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UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

October 28, 2002

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October 31, 2002 (8:29AM)

OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

**SERVED October 31, 2002**



SECRETARY

The Honorable Lois Capps  
United States House of Representatives  
1118 Longworth House Office Building  
Washington, DC 20515-0522

Dear Congresswoman Capps:

I am responding to your letter dated September 25, 2002, addressed to Chairman Richard A. Meserve regarding a number of issues raised at the September 10, 2002 prehearing conference involving the Diablo Canyon Nuclear Power Plant Independent Spent Fuel Storage Installation (ISFSI) application. Your letter also addressed issues that have been raised by petitioners in the proceeding on the license transfer application of Pacific Gas and Electric Company.

Under Nuclear Regulatory Commission procedural rules for adjudications, the Commission has an appellate role in proceedings commenced before its Atomic Safety and Licensing Boards such as the ISFSI proceeding. Because of that role, I trust that you will understand that the Commissioners must remain impartial during the pendency of a case, whether it is before a Licensing Board or on appeal to the Commission. Therefore, it would be inappropriate for Chairman Meserve or other Commissioners to discuss or comment on the issues raised at the prehearing conference on the ISFSI proceeding.

The Commission is also reviewing the petitions filed in the license transfer proceeding for the Pacific Gas and Electric Company's license transfer application. As with the ISFSI proceeding, it would be inappropriate for Commissioners to comment on issues raised in that proceeding.

A copy of your letter has been served on the participants in the ISFSI proceeding. A copy of this response will also be served in that proceeding. Additionally, your letter and this response will be served on the participants in the license transfer proceeding.

Sincerely,

  
Annette L. Vietti-Cook

Template = SECY-040

SECY-02

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 LETTER FROM VIETTI-COOK TO REP. CAPPS RESPONDING TO 09/25/02 LETTER RE ISSUES RAISED AT 09/10/02 PREHEARING CONFERENCE have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Washington, DC 20555-0001

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Docket No. 72-26-ISFSI  
LETTER FROM VIETTI-COOK TO REP. CAPPS  
RESPONDING TO 09/25/02 LETTER RE ISSUES  
RAISED AT 09/10/02 PREHEARING CONFERENCE

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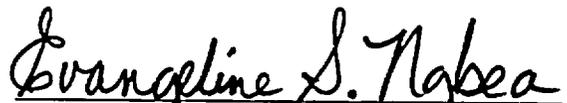
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Docket No. 72-26-ISFSI  
LETTER FROM VIETTI-COOK TO REP. CAPP  
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Dated at Rockville, Maryland,  
this 31<sup>st</sup> day of October 2002