

**NRCREP - Comments to Supplemental EA for Diablo ISFSI Docket 72-26**

**From:** "phillip" <phillip@riverkeeper.org>  
**To:** <NRCREP@nrc.gov>  
**Date:** 07/02/2007 5:11 PM  
**Subject:** Comments to Supplemental EA for Diablo ISFSI Docket 72-26

Please find comments attached. Hard copy will be sent via regular mail in the next two days.

Thank you,

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5/31/07  
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July 2, 2007

Chief, Rulemaking  
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U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001

*Re: Docket No. 72-26, Supplement to the Environmental Assessment and Draft Finding of No Significant Impact for the Diablo Canyon Independent Spent Fuel Storage Installation*

Dear Sirs:

Enclosed please find comments on the above-referenced supplement to the Diablo Canyon Environmental Assessment (EA) submitted on behalf of Riverkeeper, Inc. Riverkeeper strongly disagrees with NRC's initial Finding of No Significant Impact (FONSI) for the Diablo Canyon ISFSI, due to its reliance on an EA that is misleading, lacking in factual support and nearly unintelligible. Riverkeeper calls on NRC to conduct a full Environmental Impact Statement that would comprehensively assess the potential environmental impacts of an intentional attack on this facility, and would evaluate the comparative costs and benefits of a range of reasonable alternatives to avoid or mitigate those impacts, as required by the National Environmental Policy Act (NEPA). The EA submitted on May 29, 2007 falls far short of this requirement.

Riverkeeper shares the concerns of the San Luis Obispo Mothers for Peace regarding the security of long-term spent fuel storage at reactor sites. The Indian Point nuclear power plant in Buchanan, New York is preparing to transfer some nuclear waste into on-site dry cask storage on a concrete pad that is easily visible from the air and the Hudson River, raising significant security concerns of its own. It is imperative that the NRC fully complies with the law and its own regulations when assessing the potential consequences of a terrorist attack on a nuclear power plant or ISFSI.

Sincerely,

Phillip Musegaas  
Riverkeeper, Inc.

**Riverkeeper Comments to Docket No. 72-26, Supplement to the Environmental Assessment and Draft Finding of No Significant Impact for the Diablo Canyon Independent Spent Fuel Storage Installation**

The EA should be rejected as inadequate because it fails to identify the documents on which it relies to conclude that the operation of the ISFSI will not result in significant effects on the environment, thereby making it impossible for the public or any other interested party to independently ascertain whether this reliance was justified or reasonable.

Section 4.0 of the EA contains the NRC Staff's "Consideration of Environmental (Radiological) Impacts from Terrorist Attacks" (EA at 6). In this section, the Staff notes that it has considered radiological impacts of terrorist attacks and considers the probability of a "malevolent act" that results in a "significant radiological event" to be low. However, it does not reference any NRC studies to support this assertion, nor does it describe by what method it determined there was a low probability of such an attack. The Staff also seemingly contradicts itself by later claiming that the probability of such an attack "cannot be reliably quantified." *Id.* This is both confusing and misleading; it appears to mean that the Staff is able to quantify the probability of an attack against an ISFSI, and it's very low. On the other hand, the "likelihood of a terrorist attack" in general "cannot be reliably quantified." If this is the intended meaning, then the Staff must be required to explain why they can quantify some types of attack and not others. If they are referring to the same thing, the likelihood of a terrorist attack on an ISFSI, then they should be required to take a position. Either the probability can be quantified, or it cannot. The Staff should also be required to back up their assertions with some factual evidence, which they fail to do here.

Section 4.0 also states that the Staff has "analyzed plausible threat scenarios and required enhanced security measures to protect against the threats, and has developed emergency planning requirements, which could mitigate potential consequences for certain scenarios." Surprisingly, the Staff fails to cite any NRC studies, security orders, or documentation supporting these analyses or measures. Indeed, the only documents cited as references for the EA are the original October 2003 EA and FONSI for Diablo Canyon, the NRC issuance of the ISFSI license in 2004, and the applicant's 2002 Environmental Report. (EA Section 8, at 8). It is difficult to see how these documents could support the NRC's conclusion, since it was the lack of an adequate assessment of terrorist attacks on the facility during the initial licensing that led to the federal court decision requiring the supplemental EA published in May 2007.

As it stands, this section is conclusory at best, and does not satisfy the requirement of NEPA to provide the public with detailed information to evaluate the impact of a proposed action, including the methodologies used and the sources relied on in their conclusions.

The EA fails to define key terms or explain the methodology used in the NRC Staff's assessment.

The EA does not describe the types of attacks considered or rejected for the assessment based on their ability, or lack thereof, to quantify the probability of such attacks. Nor does the EA describe the type or degree of damage to a cask that would result in a radiological release, or how such damage could be mitigated or avoided altogether. The following are key terms and methodologies used in the Staff analysis that remain undefined or poorly justified.

- Plausible- The EA makes it clear the Staff only analyzed "plausible" threat scenarios, yet this term is not defined in the assessment. This is a critical omission, since only "plausible" scenarios are considered in the "attractiveness and consequence analyses" assessments which determine whether additional security measures would be required. (EA at 6).
- Attractiveness Factors (EA at 6)
  - "Iconic value"- Are there degrees of value here? Is the Empire State Building of higher "iconic value" than beachfront property on the Central California coast?
  - "Complexity of planning required"- If an attack scenario is deemed "plausible," isn't that the end of the analysis? Wouldn't a scenario that involved extremely complex planning be inherently implausible?
  - "Execution risk"- Does this recognize the risk of suicide attacks, or delineate between a completely failed attack resulting in the neutralization of the attackers and a partially successful attack that does not result in a radiological release but may have a significant impact on public perceptions of security?
  - "Public protective measures"- is this meant to include the "emergency planning requirements" mentioned elsewhere in the EA? Does it include other measures not described in the EA?
- Use of "early fatalities" as the only factor in the "consequence analysis" is ridiculous and misleading.
  - A terrorist attack resulting in the breach of a dry cask and spent fuel rods could result in large amounts of cesium-137 being released into the environment and contaminating the surrounding area through deposition and fallout. This would result in significant land contamination with both immediate and long-term results, including huge economic losses from property damage and condemnation, delayed cancer fatalities and emergency response and relocation costs. Ignoring these foreseeable consequences in the EA results in an artificially low estimate of public health and economic impacts, thereby supporting the Staff's conclusions that there will be no significant effects to the environment from even a successful attack. Selectively choosing the types of consequences that support the intended conclusion does not comply with NEPA or the NRC's own regulations. If the NRC Staff has a reasonable basis for only

- considering early fatalities in this analysis, then a description of that basis and the methodology used in determining it should be provided in the EA.
- The NRC requires an examination of these types of consequences in the Severe Accident Mitigation Alternatives Analysis (SAMA). What is the rationale for limiting the consequence analysis to early fatalities in the EA?
  - Emergency planning measures (EA at 6,7)
    - These measures are not defined in the EA, nor is there a reference to NRC documents that would support the assertion that certain measures "could mitigate potential consequences for certain scenarios." (EA at 6)
      - Is the EA referring to general EP requirements applicable to all nuclear plants and/or ISFSIs, or are they referencing EP requirements specific to Diablo Canyon?

## **Conclusion**

The EA for the Diablo Canyon ISFSI is fundamentally flawed due to a complete lack of supporting documentation, failure to define key terms and general absence of any discernible criteria by which the assessment was performed. NEPA requires NRC to reassess the potential environmental impacts of a terrorist attack on the Diablo Canyon ISFSI that is understandable and based on clear scientific and regulatory criteria.

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<sup>i</sup> See 10 CFR §51.30(a)(2), 40 CFR §1502.24. See also *Idaho Sporting Congress v. Thomas*, 137 F.3d 1146 (9<sup>th</sup> Cir. 1988).