

# Restraining order sought against PG&E, PUC in Fresno pipeline explosion

By Marc Benjamin

The fiery explosion of a gas pipeline at the Fresno County Sheriff's Foundation gun range as seen from a motorist driving on Highway 99.  
KEVIN LING — SPECIAL TO THE BEE

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- *Restraining order request seeks to keep pipeline from further destruction*
- *Pipeline is major piece of evidence, lawyers say*
- *Lawyers could agree to confidentiality if report is expedited*

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Lawyers for men injured in the April 17 Pacific Gas & Electric Co. pipeline explosion [are seeking a restraining order](#) against PG&E and the California Public Utilities Commission prohibiting the pipeline from being further damaged or destroyed.

The order sought by Fresno lawyers Butch Wagner and Warren Paboojian, who represent four inmates who were working on the Fresno Sheriff's Foundation gun range when the blast occurred, filed the request for a restraining order Wednesday seeking to prohibit PG&E and the state Public Utilities Commission from "doing any intrusive or destructive testing on the pipeline until all parties have had enough time to retain the appropriate expert to participate in the testing."

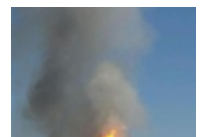
The lawyers also want an order that would allow videotaping of testing to offer an accurate record of the tests that can be preserved, and an order that would allow lawyers to participate in the testing process "without signing an agreement requiring the parties to keep confidential matters affecting public safety."

An inspection and testing of the pipe is scheduled Monday in Menlo Park at the laboratory for Exponent, a company retained by the state Public Utilities Commission.

But Wagner said he is uncomfortable with Exponent serving as the inspection firm, because PG&E has hired the company in the past.

"There is concern about the neutrality of the testing," Wagner said.

State Public Utilities Commission spokeswoman Terrie Prosper said that although PG&E is paying for the testing, it doesn't control or direct Exponent's work. In addition, she said, the commission consulted with the federal Pipeline and Hazardous Materials Safety Administration on the selection of Exponent.



In their application for the restraining order, Wagner and Paboojian say they want the testing delayed from Monday so they can hire their own pipeline experts. They say that if the company tests the pipeline, the testing could destroy that evidence.

If they are unable to get a restraining and testing goes as planned Monday, Wagner and Paboojian said they will seek to prohibit experts from PG&E from testifying about any information “they obtained from the testing of the pipeline before sections were altered by Exponent Inc.’s destructive testing.”

A hearing on the restraining order is scheduled at 3:30 p.m. Thursday in Fresno County Superior Court.

Prosper, the PUC spokeswoman, said she doesn’t believe that the Fresno County Superior Court has jurisdiction over the issue.

“Our Safety and Enforcement Division’s focus is to ensure the quality and integrity of the examination, testing, and analysis of the pipeline involved in the incident,” Prosper said. “Accordingly, we want to make sure that Exponent does a truly independent expert analysis ... free from unnecessary distraction or interference.”

The pipeline explosion injured 13 men, including a county worker, members of an inmate work crew and two Fresno County sheriff’s deputies. The crew was participating in a maintenance project at the shooting range while the county worker solidified a berm over each of the ranges.

PG&E spokesman Denny Boyles said the state Public Utilities Commission is the lead agency, and PG&E “will continue to work with the commission regarding its official investigation.”

He added: “First and foremost, our thoughts continue to be with the individuals who were injured in this incident.” County worker Ismael Arreazola remained in critical condition Wednesday at Community Regional Medical Center. Five inmates also remain hospitalized, including two in critical but stable condition.

Wagner said late Wednesday afternoon that he is continuing to negotiate with PUC officials about terms for Monday’s inspection.

He said that state officials told him that they want to issue a report on the pipeline explosion within a month. If that’s the case, Wagner said, the commission asked that a confidentiality agreement be respected only until the report is released. He said he hasn’t seen any changes of the terms in writing.

“The confidentiality agreement would be OK if they finish the report when they say they will,” Wagner said.

Prosper said Exponent might need five to eight weeks to produce the report, “but it may be longer depending on what is discovered during testing.”

Wagner also said videotaping remains a sticking point for the public utilities commission. He said he and Paboojian are in the process of hiring an expert who will attend Monday’s inspection.

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