

RAS 4724

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 08/07/02

SERVED 08/07/02

Before Administrative Judges:

G. Paul Bollwerk, III, Chairman
Dr. Jerry R. Kline
Dr. Peter S. Lam

In the Matter of

PACIFIC GAS AND ELECTRIC CO.

(Diablo Canyon Power Plant Independent
Spent Fuel Storage Installation)

Docket No. 72-26-ISFSI

ASLBP No. 02-801-01-ISFSI

August 7, 2002

MEMORANDUM AND ORDER

(Establishing Schedule for Identification of Issues by
Interested Governmental Entities; Limited Appearance Participation)

Pending before the Licensing Board is the July 19, 2002 request of Port San Luis Harbor District (PSLHD) to participate as an interested governmental entity in accordance with 10 C.F.R. § 2.715(c). In responses filed July 29 and August 5, 2002, respectively, applicant Pacific Gas and Electric Co. (PG&E) and the NRC staff have indicated they do not oppose this request.

As was the case with the earlier request of San Luis Obispo County, California (SLOC), see LBP-02-15, 53 NRC __, __ n. 3 (slip op. at 3 n.3) (July 15, 2002), we grant this request to participate. Further, in the event that either of these section 2.715(c) participants, or any other interested governmental entity, wishes to raise issues other than those already proffered in the contentions filed by petitioners San Luis Obispo Mothers for Peace (SLOMFP), et al., on July 19, 2002, it must do so on or before Wednesday, August 21, 2002. Responses to those issues by other participants shall be filed on or before Wednesday, September 4, 2002. As is the case with contentions submitted pursuant to 10 C.F.R. § 2.714(b) by a petitioner seeking

party status in a proceeding, such issues must “be framed with sufficient detail and preciseness” to define matters that are sufficiently concrete for adjudication. Gulf States Utilities Co. (River Bend Station, Units 1 and 2), ALAB-444, 6 NRC 760, 768 (1977). Further, if either wishes to do so, SLOC and PSLHD may file a written response to the SLOMFP contentions in accordance with the existing schedule for such responses, i.e., on or before Monday, August 19, 2002. It should be noted that the procedural requirements set forth in the Board's initial prehearing order, including its instructions regarding issue grouping and the filing and service of submissions, are applicable to SLOC and PSLHD (or any other section 2.715(c) participant). See Licensing Board Memorandum and Order (Initial Prehearing Order) (June 6, 2002) at 2-9 (unpublished).

Additionally, the Board has received an inquiry regarding 10 C.F.R. § 2.715(a) limited appearances. Any person not seeking party status to the proceeding may file a written limited appearance statement setting forth his/her position on the issues at any time by sending it by regular mail to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemakings and Adjudications Staff, or by e-mail to hearingdocket@nrc.gov. A copy of the statement also should be served on the Chairman of this Atomic Safety and Licensing Board by sending it by regular mail to his attention at the Atomic Safety and Licensing Board Panel, Mail Stop T-3F23, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or by e-mail to gpb@nrc.gov. If, based on the submissions of the participants and the arguments presented during the scheduled September 2002 initial prehearing conference, the Board concludes that one or more of the petitioners has standing and an admissible contention so as to be entitled to party status in this proceeding, the Board thereafter may entertain oral limited appearance statements at a location in the vicinity of

the Diablo Canyon Power Plant. Notice of these oral limited appearance sessions will be published in the Federal Register and on the NRC's web site at www.nrc.gov.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD*

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

August 7, 2002

* Copies of this memorandum and order were sent this date by Internet e-mail transmission to counsel for (1) applicant PG&E; (2) petitioners SLOMFP, et al.; (3) SLOC, PSLHD, and the Diablo Canyon Independent Safety Committee; and (4) the staff.

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 LB MEMORANDUM AND ORDER (ESTABLISHING SCHEDULE FOR IDENTIFICATION OF ISSUES BY INTERESTED GOVERNMENTAL ENTITIES; LIMITED APPEARANCE PARTICIPATION) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 72-26-ISFSI
LB MEMORANDUM AND ORDER
(ESTABLISHING SCHEDULE FOR
IDENTIFICATION OF ISSUES BY
INTERESTED GOVERNMENTAL ENTITIES;
LIMITED APPEARANCE PARTICIPATION)

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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 7th day of August 2002