

April 1, 2002

Mr. Lawrence F. Womack
Vice President
Nuclear Services
Diablo Canyon Power Plant
P.O. Box 56
Avila Beach, CA 93424

SUBJECT: NOTICE OF DOCKETING OF DIABLO CANYON INDEPENDENT SPENT FUEL
STORAGE INSTALLATION LICENSE APPLICATION

Dear Mr. Womack:

By application dated December 21, 2001, you submitted an application, in accordance with 10 CFR Part 72, for a materials license for an Independent Spent Fuel Storage Installation (ISFSI) at the Diablo Canyon Power Plant (DCPP). The staff has completed its acceptance review of the application and has determined that it contains sufficient information for the staff to begin its technical review.

For your information, I am enclosing a copy of the Notice of Docketing, Notice of Consideration of Issuance, and Notice of Opportunity for a Hearing for the proposed licensing action. The notice has been forwarded to the Office of the Federal Register for publication.

If you have any questions regarding this matter, you may contact me at (301) 415-8584. Please refer to Docket No. 72-26 and TAC No. L23399 in future correspondence related to our review of the request.

Sincerely,

/RA/

Steven L. Baggett, Senior Project Manager
Licensing Section
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-26
TAC No. L23339

Enclosure: Federal Register Notice

cc: Service List

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OFC:	SFPO		SFPO	C	SFPO	C
NAME:	SBaggett		EZiegler		JMonninger	
DATE:	3/27/02		3/27/02		4/1/02	

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U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NO. 72-26

PACIFIC GAS AND ELECTRIC COMPANY

NOTICE OF DOCKETING, NOTICE OF PROPOSED ACTION, AND NOTICE OF
OPPORTUNITY FOR A HEARING FOR A MATERIALS LICENSE FOR THE
DIABLO CANYON
INDEPENDENT SPENT FUEL STORAGE INSTALLATION

The Nuclear Regulatory Commission (NRC or Commission) is considering an application dated December 21, 2001, for a materials license under the provisions of 10 CFR Part 72, from Pacific Gas and Electric (the applicant or PG&E) to possess spent fuel and other radioactive materials associated with spent fuel in an independent spent fuel storage installation (ISFSI) located on the site of the Diablo Canyon Power Plant (DCPP). If granted, the license will authorize the applicant to store spent fuel from DCPP in a dry storage cask system at the ISFSI which the applicant proposes to construct and operate on the site of DCPP. This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72-26. The DCPP ISFSI will be located in San Luis Obispo County, California. If granted, the license will authorize the applicant to store spent fuel for a term of twenty (20) years.

Prior to issuance of the requested license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and by the NRC's rules and regulations. The issuance of the materials license will not be approved until the NRC has

reviewed the application and has concluded that issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and finding of no significant impact are appropriate. This action will be the subject of a subsequent notice in the Federal Register. Pursuant to 10 CFR 2.105, within thirty (30) days from the date of this notice, the applicant may file a request for a hearing; and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license in accordance with the provisions of 10 CFR 2.714. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the NRC may, upon satisfactory completion of all required evaluations, issue the materials license without further prior notice.

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order

that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Atomic Safety and Licensing Board up to 15 days prior to the holding of the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk or may be delivered to the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the NRC by a toll-free telephone call (800-368-5642 Extension 415-8500) to E. William Brach, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, with the following message: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lawrence F. Womack, Vice President, Nuclear Services, Diablo Canyon Power Plant, P.O. Box 56, Avila Beach, California 93424.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding Officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this application, see the application dated December 21, 2001, which is available for public inspection at the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room).

Dated at Rockville, Maryland, this 1 day of April 2002.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

E. William Brach, Director
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

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*see previous
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OFC:	SFPO*	C	SFPO*	E	OGC*	C	SFPO*	C	SFPO	N	SFPO	N
NAME:	SBaggett		EZiegler		STreby NLO		JMonninger		CMiller		EWBrach	
DATE:	3/27/02		3/27/02		3/28/02		4/1/02		4/1/02		4/1/02	

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