



RAS 4543

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

DOCKETED
USNRC

June 17, 2002

June 18, 2002 (8:30AM)

SECRETARY

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

MEMORANDUM TO: G. Paul Bollwerk, III
Chief Administrative Judge
Atomic Safety and Licensing Board Panel

SERVED June 18, 2002

FROM: Annette L. Vietti-Cook, Secretary

SUBJECT: REQUESTS FOR STAY OF THE DIABLO CANYON
PROCEEDING

Attached are two requests for stay of the proceedings to consider the application of Pacific Gas and Electric for the establishment of an Independent Spent Fuel Storage Installation on the site of the Diablo Canyon Nuclear Power Plant. The stay requests were submitted to the Commission by e-mail by Lorraine Kitman on June 11, 2002, and by Klaus Schumann and Mary Jane Adams on June 12, 2002. Ms. Kitman has also submitted a petition to intervene in this proceeding. Her stay request has been served on the Atomic Safety and Licensing Board (ASLB) and the potential intervenors for this proceeding. Ms. Adams and Mr. Schumann's request and this referral memorandum will also be served on the ASLB and potential intervenors.

On behalf of the Commission, I am referring the stay requests to you as Chairman of the established ASLB for the Diablo Canyon proceeding in order for the ASLB to take appropriate action with respect to the requests.

Attachments: As stated

- cc: Chairman Meserve
- Commissioner Dicus
- Commissioner Diaz
- Commissioner McGaffigan
- Commissioner Merrifield
- OGC
- OCA
- OCAA
- Service List for Docket 72-26-ISFSI

Template = SECY-040

SECY-02

MEMBER 72-26-ISFSI
ORIGINAL PAGE
From: <l.kitman@bejoseeds.com>
To: <OGCMailCenter@nrc.gov>, <hearingdocket@nrc.gov>
Date: Tue, Jun 11, 2002 8:40 PM
Subject: Pacific Gas & Electric bankruptcy resolution and Diablo Canyon license application

Nuclear Regulatory Commission
Richard Merserve, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

DOCKETED
USNRC

June 12, 2002 (10:50AM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Dear Chairman Merserve,

I am writing to request that the Nuclear Regulatory Commission stay the proceedings for Pacific Gas & Electric's license application to expand high-level radioactive waste storage at Diablo Canyon in San Luis Obispo County, California. As you are aware, PG&E is involved in highly contested bankruptcy proceedings with two plans of reorganization being offered to its creditors. Ballots for both plans are scheduled to be sent to PG&E creditors for their votes on June 12, 2002. Ballots must be returned by August 12, 2002. Hearings on the two plans of reorganization, one offered by the California Public Utilities Commission and the other offered by PG&E itself, will be held in the fall.

Until the resolution of PG&E's bankruptcy and the finalization of a reorganization plan, our state will not know:

- Which agency will be responsible for oversight of decommissioning funds collected from California ratepayers which will be used to plan, construct, maintain and secure this nuclear waste site;
- Whether funds will be adequate to assure the safest and most secure radioactive storage facility and transport methods will be available;
- Which company will have ownership of Diablo Canyon;
- Whether the new owner of Diablo Canyon will be subject to California Public Utilities Commission or Federal Energy Regulatory Commission authority.

Few, if any, of these issues have been addressed in the bankruptcy proceedings. However, the finalization of a reorganization plan that fully addresses the above questions is imperative prior to the start of proceedings that will triple the volume of high-level radioactive waste in California's earthquake prone coastal zone. Further, San Luis Obispo County has not yet begun the Environmental Impact Report process which is not expected to be complete until late 2002 or early 2003.

In order for any meaningful participation in the NRC Intervention process to occur, I believe it is in the best interest of San Luis Obispo county residents, like myself, to first insist the PG&E bankruptcy be fully resolved.

Sincerely,

Lorraine Kitman
P.O. Box 1026
Grover Beach, CA 93483
lorraine@bejoseeds.com

From: "Klaus Schumann" <jayklaus@email.msn.com>
To: <meserve@nrc.gov>, <dicus@nrc.gov>, <jmer@nrc.gov>, <exm@nrc.gov>, <njd@nrc.gov>
Date: 6/12/02 11:26AM
Subject: request for stay in PG&E ISFSI application

DOCKETED
USNRC

Klaus Schumann
Mary Jane Adams
26 Hillcrest Drive
Paso Robles, Ca. 93446
(805) 238-4454

June 12, 2002 (3:00PM)
OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Nuclear Regulatory Commission
Richard Meserve, Chairman
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dear Chairman Meserve,

We are writing to request that the Nuclear Regulatory Commission stay the proceedings for PG&E's license application to expand high-level radioactive waste storage at Diablo Canyon. As you are aware, PG&E is involved in highly contested bankruptcy proceedings with two plans of reorganization being offered to its creditors. Ballots for both plans are scheduled to be sent to PG&E creditors for their votes on June 12, 2002. Ballots must be returned by August 12, 2002. Hearings on the two plans of reorganization, one offered by the California Public Utilities Commission and the other PG&E's plan will be held in the fall.

Until the resolution of PG&E's bankruptcy and the finalization of a reorganization plan, our state will not know:
Which agency will be responsible for oversight of decommissioning funds collected from California ratepayers which will be used to plan, construct, maintain and secure this nuclear waste site;
Whether funds will be adequate to assure that the safest & most secure radioactive storage facility and transport methods will be available;
Which company will have ownership of Diablo Canyon and will this company be subject to California Public Utilities Commission or Federal Energy Regulatory Commission authority.

Few, if any, of these issues have been addressed in the bankruptcy proceedings. However, it is imperative that a plan of reorganization be finalized and that the above questions answered before proceedings begin that will triple the volume of high-level radioactive waste in California's earthquake prone coastal zone.

San Luis Obispo County has not yet begun the Environmental Impact Report process and the County process is not expected to be complete until late 2002 or early 2003. We believe that it is in the best interest of my

constituents to have the PG&E bankruptcy fully resolved before California can meaningfully participate in the NRC Intervention process.

Sincerely,
Klaus Schumann
Mary Jane Adams

Cc: Commissioner Greta Joy Dicus
Commissioner Nils J. Diaz
Commissioner Edward McGaffigan, Jr
Commissioner Jerry S. Merrifield

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
PACIFIC GAS AND ELECTRIC CO.) Docket No. 72-26-ISFSI
DIABLO CANYON POWER PLANT)
)
(Independent Spent Fuel Storage)
Installation))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MEMO FROM VIETTI-COOK TO BOLLWERK RE REQUESTS FOR STAY OF THE DIABLO CANYON PROCEEDING have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
G. Paul Bollwerk, III, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Peter S. Lam
Atomic Safety and Licensing Board Panel
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Washington, DC 20555-0001

Administrative Judge
Jerry R. Kline
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Stephen H. Lewis, Esq.
Angela B. Coggins, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Lorraine Kitman
P.O. Box 1026
Grover Beach, CA 93483

Docket No. 72-26-ISFSI
MEMO FROM VIETTI-COOK TO BOLLWERK
RE REQUESTS FOR STAY OF THE DIABLO
CANYON PROCEEDING

Peg Pinard
San Luis Obispo County Supervisor
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San Luis Obispo, CA 93408

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Seamus M. Slattery, Chairman
Avila Valley Advisory Council
P.O. Box 58
Avila Beach, CA 93424

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

Richard F. Locke, Esq.
Pacific Gas & Electric Company
77 Beale Street, B30A
San Francisco, CA 94105


Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 18th day of June 2002