

Petition for Review of Order of an Agency, Board, Commission or Officer

FILED

United States Court of Appeals for the Ninth Circuit

JUG 25 2002

California Public Utilities Commission and
County of San Luis Obispo,
Petitioners

CATHY A. GATTERSON, CLERK
U.S. COURT OF APPEALS

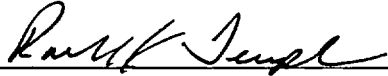
v.

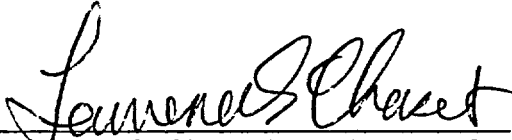
Petition for Review

U.S. Nuclear Regulatory Commission,
Respondent

02-72735

The California Public Utilities Commission and the County of San Luis Obispo hereby petition the court for review of the Order of the U.S. Nuclear Regulatory Commission (NRC), CLI-02-16, 55 NRC ---, entered on June 25, 2002. This NRC Order declined to admit Petitioners as Parties to, and dismissed all of the contentions proffered by Petitioners in, the NRC's license transfer proceeding for Pacific Gas and Electric Company's Diablo Canyon Power Plant, Units 1 and 2.

(s) 
Robert K. Temple, Esq., Attorney for
Petitioner County of San Luis Obispo

(s) 
Laurence G. Chaset, Esq., Attorney for
Petitioner California Public Utilities
Commission

Robert K. Temple, Esq.
Sheldon L. Trubatch, Esq.
Offices of Robert K. Temple, Esq.
2524 N. Maplewood Avenue
Chicago, Illinois 60647
Tel. 773.292.0492
Facsimile: 773.292.0497
nuclaw@mindspring.com
strubatch.nuclaw@starpower.net
Attorneys for the County of San Luis
Obispo

Gary M. Cohen, Esq.
Arocles Aguilar, Esq.
Laurence G. Chaset, Esq.
Public Utilities Commission of
the State of California
505 Van Ness Avenue, Room 5131
San Francisco, CA 94102
Tel. 415.355.5595
Facsimile: 415.703.2262
coh@cpuc.ca.gov
aro@cpuc.ca.gov
lau@cpuc.ca.gov

James B. Lindholm, Jr., Esq.
Timothy McNulty, Esq.
Stacy Millich, Esq.
Office of the County Counsel for the
County of San Luis Obispo
County Government Center
1050 Monterey Ave., Room 386
San Luis Obispo, CA 93408
Tel. 805.781.5400
Facsimile: 805.781.4221
jlindholm@co.slo.ca.us

California Public Utilities Commission and)
County of San Luis Obispo,)
Petitioners)
)
v.)
)
U.S. Nuclear Regulatory Commission,)
Respondent)

Petition for Review

Representation Statement

The following are parties to the proceeding below, who are not named Petitioners:

NAME OF PARTY	NAME ADDRESS, TELEPHONE NUMBER AND E-MAIL OF COUNSEL
U.S. Nuclear Regulatory Commission	Lawrence J. Chandler, Esq. Office of the General Counsel Mail Stop - O-15 D21 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 Tel. 800.368.5642 x1740 Facsimile: 301.415.3725 e-mail: ljc@nrc.gov
Pacific Gas and Electric Company	David A. Repka, Esq. Brooke D. Poole, Esq. Winston & Strawn 1400 L Street, NW Washington, DC 20005 Tel. 202.371.5726 Facsimile: 202.371.5950 e-mail: drepka@winston.com bpoole@winston.com

NAME OF PARTY	NAME ADDRESS, TELEPHONE NUMBER AND E-MAIL OF COUNSEL
Northern California Power Agency ("NCPA")	Robert C. McDiarmid, Esq. Ben Finkelstein, Esq. Lisa G. Dowden, Esq. Meg Meiser, Esq. Tracy E. Connor, Esq. Spiegel & McDiarmid 1350 New York Avenue, N.W. Washington, DC 20005-4798 Tel. 202.879.4000 Facsimile: 202.393.2866 e-mail: robert.mcdiarmid@spiegelmc.com ben.finkelstein@spiegelmc.com lisa.dowden@spiegelmc.com meg.meiser@spiegelmc.com tracy.connor@spiegelmc.com
The Official Committee of Unsecured Creditors of PG&E ("Committee")	Edwin F. Feo, Esq. Milbank, Tweed, Hadley & McCloy LLP 601 South Figueroa Street, 30th Floor Los Angeles, CA 90017 Tel. 213.892.4417 Facsimile: 213.629.5063 e-mail: efeo@milbank.com Steven M. Kramer, Esq. Carla J. Urquhart, Esq. Milbank, Tweed, Hadley & McCloy LLP 1825 I Street, N.W., Suite 1100 Washington, DC 20006 Tel. 202.835.7508 Facsimile: 202.835.7586 e-mail: skramer@milbank.com ; curquhart@milbank.com
The Transmission Agency of Northern California, which includes M-S-R Public Power Agency, Modesto Irrigation District, the California Cities of Santa Clara, Redding, and Palo Alto, and the Trinity Public Utility District	Wallace L. Duncan, Esq. James D. Pembroke, Esq. Duncan, Weinberg, Genzer & Pembroke, P.C. 1615 M Street, N.W., Suite 800 Washington, DC 20036-3203 Tel. 202.467.6370 Facsimile: 202.467.6379 e-mail: ndr@dwgpc.com

United States Court of Appeals for the Ninth Circuit

California Public Utilities Commission and)
County of San Luis Obispo,)
Petitioners)
)
v.)
)
United States of America and)
U.S. Nuclear Regulatory Commission,)
Respondents)

Petition for Review

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing PETITION FOR REVIEW have been served upon the following persons by U.S. mail, first class:

Office of Commission Appellate Adjudication U.S. Nuclear Regulatory Commission Washington, DC 20555-0001	Lawrence J. Chandler, Esq. Office of the General Counsel Mail Stop - O-15 D21 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 e-mail: ljc@nrc.gov ; ogclt@nrc.gov
George A. Fraser, General Manager Northern California Power Agency 180 Cirby Way Roseville, CA 95678 e-mail: george@ncpa.com	Robert C. McDiarmid, Esq. Ben Finkelstein, Esq. Lisa G. Dowden, Esq. Meg Meiser, Esq. Tracy E. Connor, Esq. Spiegel & McDiarmid 1350 New York Avenue, N.W. Washington, DC 20005-4798 e-mail: robert.mcdiarmid@spiegelmc.com ben.finkelstein@spiegelmc.com lisa.dowden@spiegelmc.com meg.meiser@spiegelmc.com tracy.connor@spiegelmc.com

<p>Richard F. Locke, Esq. William V. Manheim, Esq. Pacific Gas & Electric Company 77 Beale Street B30A San Francisco, CA 94105 e-mail: rfl6@pge.com; wvm3@pge.com</p>	<p>Edwin F. Feo, Esq. Milbank, Tweed, Hadley & McCloy LLP 601 South Figueroa Street, 30th Floor Los Angeles, CA 90017 e-mail: efeo@milbank.com</p>
<p>Steven M. Kramer, Esq. Carla J. Urquhart, Esq. Milbank, Tweed, Hadley & McCloy LLP 1825 I Street, N.W., Suite 1100 Washington, DC 20006 e-mail: skramer@milbank.com; curquhart@milbank.com</p>	<p>James H. Pope, Chairman Maury A. Kruth, Executive Director Transmission Agency of Northern California P.O. Box 15129 Sacramento, CA 95851-0129</p>
<p>Wallace L. Duncan, Esq. James D. Pembroke, Esq. Duncan, Weinberg, Genzer & Pembroke, P.C. 1615 M Street, N.W., Suite 800 Washington, DC 20036-3203 e-mail: ndr@dwgp.com</p>	<p>William C. Walbridge, General Manager M-S-R Public Power Agency P.O. Box 4060 Modesto, CA 95352</p>
<p>James C. Feider Director, Electric Department City of Redding 777 Cypress Avenue Redding, CA 96049-6071</p>	<p>James H. Pope Director of Electric Utility City of Santa Clara 1500 Warburton Avenue Santa Clara, CA 95050</p>
<p>Grant Kolling, Esq. Senior Assistant City Attorney City of Palo Alto P.O. Box 10250 Palo Alto, CA 94303</p>	<p>Roger VanHoy Assistant General Manager, Electric Resources Modesto Irrigation District P.O. Box 4060 Modesto, CA 95352</p>
<p>Rick Coleman, General Manager Trinity Public Utility District P.O. Box 1216 Weaverville, CA 96093-1216</p>	<p>Roland D. Pfeifer, Esq. Assistant City Attorney City of Santa Clara 1500 Warburton Avenue Santa Clara, CA 95050</p>

<p>Harrison Call Call Company 130 S. Cloverdale Blvd. P.O. Box 219 Cloverdale, CA 95425</p>	<p>Girish Balachandran Assistant Director of Utilities City of Palo Alto P.O. Box 10250 Palo Alto, CA 94303</p>
<p>Scott Steffen, Esq. Assistant General Counsel Modesto Irrigation District P.O. Box 4060 Modesto, CA 95352</p>	<p>David A. Repka, Esq. Brooke D. Poole, Esq. Winston & Strawn 1400 L Street, NW Washington, DC 20005 e-mail: drepka@winston.com; bpoole@winston.com</p>

Dated this 23rd day of August, 2002


Robert K. Temple, Esq.
2524 N. Maplewood Avenue
Chicago, IL 60647
nuclaw@mindspring.com

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

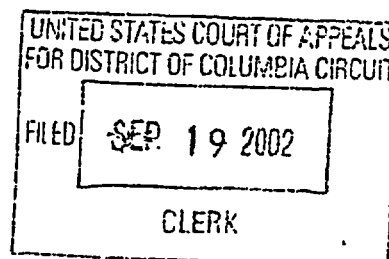
No. 01-1073

September Term, 2002

Orange County, North Carolina,
Petitioner

v.

Nuclear Regulatory Commission and
United States of America,
Respondents



And Consolidated Case No. 01-1246

Petitions for Review of Orders of the
Nuclear Regulatory Commission

Before: EDWARDS and ROGERS, *Circuit Judges*, and WILLIAMS, *Senior Circuit Judge*

J U D G M E N T

These causes were considered on petitions for review of orders of the Nuclear Regulatory Commission and were briefed and argued by counsel. It is

ORDERED and **ADJUDGED** that the petitions for review are hereby denied.

In an administrative proceeding, Orange County presented arguments that the NRC's environmental assessment of a proposed storage expansion of a nuclear reactor was inadequate. After comparing risk calculations offered by the petitioner, the agency's staff, and the applicant facility, the NRC upheld the finding that the chances of an accident were too remote to trigger a full evidentiary hearing on the issue. See *In re Carolina Power & Light Company*, 53 NRC 370 (2001). Once the agency determined that the expansion posed no significant safety hazards, the NRC granted the license amendment for the expansion. *In re Carolina Power & Light Company*, 53 NRC 113 (2001). Finding no error in NRC's determinations, the court hereby denies the petitions for review primarily for the reasons stated in the agency's orders.

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 01-1073

September Term, 2002

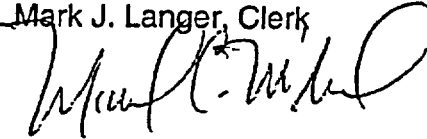
Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or rehearing en banc. See Fed. R. App. P. 41(b); D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:

Mark J. Langer, Clerk

By:



Michael C. McGrail
Deputy Clerk