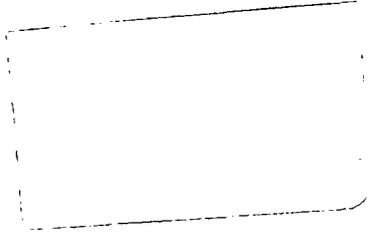


RAS 15055



February 6, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

DOCKETED
USNRC

In the matter of
Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant
Unit Nos. 1 and 2
Independent Spent Fuel Storage Installation

Docket # 72-26

February 6, 2008 (4:17pm)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

**SAN LUIS OBISPO MOTHERS FOR PEACE'S
FIRST SET OF DISCOVERY REQUESTS TO NRC STAFF**

Pursuant to the schedule established by the Atomic Safety and Licensing Board's ("ASLB's") Order of January 24, 2008, San Luis Obispo Mothers for Peace ("SOMFP") hereby requests the U.S. Nuclear Regulatory Commission ("NRC" or "Commission") Staff to answer the following interrogatories and admission requests separately, fully, in writing, and under oath, and produce the documents requested below within the schedule established by the ASLB. These discovery requests pertain to Contention 2, which was admitted by the Commission in CLI-08-01 (January 15, 2008).

With the agreement of counsel for the NRC Staff, this discovery request does not make a separate document production request to the Executive Director for Operations. See 10 C.F.R. § 2.744. The Staff has agreed to respond to SLOMFP's document production requests without requiring SLOMFP to comply with this additional procedure.

I. INSTRUCTIONS

A. Scope of Discovery. These interrogatories and document production requests cover all information in the possession, custody and control of the NRC Staff, including information in the possession of officers, employees, agents, servants, representatives, attorneys,

Template=SECY-035



SECY-02

or other persons directly or indirectly employed or retained by them, or anyone else acting on the Staff's behalf or otherwise subject to its control. The discovery sought by this request encompasses material contained in, or which might be derived or ascertained from, the personal files of Staff employees, representatives, investigators, and agents.

B. Lack of Information. If you currently lack information to answer any Interrogatory completely, please state:

1. The responsive information currently available;
2. The responsive information currently unavailable;
3. Efforts which you intend to make to secure the information currently unavailable; and
4. When you anticipate receiving the information currently unavailable.

C. Supplemental Responses. Each of the following requests is a continuing one pursuant to 10 C.F.R. § 2.740(e) and SLOMFP hereby demands that, in the event that at any later date the Staff obtains or discovers any additional information which is responsive to these interrogatories and request for admissions and production of documents, the Staff shall supplement its responses to this request promptly and sufficiently.

Such supplementation shall include, but not be limited to:

1. the identity and location of persons having knowledge of discoverable matters;
2. the identity of each person expected to be called as an expert witness at any hearing, the subject matter on which she/he is expected to testify, and the substance of her/his testimony; and
3. new information which makes any response hereto incorrect.

D. Objections. If you object to or refuse to answer any interrogatory or document request under a claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, privilege, immunity or other reason, the person on whose behalf the objection, privilege, immunity, or other reason is asserted, and describe the factual basis for asserting the objection, privilege, immunity, or other reason in sufficient detail so as to permit the administrative judges in this matter to ascertain the validity of such assertion.

If you withhold any document covered by this request under a claim of privilege, immunity, or for any other reason, please furnish a list identifying each document for which the privilege, immunity, or other reason is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and the job title and affiliation of any such persons, the subject matter of the documents, the basis for asserting the privilege, immunity, or other reason, and the name of the person on whose behalf the privilege, immunity, or other reason is asserted.

E. Estimates. Interrogatories calling for numerical or chronological information shall be deemed, to the extent that precise figures or dates are not known, to call for estimates. In each instance that an estimate is given, it should be identified as such together with the source of information underlying the estimate.

II. DEFINITIONS

Each of the following definitions, unless otherwise indicated, applies to and shall be a part of each interrogatory and request for production which follows:

1. "NRC Staff," "Staff," "you," and "your" refers to the Staff of the NRC, including its employees, agents, servants, representatives, attorneys, or other persons directly or indirectly

employed or retained by the Staff, or anyone else acting on its behalf or otherwise subject to their control.

2. The term “documents” means the originals as well as copies of all written, printed, typed, recorded, graphic, photographic, and sound reproduction matter however produced or reproduced and wherever located, over which you have custody or control or over which you have the ultimate right to custody or control. By way of illustration, but not limited thereto, said term includes: records, correspondence, telegrams, telexes, wiring instructions, diaries, notes, interoffice and intra-office communications, minutes of meetings, instructions, reports, demands, memoranda, data, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, charts, working papers, computer tapes, computer printout sheets, information stored in computers or other data storage or processing equipment, microfilm, microfiche, meeting minutes, blueprints, drawings, contracts and any other agreements, rough drafts, and all other writings and papers similar to any of the foregoing, however designated by you. If the document has been prepared and several copies or additional copies have been made that are not identical (or are no longer identical by reason of the subsequent addition of notations or other modifications), each non-identical copy is to be construed as a separate document.

3. “All documents referring or relating to” means all documents that in whole or in part constitute, contain, embody, reflect, identify, state, interpret, discuss, describe, explain, apply to, deal with, evidence, or are in any way pertinent to a given subject.

4. The words “describe” or “identify” shall have the following meanings:

(a) In connection with a person, the words “describe” or “identify” mean to state the name, last known home and business address, last known home and business telephone number, and last known place of employment and job title;

(b) In connection with a document, the words “describe” or “identify” mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the date, title, caption, or other style by which the document is headed, the name of each person and entity which is a signatory to the document, the date on which the document was prepared, signed, and/or executed, the person or persons having possession and/or copies thereof, the person or persons to whom the document was sent, all persons who reviewed the document, the substance and nature of the document, the present custodian of the document, and any other information necessary to adequately identify the document;

(c) In connection with an entity other than a natural person (*e.g.*, corporation, partnership, limited partnership, association, institution, etc.), the words “describe” or “identify” mean to state the full name, address and telephone number of the principal place of business of such entity.

(d) In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the identify of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording or documenting such activity, occurrence, or communication.

5. The word “date” shall mean the exact day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

6. The word “discussion” shall mean communication of any kind, including but not limited to, any spoken, written, or signed form of communication.

7. The word “person” shall include any individual, association, corporation, partnership, joint venture, or any other business or legal entity.

8. Words herein of any gender include all other genders, and the singular form of words encompasses the plural.

10. The words “and” and “or” include the conjunctive “and” as well as the disjunctive “or” and the words “and/or.”

11. The word “hearing” encompasses any evidentiary procedures that may be employed in this proceeding, including summary disposition, evidentiary presentations under 10 C.F.R. Part 2, Subpart K, and formal evidentiary hearings.

III. GENERAL DISCOVERY

A. GENERAL INTERROGATORIES

GENERAL INTERROGATORY NO. 1. State the name, business address, and job title of each person who was consulted and/or who supplied information for responding to each of the interrogatories, requests for admission, and requests for the production of documents posed by SLOMFP herein. Specifically note for which interrogatories, requests for admissions and requests for production each such person was consulted and/or supplied information.

If the information or opinions of anyone who was consulted in connection with your response to an interrogatory or request for admission differs from your written answer to the

discovery request, please describe in detail the differing information or opinions, and indicate why such differing information or opinions are not your official position as expressed in your written answer to the request.

GENERAL INTERROGATORY NO. 2. Give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person who participated in the preparation of the Supplement to the Environmental Assessment and Draft Finding of No Significant Impact Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation (May 2007) (“Draft EA Supplement”). Your answer should include identification of persons who are not employees or contractors of the NRC Staff.

GENERAL INTERROGATORY NO. 3. Give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person to whom a draft of the Draft EA Supplement was circulated for comment before the NRC issued it for public comment on May 24, 2007. Your answer should include identification of persons who are not employees or contractors of the NRC Staff.

GENERAL INTERROGATORY NO. 4. Give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person who participated in the preparation of the Supplement to the Environmental Assessment and Final Finding of No Significant Impact Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation (August 2007) (“Final EA Supplement”). Your answer should include identification of persons who are not employees or contractors of the NRC Staff.

GENERAL INTERROGATORY NO. 5. Give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person, other than NRC Staff counsel, who participated in the preparation of NRC Staff's Answer to Contentions Submitted by San Luis Obispo Mothers for Peace (July 13, 2007) ("NRC Staff's Answer to Contentions") with respect to Contention 2. Your answer should include identification of persons who are not employees or contractors of the NRC Staff.

GENERAL INTERROGATORY NO. 6. Give the name, address, profession, employer, area of professional expertise, and educational and scientific experience of each person whom the Staff expects to call as a fact or expert witness at the hearing with respect to Contention 2. For expert witnesses, provide a list of all publications authored by the witness within the preceding ten years and a listing of any other cases in which the witness has provided fact and/or expert testimony and/or submitted affidavit(s) or declaration(s) within the preceding four years. For purposes of answering this interrogatory, the educational and scientific experience of expected witnesses may be provided by a resume of the person attached to the response. Fact and expert witnesses should be distinguished.

GENERAL INTERROGATORY NO. 7. For each witness identified in response to General Interrogatory No. 5 above, describe the facts and opinions to which each witness is expected to testify, including a summary of the grounds for each opinion, and identify the documents (including all pertinent pages or parts thereof), data or other information which each witness has reviewed and considered, or is expected to consider or to rely on for his or her testimony.

B. GENERAL DOCUMENT PRODUCTION REQUESTS

Please produce the following documents:

GENERAL REQUEST NO. 1. All documents in your possession, custody or control that are identified, referred to or used in any way in responding to all of the above general interrogatories and the following interrogatories and requests for admissions relating to specific contentions. If you withhold any document or any portion thereof, please describe in detail the basis for your decision to withhold the information.

GENERAL REQUEST NO. 2. All documents in your possession, custody or control relevant to Contention 2. If you withhold any document or any portion thereof, please describe in detail the basis for your decision to withhold the information.

GENERAL REQUEST NO. 3. All documents (including experts' opinions, workpapers, affidavits, and other materials used to render such opinion) supporting or otherwise relating to testimony or evidence that you intend to use in the hearing on Contention 2. If you withhold any document or any portion thereof, please describe in detail the basis for your decision to withhold the information.

IV. SPECIFIC DISCOVERY

A. SPECIFIC INTERROGATORIES

SPECIFIC INTERROGATORY NO. 1: In the Supplement to the Environmental Assessment and Final Finding of No Significant Impact Related to the Construction and Operation of the Diablo Canyon Independent Spent Fuel Storage Installation (August 2007), the Staff stated that:

As explained in the EA supplement, the staff has determined the probability of a successful terrorist attack (i.e., one which results in a significant radiological event), to be very low.

Id. at A-6. Please answer the following questions with respect to that statement:

a. Identify the criteria by which the Staff identified a hypothetical terrorist attack as “successful.”

b. In preparing the EA, if an attack would not cause early fatalities, did you consider it to be successful?

c. Please provide all quantitative and qualitative criteria by which you determined that the probability of an attack is “very low.”

d. Please provide all quantitative and qualitative criteria by which you determine that a radiological event is “significant,” including identification of all reference documents you rely on.

e. Please provide all quantitative and qualitative criteria by which you determine that a release of radioactivity to the environment is significant, including identification of all reference documents you rely on.

SPECIFIC INTERROGATORY NO. 2: In using a “security assessment framework as a screening and assessment tool” (EA Draft Supplement at 6), did you screen out “[r]emote or speculative scenarios and scenarios with insignificant consequences?” *See* Draft Environmental Assessment for Pa’ina Irradiator at B-5 (2007).

SPECIFIC INTERROGATORY NO. 3: If you answer to Specific Interrogatory No. 2 is yes, by what criteria did you define “insignificant consequences?”

SPECIFIC INTERROGATORY NO. 4: If your answer to Specific Interrogatory No. 2 is no, did you screen out “[r]emote or speculative scenarios and scenarios with insignificant consequences” in some other part of your assessment of the need for additional security measures at the Diablo Canyon ISFSI? If so, please describe at what point in the analysis you applied that criterion.

SPECIFIC INTERROGATORY NO. 5: Please explain any differences between your analytical procedures for the Diablo Canyon EA and the Pa'ina irradiator EA with respect to the screening out of scenarios with insignificant consequences.

SPECIFIC INTERROGATORY NO. 6: Please explain the reason for any differences between your analytical procedures for the Diablo Canyon EA and the Pa'ina irradiator EA with respect to the screening out of scenarios with insignificant consequences, as described above in response to Specific Interrogatory No. 5.

SPECIFIC INTERROGATORY NO. 7: In opposing Contention 2, the Staff stated that “no significant impacts would result [from an attack on the Diablo Canyon ISFSI] because even from the most severe threat scenarios, the dose to the nearest affected resident would likely be below the 5 rem limit set in 10 C.F.R. § 72.106(b).” NRC Staff’s Answer to Contentions at 19. Please identify and describe all the assumptions and methodologies used to estimate the 5 rem dose, including citations to all reference documents you relied on for the estimate. Please include in that description a definition of the type of dose that was estimated.

SPECIFIC INTERROGATORY NO. 8: In opposing the admission of Contention 2, the Staff stated that the discussion in the EA “does not limit itself to early fatalities, but explains generally that expected doses for several other scenarios would be substantially less than 5 rem or none at all to an individual in the affected population.” NRC Staff’s Answer to Contentions at 19. Did you also estimate the population dose that would result from an attack on the Diablo Canyon ISFSI? If so, please provide assumptions, methodologies, and results, including citations to all reference documents you relied on for the estimate. If not, please explain why not.

SPECIFIC INTERROGATORY NO. 9: In opposing the admission of Contention 2, the Staff stated that “[t]he Staff also addresses ‘the potential for early fatalities’ as an additional consideration combined with other factors to determine the need for additional security measures at the facility, not to rule out other threat scenarios that cause other types of impacts.” NRC Staff’s Answer to Contentions at 19. Please answer the following questions:

a. Please list the “other factors” that you considered “to determine the need for additional security measures at the facility,” and provide all quantitative and qualitative criteria by which you considered these factors, including identification of reference documents on which you relied.

b. Among the factors identified above in response to Specific Interrogatory 9.a., which of them must be present in order to warrant additional security measures at the Diablo Canyon ISFSI?

c. Please describe the manner in which you applied the factors described above in response to Specific Interrogatory 9.a., including the chronological order in which you applied them.

SPECIFIC INTERROGATORY NO. 10: In the Final EA Supplement (at page 6), the Staff states that, in the event of an attack that breaches "multiple layers of protection" and thereby causes a release of radioactive material, "a large amount of the radioactive material would remain in solid form and in the immediate vicinity of the ISFSI."

a. Please provide the Staff’s estimates of the mass, isotopic inventory, and physical and chemical form of the radioactive material that would be released, and the spatial distribution of the material after release.

b. Please provide the Staff's estimates of the radiological impacts that would arise from this release, including impacts during cleanup of the site.

c. Please describe the assumptions and methodologies used to make these estimates, and identify all reference documents that you relied on.

SPECIFIC INTERROGATORY NO. 11: As a general proposition, do you consider offsite radiological contamination of land to constitute a potentially significant adverse environmental impact? If so, please describe, in quantitative and qualitative terms, your criteria for evaluating the significance of such impacts.

SPECIFIC INTERROGATORY NO. 12: Both the Draft EA Supplement and the Final EA Supplement state that:

Initially, NRC screened threat scenarios to determine plausibility. This screening was informed by information gathered through NRC's regular interactions with the law enforcement and intelligence communities. For those scenarios deemed plausible, NRC assessed the attractiveness of the facility to attack by taking into account factors such as iconic value, complexity of planning required, resources needed, execution risk, and public protective measures. Separately, NRC made conservative assessments of consequences, to assess the potential for early fatalities from radiological impacts from those plausible scenarios. NRC then looked at the combined effect of the attractiveness and the consequence analyses, to determine whether additional security measures for ISFSI's were necessary.

Final EA Supplement at 7.

a. Is this an accurate paraphrase of the last sentence in the text quoted above: "NRC then looked at the combined effect of attractiveness and the potential for early fatalities from radiological impacts from plausible scenarios, to determine whether additional security measures for ISFSI's were necessary." If the paraphrase is not accurate, please explain why not.

b. In the analysis described in the last sentence of the above-quoted portion of the Final EA Supplement, did you determine that no additional security measures were required for

plausible scenarios involving no potential for early fatalities? If your answer is no, please explain why not.

B. REQUESTS FOR ADMISSIONS

Please admit or deny the following requests for admissions. If you deny, explain the basis for your denial.

REQUEST FOR ADMISSION NO. 1: In a November 2004 SECY paper, the NRC Staff proposed to the Commission a decision-making framework for security-related decisions by the NRC. *See* OIG-06-A-22, Audit Report, Audit of NRC's Process for Releasing Commission Decision Documents at 16 (September 8, 2006) ("IG Report OIG-06-A-22").

REQUEST FOR ADMISSION NO. 2: In the same November 2004 SECY paper, the NRC Staff proposed to the Commission that consideration of the impacts of security-event consequences be limited to prompt deaths. *See id.*

REQUEST FOR ADMISSION NO. 3: In the same November 2004 SECY paper, the Staff noted that other consequences of a security event, such as economic and environmental impacts and latent deaths, were omitted from consideration when developing the proposed decision-making framework. *See id.*

REQUEST FOR ADMISSION NO. 4: The Commission approved the decision-making framework presented in the November 2004 SECY paper.

REQUEST FOR ADMISSION NO. 5: A subsequent SECY paper, dated March 1, 2006, documented the NRC's extensive use of the mechanism (*i.e.*, a decision matrix) presented in the approved decision-making framework to evaluate the security vulnerability of various materials and research and test reactor licensees. *See id.*

REQUEST FOR ADMISSION NO. 6: The decision-making matrix proposed in the November 2004 SECY paper was used by the Staff to rule out consideration of attacks on the Diablo Canyon ISFSI that do not cause immediate fatalities.

REQUEST FOR ADMISSION NO. 7: In an attack on a spent-fuel-storage module at the Diablo Canyon ISFSI, if the inner canister of the module were penetrated in a manner that allowed access of air to the spent fuel, and an incendiary device were used to ignite the fuel cladding, the attack could cause a fire that would result in a significant release of radioactive material to the atmosphere, leading to onsite and offsite land contamination and related radiological impacts.

REQUEST FOR ADMISSION NO. 8: An attack on a spent-fuel-storage module at the Diablo Canyon ISFSI, leading to a fuel-cladding fire and a significant release of radioactive material to the atmosphere, could be accomplished by a sub-national group without assistance from a national government and without access to information that is classified or otherwise restricted by the government of the United States.

REQUEST FOR ADMISSION NO. 9: In preparing the Draft EA Supplement, the NRC Staff did not estimate the radiological impacts of the type of attack described in Request for Admission No. 7.

REQUEST FOR ADMISSION NO. 10: In preparing the Final EA Supplement, the NRC Staff did not estimate the radiological impacts of the type of attack described in Request for Admission No. 7.

REQUEST FOR ADMISSION NO. 11: The NRC Staff considers the type of attack described in Request for Admission No. 7 to be beyond the design basis for protection of the Diablo Canyon ISFSI.

REQUEST FOR ADMISSION NO. 12: An attack on the Diablo Canyon ISFSI of the type described in Request for Admission No. 7 is credible.

REQUEST FOR ADMISSION NO. 13: An attack on the Diablo Canyon ISFSI of the type described in Request for Admission No. 7 is reasonably foreseeable.

C. SPECIFIC DOCUMENT REQUESTS:

Please produce the following documents:

SPECIFIC REQUEST NO. 1. Any and all documents containing decision-making frameworks or other criteria for assessing security needs that take into consideration the consequences of an attack on a facility licensed by NRC, including the SECY paper referenced in Request for Admissions No. 1.

Respectfully submitted,



Diane Curran

Harmon, Curran, Spielberg, & Eisenberg, L.L.P.

1726 M Street N.W., Suite 600

Washington, D.C. 20036

202/328-3500

e-mail: Dcurran@harmoncurran.com

February 6, 2007

CERTIFICATE OF SERVICE

I certify that on February 6, 2007, copies of the foregoing San Luis Obispo Mothers for Peace's First Set of Discovery Requests to NRC Staff and San Luis Obispo Mothers for Peace's First Set of Discovery Requests to Pacific Gas and Electric Company were served on the following by first-class mail and/or e-mail as indicated below:

Office of the Secretary (original and two copies) Rules and Adjudications Branch U.S. Nuclear Regulatory Commission 11555 Rockville Pike Rockville, MD 20852 Also by e-mail to: hearingdocket@nrc.gov	William V. Manheim, Esq. Jennifer Post Pacific Gas & Electric Co. 77 Beale Street B30A San Francisco, CA 94105 Also by e-mail to: AXFn@pge.com , JLKm@pge.com
David A. Repka, Esq. Tyson R. Smith, Esq. Winston & Strawn, LLP 1700 K Street N.W. Washington, D.C. 20006-3817 Also by e-mail to: drepka@winston.com , trsmith@winston.com	Lisa B. Clark, Esq. Tison A. Campbell, Esq. Office of General Counsel Mail Stop O-15D21 U.S. Nuclear Regulatory Commission Washington, D.C. 20555 Also by e-mail to: tac2@nrc.gov , lbc@nrc.gov
Timothy McNulty, Esq. Office of County Counsel County Government Center Room 386 San Luis Obispo, CA 93408 Also by e-mail to: tmcnulty@co.slo.ca.us	Kenneth Alex, Esq. Susan Durbin, Esq. Brian Hembacher, Esq. California Department of Justice 1515 Clay Street, 20 th Floor Oakland, CA 94612-0550 Also by e-mail to: Susan.Durbin@doj.ca.gov ; Brian.Hembacher@doj.ca.gov
Barbara Byron, Staff Counsel California Energy Commission Chief Counsel's Office 1516 Ninth Street, MS 14 Sacramento, CA 95814 Also by e-mail to: Bbyron@energy.state.ca.us	San Luis Obispo Mothers for Peace P.O. Box 164 Pismo Beach, CA 93448


Diane Curran