

December 26, 2002 (3:24PM)

December 18, 2002

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)	
)	Docket No. 72-26-ISFSI
PACIFIC GAS & ELECTRIC CO.)	
<hr/>)	ASLBP-No. 02-801-01-ISFSI
(Diablo Canyon Power Plant Independent)	
Spent Fuel Storage Installation))	
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**Response of the California Energy Commission to Motion Filed by
San Luis Obispo County on December 11, 2002**

Pursuant to the Order issued on December 12, 2002 (LBP-02-23), by the Presiding Atomic Safety and Licensing Board (Board), the California Energy Commission (CEC) is responding to the motion filed on December 11, 2002, by San Luis Obispo County (SLOC).

On December 2, 2002, the Board issued a Memorandum and Order ruling that 10 C.F.R. § 2.715 (c) interested governmental entities must meet the same criteria as 10 C.F.R. § 2.714 participants in order for the Board to allow issues raised by interested governmental entities to be admitted as part of the proceeding.¹ On December 11, 2002, SLOC filed a motion under 10 C.F.R. § 2.730(a) requesting referral to the Nuclear Regulatory Commission (Commission) of that part of LBP-02-23 that addresses the standard applied to admission of issues proffered by interested governmental entities for purposes of a hearing

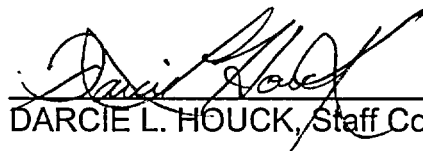
¹ Memorandum and Order (Ruling on Standing and Contentions of 10 C.F.R. § 2.714 Petitioners and Admission of 10 C.F.R. § 2.715 (c) Interested Governmental Entities and Their Issues), (December 2, 2002).

before the Board.² While SLOC contends that interested governmental participants do need to narrowly define the issues presented for litigation, and raise the issues before the Board in a timely manner, it is inappropriate to submit them to the stringent criteria set forth under 10 C.F.R. § 2.714(b).

The CEC previously filed a brief in support of flexible standards for admission of issues raised by 10 C.F.R § 2.715 (c) participants. The CEC continues to support the arguments presented by SLOC and joins in the request for a referral of the matter to the Commission for the reasons outlined in the brief submitted by SLOC in support of its December 11, 2002, motion.

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Dated: December 18, 2002


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² Motion filed by the County of San Luis Obispo (Motion by the County of San Luis Obispo Under 10 C.F.R. § 2.730 (a) for Referral to the Commission of that Part of LBP-02-23 That Amended 10 C.F.R. § 2.715(c) to Improperly Apply to Issues Proffered by Interested Governmental Entities the Criteria in 10 C.F.R. § 2.714(b) for the Admissibility of Contentions Proffered by Private Litigants), (December 11, 2002).

CERTIFICATE OF SERVICE

I, Linda Torres, hereby certify that copies of the foregoing **Response of the California Energy Commission to Motion Filed by San Luis Obispo County on December 11, 2002**, have been served upon the following persons by United States mail, first class, on the 18th day of December, 2002.

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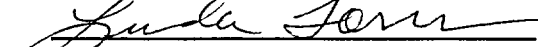
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