

January 8, 2004

Ms. Jeanene Panther  
402 Spanish Moss Lane  
Arroyo Grande, CA 93420

SUBJECT: LETTER TO CHAIRMAN DIAZ REGARDING DIABLO CANYON

Dear Ms. Panther:

I am responding to your letter to Dr. Nils J. Diaz, Chairman, U.S. Nuclear Regulatory Commission (NRC), dated December 3, 2003, in which you expressed concern regarding the production of radioactive waste at the Diablo Canyon nuclear power plant in San Luis Obispo, California.

In your letter, you stated that full hearings must be held before production, storage and waste be allowed to exist in the area. You further stated that San Luis Obispo's earthquake-prone coastal zone has no safe site and there is no method of transportation that is not vulnerable to accident, terrorism, or sabotage. Your letter also requested that full hearings be held before expanded storage of high-level radioactive waste be allowed in San Luis Obispo County.

The NRC issued operating licenses for the Diablo Canyon Power Plant, Units 1 and 2, in 1984 and 1985, respectively, after performing an extensive safety review. The NRC granted these operating licenses to the Pacific Gas and Electric Company (PG&E), based in part on detailed seismic evaluations and design features that demonstrated that the plant would remain safe even in the event of a severe earthquake. In accordance with these existing licenses, PG&E has been safely storing the spent nuclear fuel resulting from plant operation in each unit's spent fuel pool. PG&E has determined that the spent fuel pools at the Diablo Canyon power plant will be near their capacity in 2006. Consequently, on December 21, 2001, PG&E submitted a license application to the NRC for a proposed independent spent fuel storage installation (ISFSI), to be located on the Diablo Canyon power plant site. The proposed ISFSI would consist of up to 140 large concrete and steel casks, each containing a steel canister loaded with spent fuel, bolted down to thick concrete pads. This additional capacity would allow PG&E to provide sufficient interim storage for all of the spent fuel generated at the Diablo Canyon power plant for the duration of the current operating licenses for both units.

The NRC staff is continuing its safety review of PG&E's ISFSI application, and has completed its environmental review. On October 24, 2003, the NRC staff issued its Environmental Assessment for the proposed Diablo Canyon ISFSI, in which the staff concluded that there will be no significant radiological or non-radiological impacts associated with the proposed action. With respect to the NRC's safety review, PG&E has applied the same extensive seismic evaluations previously reviewed for the power plant to the proposed Diablo Canyon ISFSI, which will be designed to withstand the same severe earthquake events as the plant.

The offsite transportation of spent fuel is beyond the scope of PG&E's current ISFSI license application, which only seeks approval for a different method for interim storage of the spent fuel currently authorized under the existing Diablo Canyon power plant licenses. The impacts of offsite transportation of the spent fuel generated at Diablo Canyon have been specifically addressed in previous environmental reviews for initial licensing and for subsequent license amendments. The NRC staff is continuing to evaluate the safety of spent fuel transportation in a number of generic studies. Any future shipments of spent fuel from the Diablo Canyon site must be made using NRC-approved spent fuel transportation packages and routes and procedures approved by the appropriate authorities.

With respect to your concerns about terrorism, the NRC staff evaluates security measures for spent fuel as part of its safety review of each application for an ISFSI license. In its review, the NRC staff evaluates the proposed security plans and facility design features to determine whether the requirements in 10 CFR Part 73, "Physical Protection of Plants and Materials," are met. The details of specific security measures for each facility are Safeguards Information, and as such, cannot be released to the public. The NRC has also initiated several actions to further ensure the safety of spent fuel in storage. Additional security measures have been put in place at nuclear facilities, including ISFSIs currently storing spent fuel. These measures include increased security patrols, augmented security forces and weapons, additional security posts, heightened coordination with law enforcement and military authorities, and additional limitations on vehicular access. Also, as part of its comprehensive review of its security program, the NRC is conducting several technical studies to assess potential vulnerabilities of spent fuel storage facilities and transportation packages to a spectrum of terrorist acts. The results of these studies will be used to determine if revisions to the current NRC security requirements are warranted.

In your letter, you also requested that full hearings be held on this issue. Please note that the NRC has held a hearing on PG&E's ISFSI license application. Specifically, in response to the May 22, 2002, petition submitted by the San Luis Obispo Mothers for Peace (SLOMFP) and several other groups, a panel of three judges from the NRC's Atomic Safety and Licensing Board (ASLB) was appointed to consider the requests. On December 2, 2002, the ASLB granted a limited hearing on PG&E's financial qualifications, but dismissed other issues concerning seismic analysis and the need to consider terrorist acts and transportation impacts in the environmental review for the ISFSI. The ASLB heard oral arguments from the parties in San Luis Obispo on May 19, 2003. On August 5, 2003, the ASLB denied the petitioners' request for a full evidentiary hearing and terminated the proceeding. The ASLB determined that the petitioners had "failed to demonstrate that there is any genuine and substantial dispute of fact or law that only can be resolved with sufficient accuracy in an evidentiary hearing." On August 18 and August 20, respectively, SLOMFP and San Luis Obispo County filed petitions for review of the ASLB's decision with the Commission. On October 15, 2003, the Commission denied both petitions for review. The Commission found that "the Board's decisions do not implicate substantial questions of policy and discretion. Nor did the Board misapply the law or misread the facts." Therefore, the Commission ruled that the petitioners failed to provide sufficient information to support full hearings on PG&E's application.

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Although the NRC hearing on this application has been concluded, please be assured that the general concerns you raised are important and that the NRC staff will carefully evaluate these issues in its safety review of the Diablo Canyon ISFSI license application. Thank you for your interest in NRC activities. I hope this reply has responded to your concerns.

Sincerely,

**/RA/**

Larry W. Camper, Deputy Director  
Licensing and Inspection Directorate  
Spent Fuel Project Office  
Office of Nuclear Material Safety  
and Safeguards

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

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Although the NRC hearing on this application has been concluded, please be assured that the general concerns you raised are important and that the NRC staff will carefully evaluate these issues in its safety review of the Diablo Canyon ISFSI license application. Thank you for your interest in NRC activities. I hope this reply has responded to your concerns.

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