

RAS 5069

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

**DOCKETED 12/13/02
SERVED 12/13/02**

ATOMIC SAFETY AND LICENSING BOARD

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

December 13, 2002

MEMORANDUM AND ORDER
(Schedules for Responses to Referral
and Reconsideration Motions;
New E-mail Address for Judge Kline)

The Licensing Board is in receipt of two additional submissions regarding its recent decision, LBP-02-23, 56 NRC __ (Dec. 2, 2002). The first is a motion filed by intervenor San Luis Obispo Mothers for Peace (SLOMFP), as lead intervenor, on behalf of the Environmental Center of San Luis Obispo (ECSLO), requesting reconsideration of that portion of the Board's ruling denying ECSLO party status because it lacks standing. See LBP-02-23, 56 NRC at __ (slip op. at 18-19). Responses to this motion should be filed on or before Thursday, December 19, 2002.

Additionally, the Board Chairman yesterday received an e-mail from counsel for 10 C.F.R. § 2.715(c) interested governmental entity San Luis Obispo County, California, (SLOC) regarding the Board's December 12, 2002 order establishing a schedule for responses to a SLOC December 11, 2002 motion to have the Board's ruling in section II.C.3.a of LBP-02-23, 56 NRC at __ (slip op. at 50-55), referred to the Commission pursuant to 10 C.F.R.

§ 2.730(a). In this e-mail, counsel suggested an extension of the December 18, 2002 date specified for responses was warranted because some of those on the service list for its pleading were only provided copies of that submission by regular mail.¹ After reviewing the SLOC service list, as well as the list of those that were provided an e-mail copy of the Board's December 12 order, it appears that counsel of record for, or a representative of, applicant Pacific Gas and Electric Company (PG&E), the 10 C.F.R. § 2.714 intervenors, the section 2.715(c) participants, and the NRC staff were provided with an e-mail copy of both the

¹ While the Board appreciates the effort of SLOC counsel to ensure that a fair opportunity to respond to its motion is afforded to all participants, the Board would advise all counsel that it considers e-mail primarily a medium for transmitting to the Board electronic copies of pleadings and letters that contain information and requests for action, rather than a vehicle for providing the Board directly with such information or requests. Although the Board has directed that e-mail (or a functional equivalent) be utilized in all instances to provide expedited access to electronic copies of pleadings and other written communications submitted in this proceeding, see Licensing Board Memorandum and Order (Initial Prehearing Order) (June 6, 2002) at 5-7 (unpublished), agency rules also require that a hard copy of such adjudicatory proceeding submissions be provided to the Office of the Secretary and participants in the proceeding, see 10 C.F.R. §§ 2.708, 2.712.

SLOC motion and the Board's scheduling order.² At this juncture, therefore, no revision of the schedule for responses to the SLOC motion is warranted.

Finally, the Board requests that in sending future pleadings to Judge Kline, the participants substitute his new e-mail address -- kjerry@comcast.net -- for the "kjerry@erols.com" e-mail address previously given.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD³

/RA/

G. Paul Bollwerk, III
ADMINISTRATIVE JUDGE

Rockville, Maryland

December 13, 2002

² In conducting this review yesterday, the Board discovered that it had inadvertently failed to provide a copy of its December 12 order to section 2.715(c) participant Avila Beach Community Services District (ABCSD), an oversight the Board promptly rectified with an additional e-mail.

³ 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, the Port San Luis Harbor District, the California Energy Commission, the Diablo Canyon Independent Safety Committee, and ABCSD; 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 (SCHEDULES FOR RESPONSES TO REFERRAL AND RECONSIDERATION MOTIONS; NEW E-MAIL ADDRESS FOR JUDGE KLINE) 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
(SCHEDULES FOR RESPONSES TO
REFERRAL AND RECONSIDERATION MOTIONS;
NEW E-MAIL ADDRESS FOR JUDGE KLINE)

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LB MEMORANDUM AND ORDER
(SCHEDULES FOR RESPONSES TO
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[Original signed by Adria T. Byrdsong]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 13th day of December 2002