

February 02, 2004

Mr. Lawrence F. Womack
Vice President, Nuclear Services
Humboldt Bay Power Plant
P.O. Box 56
Avila Beach, CA 93424

**SUBJECT: NOTICE OF DOCKETING AND ACKNOWLEDGMENT OF HUMBOLDT BAY
POWER PLANT INDEPENDENT SPENT FUEL STORAGE INSTALLATION
LICENSE APPLICATION**

Dear Mr. Womack:

By letter dated December 15, 2003, Pacific Gas and Electric Company (PG&E) submitted an application, in accordance with 10 CFR Part 72, for a materials license to construct and operate an independent spent fuel storage installation (ISFSI) at the Humboldt Bay Power Plant.

This is to inform you that the application appears to contain the necessary information to begin our technical review. The schedule below establishes the key milestones and dates associated with the application through completion of our review. Please note that the schedule allows for the staff to issue a possible request for additional information (RAI) in September 2004. If no RAI is needed, and based on the staff's evaluation, our Safety Evaluation Report and an ISFSI license may be issued at approximately that time.

Action	Date
NRC Receives Application	12/19/03
NRC Issues RAI	09/03/04
PG&E Responds to RAI	11/08/04
NRC Issues ISFSI License	08/12/05

Absent a significant change affecting the matters set forth in the application, no changes or supplements to this application should be submitted, except in response to an RAI.

For your information, I am enclosing a copy of the "Notice of Docketing, Notice of Proposed Action, and Notice of Opportunity for a Hearing" for the proposed licensing action. The notice has been forwarded to the Office of the Federal Register for publication.

L. Womack

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February 02, 2004

Please reference Docket No. 72-27 and TAC No. L23683 in future correspondence related to this licensing action. If you have any questions, please contact me at (301) 415-2169.

Sincerely,

/RA/

Stephen C. O'Connor, Sr. Project Manager
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

Docket No. 72-27 (50-133)

Enclosure: Federal Register Notice

cc: Mailing List

L. Womack

2-2-

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OFC:	SFPO		SFPO		SFPO			
NAME:	SO'Connor		EZiegler		JMonninger			
DATE:	01/19/04		01/21/04		02/02/04			

OFFICIAL RECORD COPY

Pacific Gas and Electric Company
Humboldt Bay Power Plant, Unit 3
Docket No. 72-27, 50-133

cc:

Chief, Fuel Cycle and Decommissioning
Branch, Region IV
U.S. Nuclear Regulatory Commission
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Arlington, TX 76011-8064

Deputy Attorney General
State of California
110 West A Street, Suite 700
San Diego, CA 92101

Christopher J. Warner, Esq.
Pacific Gas & Electric Company
Post Office Box 7442
San Francisco, CA 94120

Mr. Thomas A. Moulia
Humboldt Bay Plant Manager
Humboldt Bay Nuclear Power Plant
1000 King Salmon Avenue
Eureka, CA 95503

Chairman, Humboldt County Board
of Supervisors
County Courthouse
825 Fifth Street
Eureka, CA 95501

Mr. Steve Hsu
Radiologic Health Branch
State Department of Health Services
Post Office Box 942732
Sacramento, CA 94327-7320

Regional Administrator, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

Public Affairs Officer, Region IV
U.S. Nuclear Regulatory Commission
611 Ryan Plaza Drive, Suite 400
Arlington, TX 76011-8064

U.S. Environmental Protection Agency
Region IX Office
ATTN: Regional Radiation Representative
75 Hawthorne Street
San Francisco, CA 94105

Mr. Truman Burns
California Public Utilities Commission
505 Van Ness, Room 4102
San Francisco, CA 94102

Mr. Robert Kinosian
California Public Utilities Commission
505 Van Ness, Room 4102
San Francisco, CA 94102

Redwood Alliance
P.O. Box 293
Arcata, CA 95521

Dr. Rich Ferguson, Energy Chair
Sierra Club California
1100 11th Street, Suite 311
Sacramento, CA 94814

Mr. Ed Bailey, Radiation Program Director
Radiologic Health Branch
State Department of Health Services
P.O. Box 942732 (MS 178)
Sacramento, CA 94327-7320

Mr. James D. Boyd, Commissioner
California Energy Commission
ATTN: Ms. Barbara Byron
Nuclear Policy Advisor
1516 Ninth Street (MS 31)
Sacramento, CA 95814

U.S. NUCLEAR REGULATORY COMMISSION

DOCKET NO. 72-27

PACIFIC GAS AND ELECTRIC COMPANY

NOTICE OF DOCKETING, NOTICE OF PROPOSED ACTION, AND NOTICE OF
OPPORTUNITY FOR A HEARING FOR A MATERIALS LICENSE FOR THE
HUMBOLDT BAY
INDEPENDENT SPENT FUEL STORAGE INSTALLATION

The Nuclear Regulatory Commission (NRC or Commission) is considering an application dated December 15, 2003, for a materials license under the provisions of 10 CFR Part 72, from Pacific Gas and Electric Company (the applicant or PG&E) to possess spent fuel and other radioactive materials associated with spent fuel in an independent spent fuel storage installation (ISFSI) located on the site of the Humboldt Bay Power Plant (HBPP). If granted, the license will authorize the applicant to store spent fuel from HBPP in a dry storage cask system at the ISFSI which the applicant proposes to construct and operate on the site of HBPP. This application was docketed under 10 CFR Part 72; the ISFSI Docket No. is 72-27. The HBPP ISFSI will be located in Humboldt County, California. If granted, the license will authorize the applicant to store spent fuel for a term of twenty (20) years.

Prior to issuance of the requested license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and by the NRC's rules and regulations. The issuance of the materials license will not be approved until the NRC has

reviewed the application and has concluded that issuance of the license will not be inimical to the common defense and security and will not constitute an unreasonable risk to the health and safety of the public. The NRC will complete an environmental evaluation, in accordance with 10 CFR Part 51, to determine if the preparation of an environmental impact statement is warranted or if an environmental assessment and finding of no significant impact are appropriate. This action will be the subject of a subsequent notice in the Federal Register.

Pursuant to 10 CFR 2.105, within thirty (30) days from the date of publication of this notice in the Federal Register, the applicant may file a request for a hearing; and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the subject materials license in accordance with the provisions of 10 CFR 2.714. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition, and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order. In the event that no request for hearing or petition for leave to intervene is filed by the above date, the NRC may, upon satisfactory completion of all required evaluations, issue the materials license without further prior notice.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the

nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which the petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend a petition, without requesting leave of the Atomic Safety and Licensing Board, up to fifteen (15) days prior to the holding of the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

A request for a hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudication Staff or may be delivered to the Commission's Public Document Room, One White Flint North Building, 11555 Rockville Pike, Rockville, MD, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the NRC by a toll-free telephone call (800-368-5642 Extension 415-8500) to E. William Brach, Director, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, with the following message: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Assistant General Counsel for Materials Litigation and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Lawrence F. Womack, Vice President, Nuclear Services, Humboldt Bay Power Plant, P.O. Box 56, Avila Beach, California 93424.

Non-timely filings of petitions for leave to intervene, amended petitions, supplemental petitions, and/or requests for hearing will not be entertained absent a determination by the Commission, the Presiding Officer, or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

The Commission hereby provides notice that this is a proceeding on an application for a license falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to “any matter which the Commission determines to be in controversy among the parties.”

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission’s rules and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission’s rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, “Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors” (published at 50 FR 41662 dated October 15, 1985). Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed within ten (10) days of an order granting a request for hearing or petition to intervene. The presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery

and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding requests an oral argument, or if all untimely requests for oral argument are denied, then the proceeding shall be conducted in accordance with 10 CFR Part 2, Subpart G.

For further details with respect to this application, see the application dated December 15, 2003, which is available for public inspection at the Commission's Public Document Room (PDR), One White Flint North Building, 11555 Rockville Pike, Rockville, MD or from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737 or by e-mail to pdrc@nrc.gov.

Dated at Rockville, Maryland, this 2nd day of February 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/
Stephen C. O'Connor, Sr. Project Manager
Spent Fuel Project Office
Office of Nuclear Material Safety
and Safeguards

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 Stephen C. O'Connor, Sr. Project Manager
 Spent Fuel Project Office
 Office of Nuclear Material Safety
 and Safeguards

OFC:	SFPO		SFPO		OGC		SFPO				
NAME:	SO'Connor		EZiegler *		STreby (NLO) *		JMonninger *				
DATE:	02/03/04		01/21/04		01/26/04		02/02/04				

* - see previous concurrence

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