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DOCKETED
USNRC

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

February 19, 2003 (3.05PM)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

In the Matter of)
)
PACIFIC GAS & ELECTRIC CO.)
)
(Diablo Canyon Power Plant Independent)
Spent Fuel Storage Installation))
_____)

Docket No. 72-26-ISFSI
ASLBP No. 02-801-01-ISFSI

**CALIFORNIA ENERGY COMMISSION INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS TO THE NUCLEAR
REGULATORY COMMISSION STAFF**

INTRODUCTION

Pursuant to 10 C.F.R. §§ 2.740, 2.740(b), 2.741, 2.1117, and the Atomic Safety and Licensing board's (Board) Memorandum and Order, dated December 26, 2002, (LBP-02-25, 56 NRC__), the California Energy Commission (CEC) hereby requests that the Nuclear Regulatory Commission (NRC) Staff respond to the following interrogatories, under oath, in writing, separately, in the fullest detail possible, within 10 days of the date that these interrogatories and request for production of documents are received.¹ Responses should be sent to Darcie L. Houck, California Energy Commission, Office of the Chief Counsel, 1516 9th Street, MS 14, Sacramento, CA 95814-5512. In accordance with LBP-02-25, at 10, please also provide your answers electronically to the above-named counsel, at the e-mail address previously identified in this proceeding.

¹ See LBP-02-25, at 10 establishing the response time for interrogatories and production of documents.

DEFINITION

"Identify" when used in reference to a person means to set forth the following information: his or her name; person or last known business address and telephone number; employer, title or position.

The word "document" shall mean any written matter, whether produced, reproduced or stored on paper, disks, charts, computer storage devices or any other medium and shall include, without limitation, matter in the form of books, reports, studies, statements, speeches, notebooks, agreements, working papers, memoranda, notes, procedures, orders, records, correspondence, diaries, plans, periodicals, lists, telephone logs, minutes, published materials, and shall also include, without limitation, originals, copies (with or without notes or changes thereon) and drafts.

For purposes of these interrogatories PG&E means any branch, department, division, or other affiliate of PG&E, including its employees, agents, representatives, attorneys, consultants, or other persons directly or indirectly employed or retained by the entity or voluntarily working for or with the entity, or anyone else acting on PG&E's behalf or otherwise subject to its control.

INSTRUCTIONS

1. To the extent that you do not have specific, complete and accurate information with which to answer any interrogatory, you should so state, and the interrogatory should be answered to the extent the information is available, identifying each person who is believed to have accurate information with respect thereto.
2. If privilege is claimed as a ground for not answering the interrogatory or if the interrogatory is otherwise objected to in whole or in part, describe the legal and/or factual basis for the claim of

privilege or other objection to the interrogatory or interrogatory part in sufficient detail so as to permit the Board to adjudicate the validity of the claim or objection.

3. If an interrogatory is not answered in full, please state the reasons for not answering, describe the steps taken to secure complete information, and detail the information, which is available to NRC staff regarding the unanswered portions.
4. For each response, identify the name, title, and employer of the person or persons answering. --

INTERROGATORIES

Interrogatory 1

Please state the basis and explain the rationale for NRC Staff's position that PG&E is financially qualified pursuant to 10 C.F.R. § 72.22(e) to own, operate and decommission the proposed independent spent fuel storage installation (ISFSI). Please provide a detailed summary of the facts, data, and arguments that NRC Staff plan to rely on at the oral argument.

Interrogatory 2

PG&E has stated in its Diablo Canyon ISFSI License Application (Application) that, "The funds necessary to cover the costs in the first period [\$132 million] will be derived from electric rates and from electric operating revenues." ² Does NRC Staff have any information or reason to believe, given PG&E's position in the bankruptcy proceeding, that the California Public Utilities Commission will allow PG&E to recover the \$132 million cost for the first period of operating the proposed ISFSI? If so please provide a detailed summary stating facts, data, arguments or other basis for such position.

² Diablo Canyon Independent Spent Fuel Storage Installation, PG&E License Application, at page 4.

Interrogatory 3

PG&E has stated in its Application that, " PG&E's contract with Holtec related to the ISFSI, including the dry cask storage system, has been approved by the Bankruptcy Court and costs under the contract have been authorized." ³ We understand that Judge Montali has signed an "Order Re Debtor's Application For Order Approving Assumption of Executory Contract and Entering Into New Contract For Licensed Used Nuclear Fuel Storage System", in the pending bankruptcy proceeding. However, the application does not discuss how, when, or to what extent the contract or expenditures have been approved by the CPUC. Does NRC staff believe the CPUC has or will authorize these expenditures? If so how, when and to what extent does NRC staff believe the contract or expenditures will be approved by the CPUC? If NRC staff does not have additional information please state the basis for NRC Staff's position that PG&E meets the requirements of 10 C.F.R. § 72.22 without providing additional information to verify the statements presented in the Application.

REQUEST FOR PRODUCTION OF DOCUMENTS

For each interrogatory, identify all documents on which the NRC Staff relies in support of its answer thereto. Please either provide with your response a copy of each such document or indicate where and from whom it can be obtained.

Respectfully submitted,



DARCIE L. HOUCK
Staff Counsel
California Energy Commission

³ Diablo Canyon Independent Spent Fuel Storage Installation, PG&E License Application, at page 5.

CERTIFICATE OF SERVICE

I, Chester Hong, hereby certify that copies of the foregoing **CALIFORNIA ENERGY COMMISSION INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS TO THE NUCLEAR REGULATORY COMMISSION STAFF** have been served upon the following persons by United States mail, first class, on the 14th day of February, 2003.

G. Paul Bollwerk, III
Administrative Law Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555
Email: gpb@nrc.gov

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop T-3F23
Washington, D.C. 20555

Office of Commission Appellate Adjudication
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555

Lorraine Kitman
P.O. Box 1026
Grover Beach, CA 93843
Email: lorraine@bejoseeds.com
lkitman@bejoseeds.com

County Supervisor Peg Pinard
County Government Center
1050 Monterey Avenue
San Luis Obispo, CA 93408
Email: ppinard@co.slo.ca.us

Seamus M. Slattery, Chairman
Avila Valley Advisory Council
P.O. Box 58
Avila Beach, CA 93424

David A Repka
Brooke D. Poole
Winston & Strawn
1400 L Street N.W.
Washington, D.C. 20005-3502

Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, LLP
1726 M Street N.W., Suite 600
Washington, D.C. 20036
Email: dcurran@harmoncurran.com

Peter S. Lam
Administrative Law Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, D.C. 20555

Jerry R. Kline
Administrative Law Judge
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T3F23
Washington, D.C. 20555
Email: jrk2@nrc.gov
Kjerry@erols.com

Office of the Secretary
Attn: Rulemakings and Adjudications Staff
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, D.C. 20555
Email: HEARINGDOCKET@nrc.gov

Lawrence F. Womack
Vice President
Nuclear Services
Diablo Canyon Power Plant
P.O. Box 56
Avila Beach, CA 93424

Klaus Schumann
Mary Jane Adams
26 Hillcrest Drive
Paso Robles, CA 93446

James B. Lindholm, Jr., Esq
County Counsel for San Luis Obispo County
County Government Center
1050 Monterey Avenue, Room 386
San Luis Obispo, CA 93408
Email: jlindholm@co.slo.ca.us

Thomas D. Green, Esq.
Thomas D. Waylett, Esq.
Counsel for Port San Luis Harbor District
Adamski, Moroski & Green LLP
444 Higuera Street, Suite 300
San Luis Obispo, CA 93401-3875
Email: green@adamskimoroski.com
Waylett@adamskimoroski.com

Barbara Byron
Nuclear Policy Advisor
California Energy Commission
1516 Ninth Street, MS 36
Sacramento, CA 95814
Bbyron@energy.state.ca.us

John L. Wallace
General Manager
District Engineer
Avila Beach Community Services District
P.O. Box 309
Avila Beach, CA 93424

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

Annette L. Vietti-Cook
Office of the Secretary
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, Maryland 20852-2738
avc@nrc.gov

Dated: February 14, 2003


Signature