

November 19, 2002

Ms. Lynne Levine
11343-G Los Osos Valley Road
San Luis Obispo, CA 93405

SUBJECT: LETTER TO SENATOR BOXER REGARDING DIABLO CANYON

Dear Ms. Levine:

I am responding to your letter, dated August 20, 2002, to Senator Barbara Boxer, in which you expressed concerns regarding the proposed independent spent fuel storage installation (ISFSI) at the Diablo Canyon nuclear power plant. Senator Boxer forwarded your letter to the U.S. Nuclear Regulatory Commission (NRC) on October 24, 2002, and requested that we respond to you directly.

In your letter to Senator Boxer, you made several statements with respect to the Pacific Gas and Electric Company's (PG&E's) application for a license to construct and operate an ISFSI at Diablo Canyon, and a general statement regarding NRC's actions with respect to security at nuclear power plants. You stated that Diablo Canyon is sited 2½ miles from a major active earthquake fault; the dry cask system proposed for use at the Diablo Canyon ISFSI does not meet September 11, 2001, criteria; and the proposed ISFSI does not solve the problem of vulnerable spent fuel pools. You indicated that 10 local organizations have filed petitions to intervene to address safety and financial concerns, and that two government entities have also filed to participate in the proceeding. You further stated that NRC's Atomic Safety and Licensing Board (ASLB) supports two of the contentions filed by the intervenors and believes the rest should be disallowed, either because the full NRC Commissioners have failed to address September 11, 2001, terrorist style attacks at nuclear power plants, or because PG&E's bankruptcy is being heard in other proceedings. You also stated your view that NRC has had 11 months to move toward making nuclear power facilities less vulnerable to terrorism and instead has used its resources to promote new nuclear plants, rather than adequately securing the plants already existing around our country.

First, I would like to address your comment on NRC actions since September 11, 2001. Since the events of that date, NRC has taken extensive actions to make nuclear power facilities less vulnerable to terrorism. Soon after the attacks, the NRC staff began a comprehensive review of the existing NRC safeguards and security program. Among other matters, this reevaluation includes consideration of the potential consequences of terrorist attacks on spent nuclear fuel stored in spent fuel pools or in dry cask storage systems. As part of this reevaluation, NRC has also developed additional, interim compensatory measures to enhance security at all operating reactor facilities and all spent fuel storage facilities in the current threat environment. On February 25, 2002, NRC issued orders to all operating reactor licensees requiring that they implement interim compensatory measures to enhance security. On October 16, 2002, NRC issued additional orders to current licensees of spent fuel dry cask storage facilities requiring them to implement other interim compensatory measures specifically for those facilities. The measures required in both sets of orders generally included increased security patrols, augmented security forces and capabilities, additional security posts, closer coordination with

law enforcement and military authorities, and greater restrictions on site access. These orders formalized a series of security measures that NRC licensees had taken in response to advisories issued by NRC shortly after the attacks, and imposed additional security enhancements that had emerged from the NRC's ongoing review. As of August 31, 2002, PG&E is in full compliance with the NRC order issued for the Diablo Canyon plant, and the enhanced security measures are in place. The measures imposed by the October 16, 2002, orders to dry cask storage licensees will be considered and applied, if and when appropriate, to the proposed Diablo Canyon ISFSI. The requirements imposed by the NRC orders will remain in effect unless and until the Commission determines that other changes are needed. When the NRC staff completes its reevaluation of the safeguards and security program, the Commission will determine whether NRC regulations and requirements should be revised or updated, and will seek public comment on any proposed changes to our security rules.

With respect to your other concerns, the NRC staff is continuing its safety and environmental review of PG&E's license application for an ISFSI at Diablo Canyon, submitted on December 21, 2001. In our review, we will evaluate the information presented by PG&E, including its assessment of the effects of postulated seismic events on the proposed ISFSI. Regarding your statement that the dry cask storage system proposed for use does not meet September 11, 2001, criteria, NRC has not developed new design requirements for dry cask storage systems as a result of the September 11, 2001, attacks, but has issued the orders described earlier. Although NRC regulations do not specifically require such structures to be designed to withstand aircraft crashes, they are required to withstand severe natural phenomena, including earthquakes, tornadoes, and airborne missiles, such as automobiles or telephone poles. This robust design of dry cask storage systems would therefore provide substantial protection for the spent fuel in case of an aircraft crash. NRC is currently sponsoring specific studies on the impacts of aircraft crashes, and will evaluate the results of those studies in determining the need for additional changes to our regulations.

Spent fuel can be safely stored in dry cask storage systems and in existing spent fuel pools at reactor sites. The pools are constructed of thick, reinforced concrete, and the pool structures are designed to cope with a seismic event. The pools' robust design, their relatively small size, and other site-specific procedures and characteristics minimize the likelihood that a terrorist attack would cause enough damage to result in a release of radioactive material off site. The February 25, 2002, NRC orders to reactor licensees also directed them to evaluate and address potential vulnerabilities of spent fuel pools and the reactor plant itself, and to develop specific guidance and strategies to respond to a hypothetical event that damages large areas of the plant, because of explosions or fire. Additional information regarding spent fuel pools can be found on the NRC website at: <http://www.nrc.gov/waste/spent-fuel-storage/pools.html>, and in NRC Chairman Richard Meserve's June 5, 2002, testimony before Congress at: <http://www.nrc.gov/reading-rm/doc-collections/congress-docs/congress-testimony/2002>.

As you stated, a number of groups have petitioned to intervene on PG&E's ISFSI license application for Diablo Canyon. A three-member ASLB has been set up to review the petitions, to rule on the issues presented, and to preside over any ensuing hearing. To clarify several statements in your letter, the ASLB is the adjudicatory body that initially hears the case and renders a decision. The NRC staff is one of the parties appearing before the ASLB. It is the NRC staff, not the ASLB, which supported admission of two of the intervenors' contentions.

The NRC staff was also one of the parties that opposed the admission of the remaining contentions, although for somewhat different reasons than those you stated. The ASLB is currently considering the arguments presented by the various parties in their written filings and at the pre-hearing conference held in Shell Beach, California, on September 10 and 11, 2002. It will decide which parties have established standing to participate in the proceeding, and whether any admissible contentions have been raised in determining whether this case will go forward to a hearing. The NRC staff does not know when the ASLB will act on the matters pending before it, but the ASLB has, to date, acted expeditiously.

Thank you for your interest in NRC activities. I hope this reply has responded to your concerns.

Sincerely,

/RA/

James R. Hall, Senior Project Manager
Licensing Section
Licensing & Inspection Directorate
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket Nos. 72-26
50-275
50-323

cc: Senator Barbara Boxer

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