

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PACIFIC GAS & ELECTRIC CO.)	Docket No. 72-26-ISFSI
)	
(Diablo Canyon Power Plant Independent Spent Fuel Storage Installation))	ASLBP No. 02-801-01-ISFSI

NRC STAFF'S RESPONSE TO REQUEST OF SAN LUIS OBISPO COUNTY
TO PARTICIPATE AS OF RIGHT UNDER 2.715(C)

INTRODUCTION

On June 20, 2002, San Luis Obispo County, California ("the County") requested to participate in this Independent Spent Fuel Storage Facility ("ISFSI") proceeding. The Diablo Canyon Power Plant and the proposed ISFSI are located within the County. The County makes its request under 10 C.F.R. § 2.715(c) of the Nuclear Regulatory Commission's ("Commission") regulations. On July 2, 2002, the Licensee/Applicant Pacific Gas and Electric Company ("PG&E") filed a letter to the Atomic Safety and Licensing Board indicating that it did "...not object to the County's participation within the parameters of Section 2.715(c)."

DISCUSSION

The County's request falls squarely under 10 C.F.R. § 2.715(c), which is directed at governmental entities that have an interest in a proceeding but do not wish to seek intervenor status. Leaving out references to entities other than counties, subsection 2.715(c) provides:

The presiding officer will afford representatives of an interested...county...a reasonable opportunity to participate and to introduce evidence, interrogate witnesses, and advise the Commission without requiring the representative to take a position with respect to the issue. Such participants may also file proposed findings and exceptions pursuant to sections 2.754 and 2.762 and petitions for review by the Commission pursuant to section 2.786.

The presiding officer may require such representative to indicate with reasonable specificity, in advance of the hearing, the subject matters on which he desires to participate.

The County's request appears to specifically address the elements of subsection 2.715(c), for example:

Accordingly, the County seeks to participate in this matter but does not intend to take a position on all of the issues before the Commission. Request, at 2.

Absent a request by the Board, the County's concerns will be raised in due course during these proceedings. *Id.*, at 3.

...the County should be admitted as an "interested county" to participate in any and all pre-hearing, hearing, and post-hearing proceedings granted by the Board. *Id.*

Accordingly, the NRC staff (Staff) believes that the County has satisfied the provisions of 10 C.F.R. § 2.715(c).

CONCLUSION

For the reasons set forth above, the Staff does not oppose the County's request.

Respectfully submitted,

/RA/

Stephen H. Lewis
Counsel for NRC Staff

Dated at Rockville, Maryland
this 10th day of July, 2002

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "NRC STAFF'S RESPONSE TO REQUEST OF SAN LUIS OBISPO COUNTY TO PARTICIPATE AS OF RIGHT UNDER 2.715(C)" have been served upon the following persons by United States mail, first class, or through the Nuclear Regulatory Commission's internal mail distribution as indicated by an asterisk (*); and by electronic mail as indicated by a double asterisk (**) on this 10th day of July, 2002.

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