project plan as provided for use by the NDCTP to estimate the costs<sup>5</sup>, and  
2 detailed plans have not been completed. SCE should be required to request funds in  
3 relation to these plans, and break costs out according to the plan, as opposed to the  
4 "one big project" approach which will eliminate the ability for the Commission, the  
5 public, and other stakeholders to determine if SCE is doing work in relation to the  
6 money spent, or if they are using it for unrelated purposes.

7 The requests as outlined in Attachment 1 and 2 of the Advice Letter are a perfect  
8 example of why contracting is never done this way. This allows SCE to rip off the public  
9 of millions because there is no way to correlate what is being done and the funds used.

**5. SCE misallocates the funds so more is allocated for non-radiological uses.**

10 At Page 10 of the Advice Letter, Table 1, (see Illustration 1) SCE analyzes the amount  
11 of the funds in the trust to be allocated for the various purposes.

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5 The NDCTP estimates were prepared by ABZ, a consultant firm contracted to generate unit-based "conceptual level" cost estimates that may be site-specific, but are inadequate for use in managing the actual project. These estimates tend to be overly generous, and include a 25% contingency, which is argued is necessary because the planners don't know enough about the specifics of the project before detailed planning and before it is started. ABZ prepared a cost study in 2012, and then a subsequent July 2013 plan, which included the assumption of an early shutdown of SONGS. These studies are primarily intended to be used only to estimate adequate funds in the trust funds to cover the entirety of the decommissioning project.

According to A12-12-012/013 SCE-02 "SCE Testimony On The Nuclear Decommissioning Of SONGS 2 & 3 And Palo Verde" Page 7, Lines 7-12: "The cost estimates contain reasonable estimates of the scope and cost of future work to set aside sufficient funds. These cost estimates are not based on detailed planning studies because these decommissioning activities are not expected to be performed until many years in the future. The Utilities are not presently adopting the schedules or sequences of activities embedded in the estimates for any purpose other than for cost estimation."

And A12-12-012/013 SCE-08 "SCE Rebuttal Testimony On the Nuclear Decommissioning Of SONGS 1, 2 & 3 And Palo Verde, Page 26, Lines 14-22 "As previously stated, SCE is currently developing an updated decommissioning plan that will provide comparable or greater detail than the cost estimates already submitted in this NDCTP. This updated decommissioning plan, however, will not, and cannot possibly, be used as a cost baseline for the entire project, which may take decades to complete. It will be a conceptual study based on the best currently available industry knowledge and forecasting methodologies. It will not, however, be based on detailed engineered plans for each decommissioning activity, and will not be informed by actual contract pricing for specialty vendors and other services retained for the performance of the various decommissioning activities, because that level of detailed information will not yet be available when that study is developed."

(Where SCE meant that the entire project may take decades to complete rather than the updated decommissioning plan.)

**Table 1**  
**Designation of Decommissioning Costs by ABZ Category**  
**(SCE Share)<sup>17</sup>**  
**\$ in Millions, 2013\$**

|                             | Latest NDCTP<br>Estimate<br>100% Level | SCE Share* | Calculated<br>Value | Breakdown of Trust<br>Fund** Using<br>Calculated Value |
|-----------------------------|--|------------|---------------------|--|
| SONGS 2                     |  | 75.7363%   |                     |  |
| License Termination         | 849,547                                | 643,415    | 43%                 | 567,132  |
| Site Restoration            | 436,725                                | 330,759    | 22%                 | 291,544  |
| Fuel Storage                | 686,292                                | 519,772    | 35%                 | 458,148  |
| Total                       | 1,972,564                              | 1,493,947  | 100%                | 1,316,824  |
| SONGS 3                     |  | 75.7475%   |                     |  |
| License Termination         | 829,091                                | 628,016    | 38%                 | 569,761  |
| Site Restoration            | 606,393                                | 459,328    | 28%                 | 416,720  |
| Fuel Storage                | 724,291                                | 548,632    | 34%                 | 497,741  |
| Total                       | 2,159,775                              | 1,635,976  | 100%                | 1,484,221  |
| Grand Total                 | 4,132,339                              | 3,129,923  |                     | 2,801,045  |
| * Share as of shutdown      |  |            |                     |  |
| ** 7/31/2013 Trust Balances |  |            |                     |  |

*Illustration 1: Table 1 of SCE Advice Letter 2968-E*

1       However, this analysis under-allocates for the required estimate for radiological  
2       decommissioning (which includes all decommissioning including the final License  
3       Termination phase, making this title somewhat misleading, and the title should say "in  
4       thousands" not "in millions"). According to the ABZ estimate<sup>6</sup>, the cost for this phase is  
5       estimated to be \$(849 + 829 = 1,678) million, with SCE share being \$(643 + 628 =  
6       1271) million. However, SCE allocates only \$(567 + 569 = 1136) million for these  
7       purposes, or \$135 million short. This may be in violation of NRC requirements because  
8       SCE has not completed the planning required by NRC regulations. Allocating a lower  
9       amount than was included in estimates previously generated by SCE is done without  
10      any rationale, but only because they have not collected the total amount that was  
11      originally estimated due to early shutdown.<sup>7</sup>

6    See Footnote 5, this is the NDCTP estimate in Illustration 1.

7    10 CFR 50.75 "Reporting and recordkeeping for decommissioning planning." includes the following passage:  
(4) Each non-power reactor licensee shall at or about 2 years prior to the projected end of operations submit a preliminary decommissioning plan containing a cost estimate for decommissioning and an up-to-date assessment of the

1           Consequently, the amounts for the other categories are over-allocated.

2           Again, SCE should provide the detailed plans for this spending rather than this  
3           ridiculous “analysis” using only three categories.

**6.     Fuel Storage should be allocated from DOE Nuclear Waste Funds**

4           SCE and other utilities which operate nuclear reactors and Independent Spent Fuel  
5           Storage Installations (ISFSIs), regularly and routinely litigate with the U.S. Department  
6           of Energy (DOE) regarding costs to build, operate, and transfer spent fuel to the ISFSIs  
7           that are co-located at nuclear plants. In a recent lawsuit, they recovered 97% of these  
8           costs. The Advice Letter does not address the recovery of these costs and crediting the  
9           decommissioning fund.

**7.     The use of the Advice Letter to institute a new balancing account is improper**

10          SCE proposes a new balancing account, the “SONGS Operations and Maintenance  
11          (O&M) Balancing Account” (SOMBA) to record the difference between actual SONGS  
12          2&3 O&M expenses, trust fund disbursements, and the authorized SONGS 2&3 O&M  
13          expenses included in customer rates.

14          First, this assumes that customer rates should be involved at all. The decommissioning  
15          process should be wholly and completely funded by the decommissioning trust funds,  
16          with the exception of some transitioning costs that may be funded by customer rates,  
17          as determined by the Commission in I.12-10-013 into the SONGS outage.

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major factors that could affect planning for decommissioning. Factors to be considered in submitting this preliminary plan information include—

(i) The decommissioning alternative anticipated to be used. The requirements of § 50.82(b)(4)(i) must be considered at this time; [possible delay of decommissioning for public safety.]

(ii) Major technical actions necessary to carry out decommissioning safely;

(iii) The current situation with regard to disposal of high-level and low-level radioactive waste;

(iv) Residual radioactivity criteria;

(v) Other site specific factors which could affect decommissioning planning and cost.

(5) If necessary, the cost estimate, for power and non-power reactors, shall also include plans for adjusting levels of funds assured for decommissioning to demonstrate that a reasonable level of assurance will be provided that funds will be available when needed to cover the cost of decommissioning.

1 The establishment of such a balancing account and the mechanisms for the use of  
2 funds from customer rates should not be slapped into place by the simple mechanism  
3 of the Advice Letter. This is far beyond what the Advice Letter is envisioned to be used  
4 for.

**8. This Advice Letter circumvents normal processing in other proceedings, which are now in process, or should be in process.**

5 Nowhere in the Advice Letter is there any mention of the other formal proceedings  
6 which are now in process before the Commission. The Advice Letter attempts to  
7 circumvent these proceedings, and establish a way to handle the decommissioning  
8 process before the other proceedings have had their proper input into the situation.

9 In fact, briefs are now being drafted for the current NDCTP, which included references  
10 to the Advice Letter process.

**9. The advice letter process does not provide a means for intervenors to request or require an evidentiary hearing.**

11 Other than a protest of this nature, there is no formal process for intervenors or  
12 members of the public to be able to conduct the normal procedures that are included in  
13 other Commission proceedings, such as discovery and cross-examination, so as to at  
14 least understand what SCE is proposing. This proposal goes far beyond even what  
15 was disclosed in the NDCTP, which is the proceeding where the plans and actual costs  
16 of decommissioning are supposed to be reviewed.

17 The Commission should reject the Advice Letter on this basis alone.

**10. The advice letter is premature. SCE should complete the PSDAR and detailed cost analysis before asking more than the funds to perform those studies.**

18 Most importantly, the Advice Letter is premature. As mentioned in the Advice Letter, Section  
19 2.01(7) of the Qualified and Non-Qualified Master Trust Agreements further state:

One year prior to the time decommissioning of a Plant or Plants is estimated to begin, the Company shall apply for CPUC approval of the estimated cost and schedule for decommissioning each Plant or Plants. Upon approval of the cost and schedule for decommissioning each Plant or Plants, the CPUC shall authorize

Interim Disbursements from the applicable Fund to pay  
Decommissioning Costs.

1 Although it is true that SCE does not have the luxury of performing these actions prior  
2 to actual shutdown, (such as the speculation that it would be done five years in  
3 advance), the Master Trust agreements state that the company must have the  
4 estimated cost and schedule completed BEFORE applying for funds. According to SCE  
5 in the Advice Letter,

"Under the sequence of events that was previously contemplated,  
SCE would have submitted a site-specific decommissioning  
activities plan and detailed cost estimate for review by NRC<sup>8</sup> and  
approval by this Commission at least five years prior to the  
expiration of the operating licenses."<sup>9</sup>

6 So again, we see that the proper course of events is for SCE to first PLAN before  
7 DOING. SCE wants to turn these plans on their heads, and start to spend \$200 million  
8 more than necessary without an approved PLAN.

#### IV. CONCLUSION

9 SCE Advice Letter 2968-E is inappropriate, premature, excessive, and circumvents  
10 the Commission proceedings currently in process. The Advice Letter procedure is insufficient  
11 for the public, stakeholders, and the Commission to provide adequate oversight. The plans of  
12 SCE have not been developed, and instead, SCE wants approval of \$200 million more than  
13 necessary for a project without detailed planning and without detailed costs estimates, and  
14 they want to treat it as one big project, uncorrelated with the plans outlined in the NDCTP.  
15 See CDSO's RECOMMENDED COMMISSION ACTIONS in Section V.

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8 10 CFR 50.75 Reporting and recordkeeping for decommissioning planning. <http://www.nrc.gov/reading-rm/doc-collections/cfr/part050/part050-0075.html>

9 Advice Letter 2968-E, at Page 3.

## V. RECOMMENDED COMMISSION ACTIONS

1 CDSO recommends that the Commission take the following actions.

### 2 1. **REJECT ADVICE LETTER SCE 2968-E.**

3 Based on the numerous deficiencies and illegalities described above, the Commission  
4 must reject Advice Letter SCE 2968-E. SCE should submit an application.

### 5 2. **DIRECT THAT SCE REQUEST AMOUNTS FOR PLANNING ONLY.**

6 The Commission should direct that SCE request only those funds sufficient for  
7 planning purposes, to produce the Post Shutdown Activities Report (PSDAR), detailed  
8 decommissioning project plan and cost estimates, and spent fuel management plans.  
9 These plans should be reviewed by the NRC and any and all questions by the NRC  
10 answered by SCE prior to any additional funding approvals.

### 11 3. **REQUIRE THAT PLANS BE PARTITIONED INTO DISCRETE STEPS OR PHASES**

12 Decommissioning plans must be resolved into a number of discrete phases or steps,  
13 so that each phase can be completed and confirmed as completed, and cost estimates  
14 compared with funds utilized.

### 15 4. **REQUIRE THAT CHANGES BE DESCRIBED, REVIEWED, AND APPROVED.**

16 Each request for funds should require reconciliation with the estimates provided for  
17 that particular phase. If additional funds are required for a given phase, that change  
18 should be described and the Commission, the public, stakeholders, and intervenors  
19 should have an opportunity to ask questions, and if necessary request a hearing  
20 regarding those changes.

### 21 5. **COMPARE FUNDS SPENT WITH THE DETAILED COST ESTIMATE**

22 The decommissioning project should use the detailed cost estimates, and not the  
23 rough estimates provided for fund allocation in the NDCTP.

1       **6. USE OF ADVICE LETTER PROCESS AND ANY NEW BALANCING ACCOUNTS**  
2       **MUST UTILIZE FULL PROCEEDING PROCESS FOR REVIEW**

3       The various suggestions by SCE to approve the use of Tier-2 Advice Letters for future  
4       requests and the SOMBA balancing accounts, are inappropriately using the Advice  
5       Letter procedure. These decisions require the full proceeding process, including the  
6       opportunity for intervenors to perform discovery, cross-examine witnesses, and provide  
7       their briefs on the matter. The concept that these can be established using just the  
8       Advice Letter process flies in the face of the proceedings that are now in process, such  
9       as the San Onofre OII I.12-10-013 and the current NDCTP, A.12-12-012/013.

10       We believe the SOMBA account is inappropriate as it allows co-mingling of ratepayer  
11       funds and decommissioning funds. Ratepayer funds should only be used for non-  
12       decommissioning costs.

13       If the Advice Letter process is used to provide oversight of the decommissioning  
14       process, then they should be produced once every quarter during Phase 1 of the  
15       decommissioning process.

16       **7. CONSIDER WORKING WITH OTHER STATE AGENCIES TO DESIGN AN**  
17       **APPROPRIATE DECOMMISSIONING PROJECT MANAGEMENT METHODOLOGY**

18       A number of state agencies are practiced in the art of contract generation and  
19       management, including conducting competitive bidding<sup>10</sup>. The Commission should  
20       consider working with these agencies to help avoid waste, fraud, and abuse that may  
21       result from the **open-loop procedures** that have historically been used by the  
22       Commission for these activities<sup>11</sup> that are outside the service paradigm commonly used  
23       by the Commission for energy generation and distribution services.

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10 See State Contracting Manual - Vol. 1 -- The State Contracting Manual (SCM), Vol. 1 is provided as a resource to those in California state government who are involved in the state's contracting process. It provides the policies, procedures and guidelines to promote sound business decisions and practices in securing necessary services for the state.  
<http://www.dgs.ca.gov/ols/Resources/StateContractManual.aspx>

11 The term "open loop" is used to describe the methodology used in SONGS Unit 1 decommissioning where almost no oversight was provided, and the only check was whether the costs incurred fell below the conceptual estimates. This is compounded by the fact that many steps remain incomplete in the SONGS Unit 1 decommissioning, and all records are now inaccessible.

1       **8. ESTABLISH A CITIZENS OVERSIGHT PANEL**

2       As CDSO has recommended in its testimony in the current NDCTP that the  
3       Commission should establish a "Citizens Oversight Panel", similar to the bond  
4       oversight committees now commonly established for oversight of school district or  
5       hospital district bond and construction projects. Our 501(c)(3) organization, Citizens  
6       Oversight, is willing to provide an umbrella for this purpose and solicit members from  
7       the community so as to review the ongoing decommissioning plans, expenditures, and  
8       trust fund transfers<sup>12</sup>. A similar community advisory board has been established with  
9       respect to the Humboldt Bay Power Plant decommissioning project with respect to Unit  
10      3 of that plant.<sup>13</sup>

11      There is no reason to reinvent the wheel. Situations similar to the oversight required  
12      here have been frequently encountered at other levels of government. The California  
13      League of Bond Oversight Committees<sup>14</sup> is primarily focused on best practices and  
14      guidelines for school or hospital district bond oversight committees, but other than the  
15      name and type of monies involved, the actions of these oversight bodies are precisely  
16      what is needed to ensure prudent management of ratepayer-funded Decommissioning  
17      Trust Funds.

18      In all cases, there is a large fund which the public expects is properly acquired,  
19      invested and expended for the benefit of the community. These similar cases include  
20      fund and contract management, and review of detailed plans and construction  
21      activities. Arguably, hospital special districts deal with construction projects with similar  
22      levels of detail and technical concerns as exists in the decommissioning of a nuclear  
23      power plant, and so the model can work just as well here as it does in those situations.

24      Use of such an independent Citizens Oversight Panel (COP) of volunteers who have  
25      the proper background to provide oversight and timely review can efficiently and  
26      effectively improve oversight of decommissioning and spent nuclear fuel management  
27      over the many decades these activities will likely continue. A COP typically meets on a

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12 See CDSO Testimony in A.12-12-012/013 as Exhibit CDSO-20:  
<http://www.copswiki.org/w/pub/Common/M1386/A1212013-CDSO-ReplyTestimonyFIN.pdf>, at pp. 9-11 and Appendix  
B.

13 See Attachment 1 for a description of the Community Advisory Board from the HBPP website.

14 <http://www.calboc.org/>



1 monthly basis (if not more often) to review the details of the decommissioning process  
2 and the many issues that will likely arise.

3 The concept that SCE will act as its own contractor is a big difference in the Bond  
4 Oversight Committees mentioned for school and hospital boards and what is proposed  
5 here, and underscores the need for detailed and a priori oversight. Typically, such an  
6 oversight panel insures that subcontracting is done fairly and cost effectively. If SCE  
7 proposes that they handle the contract, reasonable manager decision making would  
8 include requesting and accepting multiple bids from outside contractors. The oversight  
9 body would review contracts and change orders for decommissioning plans. If there  
10 are concerns, they would be escalated for review by the CPUC.

11 Even if SCE continues to operate as their own contractor, the COP can ensure that the  
12 work is clearly defined and costs seem reasonable. When changes occur, and they  
13 always do, then these are handled as change orders, which if they exceed a  
14 reasonable threshold, are reviewed in advance by the COP.

15 The utilities have objected to the notion of retroactively micromanaging activities, and  
16 we understand the difficulty because the retroactive nature of this process makes it  
17 hard to understand what was known at the time. However, the use of a COP which can  
18 review contracts, change orders, and other issues that arise on a real-time and *a priori*  
19 basis would render the retroactive nature of the existing “reasonableness review”  
20 process largely unnecessary, and is harmonious with the reasonableness standard:

21 [W]e define the reasonableness for decommissioning expenditures  
22 consistent with prior Commission findings; i.e. that the reasonableness of  
23 a particular management action depends on what the utility knew or  
24 should have known at the time that the managerial decision was made.<sup>15</sup>

25 The use of a COP to review such management actions protects all parties. If the COP  
26 reviews a proposed action and finds it reasonable, then the utility will have an  
27 expectation that the action will also be considered reasonable by the Commission, and  
28 extended proceedings to resurrect past actions will be averted. On the other hand, if  
29 the COP reviews the proposed action and considers it to be unreasonable, then the

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15 D.10-07-047 at Page 45

1 COP and/or the utility can escalate it for review by the Commission prior to the utility  
2 taking the action.

3 A COP to provide oversight for decommissioning activities may also review trust fund  
4 management that is typically processed in Phase 2 of the NDCTP proceedings, and all  
5 parties can benefit from *a priori* and timely review rather than retroactive review. (See  
6 D.10-07-047, at Page 2.)

7 Please see the Testimony by Barry Jantz, CEO of the Grossmont Healthcare District  
8 with respect to the Independent Citizens Bond Oversight Committee (ICBOC) which  
9 they have experience with, provided in Attachment 2.

Respectfully submitted,

--/s/--

Martha Sullivan and

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--/s/--

Raymond Lutz, on behalf of

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## **ATTACHMENT 1 - HBPP Community Advisory Board**

1           The following text is extracted from the Humboldt Bay Power Plant website at this  
2 URL: <http://www.pge.com/en/about/environment/pge/minimpact/humboltdbay>

3           This illustrates the use of a body similar to the COP as proposed by CDSO to improve  
4 oversight of decommissioning spending and activities. This body is not an independent body  
5 as it is chaired by PG&E's HBPP manager Loren D. Sharp.

### **Community Advisory Board (CAB)**

The HBPP Community Advisory Board meets regularly to provide a public perspective on plant activities. PG&E would like to thank the following people for their participation.

- **Rex Bohn**, 1st District Supervisor, Humboldt County Board of Supervisors
- **John Driscoll**, Field Representative, The Office of U.S. Representative Jared Huffman
- **Mariann Hassler**, Carpenters Local 751
- **Jessica Hall**, Executive Director, Humboldt Baykeeper
- **Michael Manetas**, HSU Environmental Resources Engineering Dept., Retired
- **Matthew Marshall**, Executive Director, Redwood Coast Energy Authority
- **Dave Meserve**, Former Arcata City Council Member
- **Paul Meyers**, Superintendent/Principal, South Bay Unified School District
- **Holly Nash**, Humboldt Hill Resident
- **Ross Nash**, Board Member, South Bay Union School District
- **Julie Owens**, King Salmon Resident
- **Jimmy Smith**, Former 1st District Supervisor, Humboldt County Board of Supervisors
- **Dr. Angus Stewart**, King Salmon Resident
- **Donna Stoneman**, Former Humboldt Hill Resident
- **Don Tuttle**, Humboldt County Dept. of Public Works, Retired
- **Michael Welch**, Redwood Alliance

## ATTACHMENT 2 - TESTIMONY BY BARRY JANTZ

1 The following questions were asked of Barry Jantz, Chief Executive Officer, Grossmont  
2 Healthcare District (GHD), regarding their Independent Citizens Bond Oversight Committee,  
3 which is similar to the Citizens Oversight Panel CDSO has proposed for use by the CPUC.

4 **Q: Please state your name and business address for the record.**

5 Barry Jantz, Chief Executive Officer, Grossmont Healthcare District (GHD) - 9001  
6 Wakarusa St, La Mesa, CA 91942, phone 619-825-5050, email  
7 biantz(Sjgrossmonthealthcare.org)

8 **Q: What is your academic background and professional qualifications?**

9 Bio excerpts...

10 Barry Jantz is the CEO of the Grossmont Healthcare District and a former member of  
11 La Mesa City Council. He serves on the board of directors of the San Diego East County  
12 Chamber of Commerce, as vice chairman/treasurer of the San Diego County Taxpayers  
13 Association, and as immediate past chairman of the East County Economic Development  
14 Council.

15 Barry's academic background includes journalism, political science and construction  
16 management practices at Grossmont Community College and San Diego State University  
17 (SDSU). He wrote for the Grossmont College G and SDSU's The Daily Aztec. He was  
18 inducted into the Grossmont College Walk of Fame in 2004.

19 Starting as a carpenter apprentice and casework designer and eventually becoming  
20 the financial services manager of the Facilities Development Department, Barry worked for  
21 Kaiser Permanente in San Diego from 1980-1999

22 Jantz ran successfully for La Mesa City Council in 1990. Winning in three subsequent  
23 re-elections, he served as vice mayor four times during his 16 years on the council. He  
24 represented La Mesa on the boards of the San Diego Association of Governments, Heartland  
25 Communications Authority and Mission Trails Regional Park.

26 He formed Jantz Communications in 2000, specializing in government affairs and  
27 media relations. From 2001 to 2004, Jantz served as district chief of staff to California State

1 Assemblyman Jay La Suer.

2 In late 2004, Jantz was appointed chief executive officer of the Grossmont Healthcare  
3 District, a public hospital district in East San Diego County, after serving as its community  
4 relations consultant, managing the annual grants program since 2000. Under his guidance, in  
5 2006 the District passed a \$247 million bond measure for improvements at Grossmont  
6 Hospital, achieving 77.8 percent of the vote.

7 **Q: What is your current position at the Grossmont Healthcare District (GHD) and**  
8 **how long have you been in that position?**

9 Chief Executive Officer since December 2004.

10 **Q: What are your duties in this position?**

11 Report to and administer the public meetings of the elected Board of Directors of the  
12 Grossmont Healthcare District. Management of GHD staff, construction project  
13 management staff and miscellaneous consultants for the administration of all District  
14 programs, including operations of a community healthcare library and 65-seat conference  
15 center, a \$2 million per year community grants program, a \$247 million ongoing bond-funded  
16 construction program, administration of the Independent Citizens' Bond Oversight Committee,  
17 all related government and community activities, and oversight and a possible extension of  
18 the 30-year-lease of Grossmont Hospital.

19 **Q: Please describe the general nature of the GHD, the board of directors and its**  
20 **relationship with Sharp Healthcare in the operation of the hospital and facilities.**

21 The Grossmont Healthcare District (GHD) is a public agency that supports health-  
22 related community programs and services in San Diego's East County region. The tax-  
23 supported District was formed in 1952 to build and operate Grossmont Hospital, and today  
24 serves as landlord of the hospital, including ownership of the property and buildings on behalf  
25 of local taxpayers. The District is governed by a five-member board of directors, each elected  
26 to four-year terms, who represent more than 500,000 people residing within the GHD's 750  
27 square miles in San Diego's East County.

28 In 1991, GHD entered into a 30-year lease with Sharp HealthCare (via the Grossmont  
29 Hospital Corporation) for the operation of Grossmont Hospital. The lease ensures the District

1 has one-third of the seats on the hospital corporation board, as well as the unilateral authority  
2 to approve any Sharp requested changes to critical, core hospital services.

3 Grossmont is the only healthcare district in the state allowed through legislation to  
4 consider an extension of its 30 year hospital lease (Assembly Bill 1155, 2005), which would  
5 require a vote of the district residents.

6 In 2006 the voters approved \$247 million in general obligation bond improvements,  
7 financed over 30 years, to benefit Grossmont Hospital. GHD's role is critical in ensuring not  
8 only the completion of construction, but also that the approved tax monies are collected and  
9 administered efficiently to pay off the debt on the projects. The construction is currently  
10 underway and managed directly by GHD.

11 The working relationship between Grossmont Healthcare District and Sharp  
12 HealthCare provides both entities the ability to provide health benefits to the public at a level  
13 that neither one could do so on its own. The District's \$247 million in voter-approved bonds is  
14 augmented by approximately \$183 million in Sharp dollars, in addition to Sharp's ongoing  
15 maintenance to and improvement of the facilities.

16 **Q: Please describe the bond(s) authorized by the voters and the intended**  
17 **purpose for those funds. What was the approval percentage of the ballot measure,**  
18 **when was it approved, etc?**

19 Proposition G is a \$247 million general obligation bond placed on the ballot by the  
20 Grossmont Healthcare District (GHD) Board of Directors, and passed by 77.8 percent of the  
21 voters on June 6, 2006 (one of the highest percentages ever achieved on a measure in San  
22 Diego County). The approval of Proposition G authorized GHD to issue and sell bonds to  
23 provide projects consisting of the improvement, acquisition, construction and renovation of  
24 facilities for hospital and health care purposes on the Grossmont Hospital and District  
25 campuses. This includes projects specified in the Grossmont Hospital Facilities Master Site  
26 Plan. (The full bond language is available upon request.)

27 The construction, currently underway, includes the completion of a new 90-bed critical  
28 care wing, a new state of the art Heart and Vascular Center and an energy-efficient Central  
29 Energy Plant, including a new Cogeneration Unit which will provide 95 percent of the  
30 electrical needs of the hospital and reduce nitrogen oxide emissions by 90 percent.

1           **Q: Describe the Independent Citizen Bond Oversight Committee (ICBOC) in**  
2 **terms of its intended purpose.**

3           In order to ensure that bond funds are spent in an efficient manner as outlined in  
4 Proposition G, the GHD Board of Directors desired that an effective and functional oversight  
5 committee be in place. The Independent Citizens' Bond Oversight Committee (ICBOC)  
6 represents the community and is appointed by the GHD Board of Directors, while operating  
7 independently. The ICBOC is intended to provide accountability for expenditures made from  
8 Proposition G bond revenues. In addition, the ICBOC's intent is to function in an independent  
9 and open manner to ensure that the intent of the voters as set forth in the ballot measure is  
10 effectively implemented. The role of the ICBOC is to represent, advocate and promote the  
11 interests of the District residents. It is important to note that the purpose of the ICBOC is to  
12 monitor and evaluate the expenditure of bond revenues on behalf of the public, not the design  
13 or management of construction projects.

14           **Q: Prop 39 allowed school bonds to be approved by less than a 2/3 majority,**  
15 **allowing approval by only 55%, as long as certain criteria were also provided, such as**  
16 **the establishment of an independent oversight committee. Is there a similar state**  
17 **statutory requirement for the ICBOC?**

18           There is no such requirement for bond oversight committees for other than school  
19 districts. Healthcare Districts and other special districts are required to pass bonds with a 2/3  
20 majority, and there is no related requirement to have a bond oversight committee in place.  
21 Special districts may, however, voluntarily opt to have a bond oversight committee in place, as  
22 we have done at the Grossmont Healthcare District.

23           **Q: What is the composition of the ICBOC in terms of members, the categories of**  
24 **qualifications and any compensation by the district? What is the term of service of**  
25 **those members?**

26           According to the ballot language, the ICBOC is to be comprised of at least nine  
27 members, each member to be selected by the GHD Board of Directors through a public  
28 application process and to serve without compensation. The GHD Board established the  
29 number of members at eleven.

30           Members of the ICBOC shall serve for not more than two full consecutive terms. All

1 members must reside within the Grossmont Healthcare District. The intent is to have one  
2 member representing each of the specified areas of expertise (listed below).

3 The ICBOC membership is to include:

4 At-Large Positions (3) One (1) individual from each of the following three (3) categories  
5 with extensive experience in:

6 Project management - The chief executive officer or person in a similar senior-level  
7 decision making position, of a major private sector employer with demonstrated experience in  
8 leading a large organization.

9 Large-scale construction operations - A professional with demonstrated experience of  
10 ten years or more in the management of large-scale construction projects.

11 Finance - A professional in the field of municipal/public finance and/or budgeting with a  
12 minimum of ten years in a relevant and senior decision making position in the public or private  
13 sector.

14 Designated Positions (6) An individual nominated from current members of each of the  
15 following:

16 Sharp Grossmont Hospital Executive Management

17 Grossmont Healthcare District Board (Designee)

18 Professional staff of Sharp Grossmont Hospital (e.g. doctors, nurses and other  
19 professionals such as therapists and technicians)

20 Sharp Grossmont Hospital Auxiliary or Foundation

21 San Diego County Labor Council

22 San Diego County Taxpayers Association

23 It should be noted that of the above designated positions, the member does not need  
24 to be an employee of the entity making the nomination, but simply be nominated by the entity  
25 itself. In fact, to avoid conflicts of interest, the ICBOC bylaws note that "excluding the hospital  
26 professional staff, no individual employed by or who transacts business on a regular basis  
27 with the hospital, Sharp HealthCare or Grossmont Healthcare District may serve."



1 Of those above, the makeup should also include a member active in a taxpayers'  
2 organization, a member active in a senior citizens' organization, a member active in a  
3 business organization, and at least one nurse or physician

4 **Q: How are these members appointed to the ICBOC?**

5 Per the Board-adopted ICBOC bylaws, the GHD Board provides for appointing or  
6 reappointing the members of the ICBOC through the following process:

7 1. The District will solicit nominations and applications through press releases and  
8 appropriate District newsletters as it relates to proposed new members, and a written  
9 statement of intent to continue as a member as it relates to an existing member(s) who is  
10 qualified to serve an additional term.

11 2. The District CEO and the ICBOC Chairman will review the applications received and  
12 make recommendations to the full GHD Board. 3. The Board will review the recommendations  
13 and in a duly noticed public session of the Board will make a final decision regarding  
14 appointments.

15 **Q: Are the members considered "officials" or what? What is the technical nature**  
16 **of the body, is it considered to be advisory?**

17 The ICBOC reviews the processes of the GHD bond program and from time to time  
18 makes recommendations to the GHD Board. As the ICBOC has no expenditure authority, but  
19 can only make recommendations to the GHD and the Board, the body is advisory in nature.

20 **Q: Has it been difficult to find capable members for this body?**

21 For the most part, it has not been overly difficult to find members, but at times there  
22 have been singular difficulties with one or two vacancies. Since the initial appointments in  
23 2006 when there were more than enough applicants, a few time vacancies have taken some  
24 time to fill, as we have solicited via the media and other avenues with press releases more  
25 than once before those interested took note of the opportunity and applied for a position.  
26 Those applying have been very capable individuals.

27 **Q: What exactly does the ICBOC do? How often does it meet? How does it**  
28 **interface with the GHD Board and the project management firm(s) and building**  
29 **contractors?**

1           The ICBOC met initially every other month for the first two years of existence at a  
2 regular date, time and location publicized to the general public in advance. Thereafter, the  
3 ICBOC has met quarterly. The committee has established standing sub-committees to  
4 address specific issues, with those committees meeting in between the quarterly meetings as  
5 needed, some of them monthly.

6           GHD's contracted project management firm reports directly to the ICBOC membership  
7 on the progress and status of the projects. The ICBOC presents an annual public report to the  
8 GHD Board and some of the members attend Board meetings on occasion, with the ICBOC  
9 chairman attending Board meetings on specific items to be addressed to the Board. The  
10 ICBOC members are on the agenda distribution for all Board meetings.

11           Per adopted GHD Board resolutions and other subsequent Board actions, the ICBOC  
12 has the following responsibilities:

13           1. Engage independent auditors as an expense of the bond-funded program to  
14 conduct separate fiscal and performance audits of all bond-funded activities. Bond revenues  
15 shall be segregated and audited separately from all other Healthcare District funds.

16           2. Monitor the expenditure of bond revenues. The ICBOC shall have prior review of  
17 any proposed changes of the approved expenditures in excess of \$250,000. Such reviews  
18 shall be conducted in a timely manner and not cause delays in the project.

19           3. Assure that best practices are consistently observed and that bond revenues are  
20 used in the most efficient and cost effective manner possible.

21           Review and comment upon the financial status of the project and take special note of  
22 budgetary variances or changed circumstances at each meeting.

23           4. Participate in the on-going refinement of the project scope, setting of priorities and  
24 benchmarking of progress as it may relate to project execution.

25           5. Review and comment upon proposed debt financing and the process proposed for  
26 the issuance of bonded indebtedness.

27           6. Post agendas, minutes of meetings and all related documents on the District web  
28 site in compliance with the Brown Act.

1           7. Provide each committee member, no later than five (5) business days in advance of  
2 each meeting, a full set of documents including but not limited to project financial and  
3 progress reports, committee findings and recommendations and a detailed quarterly status  
4 update prepared by the Project Manager.

5           8. Prepare and distribute an annual report to the community summarizing the  
6 accomplishments of the year, related issues affecting the project, financial status and  
7 progress toward completion of the approved project. This report shall be published and sent  
8 to all publications and other forms of media within the District, elected officials within the  
9 District and interested parties. Committee members may append minority reports should there  
10 be dissenting views.

11           Authority: The authority delegated to the ICBOC by the District shall assure the  
12 committee sufficient access to required current information and individuals relevant to  
13 successfully fulfilling its responsibilities in a timely manner. Should the committee encounter  
14 errors, omissions or events that conflict with the stated and implied intent of ballot language,  
15 bond resolution, expenditure plan or ordinance, it shall promptly notify both the District Board  
16 Chairperson and the Sharp Grossmont Hospital CEO in writing. Should these matters not be  
17 resolved to the satisfaction of all parties within 60 days then the matter shall be referred to the  
18 full District Board for action in a regularly scheduled open meeting. Committee members may  
19 inspect all project records upon giving prior notice through the ICBOC Chairperson. Periodic  
20 site inspections shall be provided as appropriate and practical. Bidding solicitations, results  
21 and contract documents shall be made available for inspection to designated committee  
22 members.

23           **Q: Since the GHD is a special district, it must comply with the Brown Act. Does**  
24 **the ICBOC also comply with the Brown Act?**

25           There is not a State of California requirement for the ICBOC to comply with the Brown  
26 Act. However, the GHD Board's intent from the beginning of the panel was for it to comply  
27 with all aspects of the Act, and thus the bylaws require such compliance and the  
28 administration of the processes follows all such requirements. Specifically in an adopted  
29 Board resolution, "All proceedings must be open to the public and in compliance with the  
30 Brown Act and public records laws."

1           **Q: The ICBOC must have some costs in terms of general support, running a**  
2 **website, etc. How is this handled, and what have those costs been on a historical**  
3 **basis?**

4           Per GHD Board adopted resolution, "The committee shall be allowed a sum annually  
5 to provide for required technical consultants, legal counsel and studies, subject to the  
6 approval of an annual operating budget by the District Board and not to exceed \$100,000  
7 annually. The District and/or hospital shall provide reasonable clerical assistance, supplies,  
8 materials and publishing of the annual report as requested by the ICOC chairperson. The  
9 District shall be responsible for funding and publishing the annual audit of bond revenues &  
10 expenditures. The District and/or Hospital shall make appropriate space available for the  
11 committee to conduct public meetings."

12           Actual costs for the last few years:

13           FY 2007-08 \$32,944.51

14           FY 2008-09 \$48,283.57

15           FY 2009-10 \$64,020.67 (Independent performance audit was conducted this year,  
16 approximately \$30,000)

17           FY 2010-11 \$33,806.85

18           FY 2011-12 \$32,185.94

19           FY 2012-13 \$34,392.84

20           **Q: What exactly does it review? At what level do contracts and change orders go**  
21 **before the body for review?**

22           See details under the "What exactly does the ICBOC do?" question above. As noted  
23 therein, the ICBOC has authority for prior review of any proposed changes of the approved  
24 expenditures in excess of \$250,000. In addition, all change orders are reviewed by the  
25 ICBOC construction committee, which may ask for a report and explanation of changes at any  
26 amount to the full ICBOC membership.

27           **Q: Is the ICBOC effective? Can you cite any examples when the body did catch**  
28 **mistakes or misallocations of funds or any similar situation?**

1           Neither the ICBOC nor its auditors have identified any misallocation of funds. I don't  
2 recall the ICBOC noting any mistakes, but several process improvements have been  
3 recommended and implemented. Specifically, the ICBOC requested a third-party independent  
4 performance audit of program management processes, which resulted in a detailed report  
5 with several recommendations subsequently implemented by GHD. The ICBOC has also  
6 ensured appropriate expenditure of bond funds by requesting the GHD's bond counsel to  
7 provide a written opinion of some expenditures, which were deemed by bond counsel as  
8 appropriate. The ICBOC has been effective in this added level of scrutiny on behalf of the  
9 public.

10           **Q: Is the ICBOC "over burdensome" or otherwise difficult to work with in any**  
11 **respect? Does it substantially slow things down?**

12           The ICBOC is not difficult to work with. There are provisions in place to ensure the  
13 ICBOC's review of an item does not delay construction, but in all cases when an urgent  
14 review was required it has been possible to schedule a special ICBOC meeting as needed so  
15 as to not impact project schedules.

16           **Q: The state of California has numerous regulations on hospital construction**  
17 **and many other regulatory agencies exist that must be respected in terms of**  
18 **expenditures of bond funds on hospital construction projects. Does the ICBOC present**  
19 **any difficulties in terms of incompatibility with fulfilling these requirements, or does it**  
20 **help ensure that the regulatory requirements are fulfilled?**

21           The bond oversight committee neither presents any difficulties in fulfilling regulatory  
22 compliance nor helps with fulfilling such requirements. However, the members are informed  
23 as to the nature of such compliance and in turn have reporting the complexities of meeting the  
24 requirements to the public when compliance relate matters have impacted project schedules  
25 and costs.

26           **Q: To manage other public funds of a substantial amount, and even if there is no**  
27 **statutory requirement for the establishment of a Citizens Oversight Panel similar to the**  
28 **ICBOC at the GHD, do you feel it is prudent to establish an independent oversight**  
29 **panel to ensure the proper expenditure of funds provided by the public?**

30           Given the belief on the part of many in the public -- whether real or perceived -- that

1 some elected officials and government staff members could be using publicly approved  
2 dollars inefficiently, I believe it is prudent to establish an oversight group. An independent  
3 oversight panel provides an added level of confidence to the public that funds are being spent  
4 as promised. The added confidence is more than perception, as well, as the oversight  
5 committee members often bring real value and concrete suggestions to the process, an  
6 added benefit to many government agencies. Having a panel in place may result in an agency  
7 "erring" on the side of prudence and conservatism, as part of the decision-making process  
8 includes deliberative thinking about justifying and explaining expenditures to the oversight  
9 committee.

10 **Q: Given that there is some "burden" or operational overhead to establishing**  
11 **and running such a body, it is probably not appropriate to establish a body for**  
12 **oversight or funds below some level. At what level do you think a panel of this type is**  
13 **definitely inappropriate, and at what level do you think it should always be considered?**

14 That may very well depend on the circumstances. An agency with \$250 million in  
15 bonds may be costing the taxpayers less in assessments per household than a smaller  
16 agency with only \$15 million in bonds. Assessed valuations, number of assessed properties  
17 and size of a bond program all come into play to mean marked differences from one agency  
18 to the next. Every agency needs to make a policy decision in this regard based on their  
19 circumstances, but it would seem that the cost of running an oversight committee over the life  
20 of the bonds could be considered as a percentage of the overall bond program to determine a  
21 threshold at which the cost of the independent panel may be too costly, perhaps over five  
22 percent of the overall program costs.

23 **Q: The "California League of Bond Oversight Committees" is an association of**  
24 **mainly bond oversight committees related to school districts. Are you affiliated with**  
25 **this or another similar group that promulgates best practices for bodies like the**  
26 **ICBOC?**

27 We are not affiliated with the California League. We have sought and utilized input  
28 from other bond programs with oversight committees (healthcare districts, special districts,  
29 cities and schools), as well as sought out best practice information from time to time from  
30 organizations including the Association of California Healthcare District, California Special

1 Districts Association, and San Diego County Taxpayers Association.

2 **Q: Do you have anything you would like to add regarding this topic?**

3 The ICBOC has been of tremendous benefit to the public and to the Prop G bond  
4 program, via the added level of scrutiny on the processes of GHD and the resulting added  
5 level of trust on the part of the citizens that bond monies are being spent as promised.

6 END OF TESTIMONY BY BARRY JANTZ