

April 18, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PACIFIC GAS AND ELECTRIC COMPANY)	Docket No. 72-26-ISFSI
)	
(Diablo Canyon Power Plant Independent)	ASLBP No. 08-860-01-ISFSI-BD01
Spent Fuel Storage Installation))	

SECOND ADDENDUM TO THE STAFF'S RESPONSE TO COMMISSION
ORDER TO PROVIDE REFERENCE LIST AND *VAUGHN* INDEX

On February 13, 2008 the Nuclear Regulatory Commission (NRC) Staff filed its "Response to the Commission Order to Provide Reference List and *Vaughn* Index," which was supplemented on February 15, 2008 with an Addendum. The NRC Staff did not include in the *Vaughn* Index an NRC document. The document,

Memorandum from Daniel H. Dorman to Wayne Hodges, "Results of NSIR Screening of Nuclear Facility Security Scenarios for Remote and Speculative Nature Prior To Use In Decision-Making Framework," March 9, 2005.

was listed as a reference in the Addendum to the Supplemental EA, but was inadvertently omitted from the *Vaughn* index. The Staff herein incorporates that document into the *Vaughn* Index, by reference. The NRC Staff must withhold portions of this document under 5 U.S.C. § 552(b), as detailed in the attached *Vaughn* Index and Affidavit of Bernard Stapleton.

Respectfully submitted,

/RA/

Lisa B. Clark
Molly L. Barkman
Counsel for NRC Staff

Dated at Rockville, MD
this 18th day of April, 2008.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

March 9, 2005

MEMORANDUM TO: Wayne Hodges, Deputy Director
Spent Fuel Project Office
Office of Nuclear Material Safety and Safeguards

Robert Pierson, Director
Division of Fuel Cycle Safety and Safeguards
Office of Nuclear Material Safety and Safeguards

William Beckner, Director
New Research and Test Reactors Program
Office of Nuclear Reactor Regulation

FROM: Daniel H. Dorman, Deputy Director
Division of Nuclear Security
Office of Nuclear Security and Incident Response

A handwritten signature in black ink, appearing to read "Daniel H. Dorman", is written over the typed name and title.

SUBJECT: RESULTS OF NSIR SCREENING OF NUCLEAR FACILITY SECURITY
SCENARIOS FOR REMOTE AND SPECULATIVE NATURE PRIOR TO
USE IN DECISION-MAKING FRAMEWORK

The purpose of this memorandum is to forward the results of the subject screening that was conducted by subject matter experts in the Division of Nuclear Security, Office of Nuclear Security and Incident Response. These scenarios, provided by the program offices, were reviewed for "remote and speculative" screening with respect to threat, physical security, transport and deployment considerations, and an integrated assessment of these considerations. The attached sensitive and/or classified documents identify the scenarios that screened out which are not to be processed through the decision-making framework, and provide the scenario-specific rationale for the decisions.

Attachments: As stated

cc: A. Tardiff J. Whitney
F. Sturtz A. Frazier
F. Young R. Vanden Berghe
B. White D. Tiktinski
P. Madden M. Mendonca
A. Adams J. McKirgan

DERIVED FROM: DOD IIR 5398315605
DECLASSIFY ON: 20300113
DATE/EVENT/EXEMPTION
CLASSIFIER: Jim Whitney/3068
NAME/TITLE/NUMBER

When separated from Attachments, this
document is DECONTROLLED.



Adversary Knowledge, Training, Capabilities, and Targeting (U)

(U) This document is for NRR's RTR Section to provide them with more information on the adversary's training, capabilities, knowledge and targeting thought process.

DERIVED FROM IIR 5 398 3156 05 11/13/2005
SOURCE DATE

REASON:

DECLASSIFY ON: 20306113

DATE/EVENT/EXEMPTION

CLASSIFIER: WHITING/3069

ALABAMA/ALABAMA/ALABAMA

[REDACTED]

P3

27 1

P3

1/1

P3

8 1

P3d

P3e

27 1

P3

(U) Research and Test Reactors are within the adversary's capabilities to attack or attempt to steal nuclear material.

Prepared by: J. Whitney (301-415-5253), and B. Sandler (301-415-8130), and coordinated within TAS and DIA's JITF-CT.

[REDACTED]

[REDACTED]

RTR SCENARIOS TAS ASSESSED AS REMOTE AND SPECULATIVE - none

RTR SCENARIOS TAS ASSESSED AS POSSIBLE

Ex #2 p41

Ex #2 p41

Ex #2 p41

Ex #2 p41

P4C

[REDACTED]

[REDACTED]

IFPO SCENARIOS TAS ASSESSED AS REMOTE AND SPECULATIVE

Ex 1 PS

Ex 1 PS

Ex 1 PS

Ex 1 PS

Ex 1 PS

Ex 1 PS

Ex 1 PS

SCENARIOS TAS ASSESSED AS POSSIBLE

Ex 1 PS

Ex 1 PS

Ex 1 PS

[REDACTED]

DERIVED FROM 4401238104 9/3/20
REASON: SOURCE DATE
DECLASSIFY ON: 20290903 DATE/EVENT/EXEMPTION
CLASSIFIER: WHITTAKER/3068 NUMBER

NMSS SCENARIOS TAS ASSESSED AS REMOTE AND SPECULATIVE

Three types of scenarios were considered remote and speculative by TAS and are suggested they be ruled out as being remote and speculative.

Ex 1

P66

Ex 1

P66

Scenario Summary, W.A. 01
DERIVED FROM: Fuel Cycle Facilities, H/2004
SOURCE/DATE
DATE: 20040420
CLASSIFY ON: DATE/EVENT/EXEMPTION
CLASSIFIER: Whitman / 3065
NAME/TITLE/NUMBER

[REDACTED]

Screening of Materials Licensee & Transportation Scenarios Prior to
Application of Decision-Making Framework
Physical Security Component

1
8/22
P

07

8/22

OFFICIAL USE ONLY

May be exempt from public release under the Freedom of
Information Act (5 U.S.C. 552)

Exemption number: 2

Nuclear Regulatory Commission review required before
public release.

F. C. Sturz NSIR/DNS/MTWS

Name and organization of person making determination

Date of determination: 03/04/2005

[REDACTED]

**Screening of Fuel Cycle Facility Scenarios
Prior to Application of Decision-Making Framework
Physical Security Component**

Task

Screen fuel cycle facility scenarios from a physical protection perspective for "remote and speculative" nature prior to processing scenarios through the approved "security assessment (SA)" framework. Category I facilities are not included in this effort. Only generic licensee class (GDP, Cat III, etc.) facility physical protection characteristics will be considered, without utilizing site specific details concerning: response force times, response force characteristics, barriers, configuration of the facility, types and locations of radioactive materials, security systems, lighting, etc.

Process

A panel of NSIR/FCSSP Physical Security Specialists (subject matter experts) evaluated the fuel cycle facility scenarios provided by the NSIR/VAIR section from NMSS. A panel consensus resulted in several specific scenarios that were judged to be "remote and speculative" category and should be screened out at this point and not subjected to the SA framework.

OFFICIAL USE ONLY

May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552)

Exemption number: 2

Nuclear Regulatory Commission review required before public release.

Albert G Garrett NSIR/DNS/FCSSP

Name and organization of person making determination

Date of determination: 03/03/2005

[REDACTED]

1/1/0

p9a

[REDACTED]

[REDACTED]

Screening of Research and Test Reactor Licensee Scenarios Prior to Application of Decision-Making Framework Physical Security Component

Basis:

Ex #2 P10a

2. Attack is on a research and test reactor
3. Analyses is to be integrated considering the NSIR Threat Assessment Section analysis

Analysis:

No scenarios are remote and speculative considering the physical protection and threat parameters given.

Reason:

Ex #2 P10b

P10c

[REDACTED]

OFFICIAL USE ONLY

May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552)

Exemption number: 2

Nuclear Regulatory Commission review required before public release.

J. A. Arildsen NSIR/DNS/MMIR

Name and organization of person making determination

Date of determination: 03/07/2005

CC: Albert Garrett; James Whitney; Richard Rasmussen

Vaughn Index

Document Name	Document Summary	Location of Redaction	FOIA Exemption	Justification for Withholding Information
"RESULTS OF NSIR SCREENING OF NUCLEAR FACILITY SCENARIOS FOR REMOTE AND SPECULATIVE NATURE PRIOR TO USE IN DECISION-MAKING FRAMEWORK", March 9, 2005	Memorandum from the Office of Nuclear Security and Incident Response (NSIR) to directors of other offices, regarding evaluation of security scenarios.	p.2.a	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.2.b	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.2.c	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.2.d	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.2.e	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.2.f	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.

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		p.3.f	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.4.a	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.

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		p.4.c	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.4.d	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
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		p.5.f	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.5.g	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.5.h	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.5.i	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.5.j	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.
		p.6.a	Ex. 1	Classified National Security Information: Material specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy.

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		p.7.a	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.7.b	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.8.a	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.8.b	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.9.a	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.10.a	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.
		p.10.b	Ex. 2	Internal agency analysis of licensee security programs where disclosure of information could aid an adversary in circumventing security arrangements.

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April 18, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
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PACIFIC GAS AND ELECTRIC COMPANY)	Docket No. 72-26-ISFSI
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(Diablo Canyon Power Plant Independent)	ASLBP No. 08-860-01-ISFSI-BD01
Spent Fuel Storage Installation))	

AFFIDAVIT OF BERNARD STAPLETON

I, Bernard Stapleton, do hereby state as follows:

1. I am employed as the Senior Program Manager for the Safeguards Information program at the Nuclear Regulatory Commission (NRC). I have worked in this capacity for five years. I am also an authorized NRC classifier and have authored several guidance documents involving Safeguards Information and classified topics. Prior to joining the NRC, I worked as a National Security Advisor in the Department of Energy's classification office. I have also represented the NRC staff before several Atomic Safety Licensing Board hearings on information security and have spoken before the Federal Appeals Board on information protection on behalf of the Department of Justice.
2. As part of their responsibilities in preparing the document disclosures for the "NRC Staff's Response to Commission Order to Provide Reference List and *Vaughn* Index," dated February 13, 2008, (Ref. 1), the NRC staff reviewed the unclassified portions of all of the documents it referenced in the Supplemental EA and Addendum to the Supplemental EA, line-by-line and identified information which should be withheld from public disclosure pursuant to FOIA exemptions.
3. The Staff inadvertently omitted one document, Memorandum from Daniel H. Dorman to Wayne Hodges, "Results of NSIR Screening of Nuclear Facility Security Scenarios for Remote

and Speculative Nature Prior To Use In Decision-Making Framework," March 9, 2005, ("Dorman Memo") which they have now redacted and are disclosing.

4. I personally reviewed the Dorman Memo and am satisfied that all of the information reasonably segregable from information exempt from disclosure has been released, and that the FOIA exemptions invoked by the Staff are proper.

5. I have determined that disclosure of the withheld information would cause harm to the public health and safety as it would provide information which could aid an adversary in circumventing the law by sabotaging an Independent Spent Fuel Storage Installation. The justifications for withholding the information are explicitly addressed in the attached *Vaughn* index, which I have reviewed and believe to be true and correct to the best of my knowledge.

6. I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

/Original signed by/

Bernard Stapleton

Dated at Rockville, Maryland
this 18th day of April, 2008.

April 18, 2008

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
PACIFIC GAS & ELECTRIC CO.)	Docket No. 72-26-ISFSI
)	
(Diablo Canyon Power Plant Independent)	ASLBP No. 08-860-01-ISFSI-BD01
Spent Fuel Storage Installation))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "SECOND ADDENDUM TO THE STAFF'S RESPONSE TO COMMISSION ORDER TO PROVIDE REFERENCE LIST AND VAUGHN INDEX" in the above-captioned proceedings have been served on the following by deposit in the United States mail; through deposit in the Nuclear Regulatory Commission's internal system as indicated by an asterisk (*), and by electronic mail as indicated by a double asterisk (**) on this 18th day of April, 2008.

E. Roy Hawken * **
Chief Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Mail Stop: T 3-F23 *
Washington, D.C. 20555

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/RA/

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Molly L. Barkman
Counsel for the NRC Staff