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February 4, 2009

BY ELECTRONIC SERVICE

Cathy A. Catterson, Clerk

United States Court of Appeals for the Ninth Circuit

95 Seventh Street

San Francisco, CA 94103-1526

Subject: *San Luis Obispo Mothers for Peace v. NRC,*
No. 08-75058

Dear Ms. Catterson:

In preparing the docketing statement for this case, which was filed with San Luis Obispo Mothers for Peace's ("SLOMFP's") petition for review on December 12, 2008, I inadvertently failed to identify a related case that is pending in this Court: *Public Citizen and San Luis Obispo Mothers for Peace v. NRC*, Nos. 07-71868, 07-72555. (That case was consolidated with *State of New York v. NRC*.) The attached amended docketing statement corrects the error.

In addition, I have amended the docketing statement to indicate that as an alternative to the possibility that SLOMFP may seek a stay, SLOMFP may request an expedited decision.

Thank you for your consideration.

Sincerely,

/s/

Diane Curran

Cc: Service List



USCA DOCKET # (IF KNOWN)

08-75058

**UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CIVIL APPEALS DOCKETING STATEMENT**

PLEASE ATTACH ADDITIONAL PAGES IF NECESSARY.

TITLE IN FULL: San Luis Obispo Mothers for Peace v. United States Nuclear Regulatory Commission and the United States of America	DISTRICT:	JUDGE:
	DISTRICT COURT NUMBER:	
	DATE NOTICE OF APPEAL FILED: December 12, 2008	IS THIS A CROSS APPEAL? <input type="checkbox"/> YES
	IF THIS MATTER HAS BEEN BEFORE THIS COURT PREVIOUSLY, PLEASE PROVIDE THE DOCKET NUMBER AND CITATION (IF ANY):	
BRIEF DESCRIPTION OF NATURE OF ACTION AND RESULT BELOW: Petition for review of an NRC decision to license a spent fuel storage facility at the Diablo Canyon power plant		
PRINCIPAL ISSUES PROPOSED TO BE RAISED ON APPEAL: Whether the NRC violated the National Environmental Policy Act and the Atomic Energy Act.		
PLEASE IDENTIFY ANY OTHER LEGAL PROCEEDING THAT MAY HAVE A BEARING ON THIS CASE (INCLUDE PENDING DISTRICT COURT POST-JUDGMENT MOTIONS): This case appeals an NRC decision on remand from San Luis Obispo Mothers for Peace v. NRC, 449 F.3d 1016 (9th Cir. 2006), cert. denied, 127 S.Ct. 1124 (2007). Related issues are raised in a case now pending before the Ninth Circuit: Public Citizen, Inc. and San Luis Obispo Mothers for Peace v. NRC, Nos. 07-71868 and 07-72555		
DOES THIS APPEAL INVOLVE ANY OF THE FOLLOWING:		
<input checked="" type="checkbox"/> Possibility of Settlement <input type="checkbox"/> Likelihood that intervening precedent will control outcome of appeal <input checked="" type="checkbox"/> Likelihood of a motion to expedite or to stay the appeal, or other procedural matters (Specify)		
Petitioner may seek a stay of fuel loading at the facility, or request an expedited decision. <input type="checkbox"/> Any other information relevant to the inclusion of this case in the Mediation Program		
<input type="checkbox"/> Possibility parties would stipulate to binding award by Appellate Commissioner in lieu of submission to judges		

LOWER COURT INFORMATION			
JURISDICTION		DISTRICT COURT DISPOSITION	
FEDERAL	APPELLATE	TYPE OF JUDGMENT/ORDER APPEALED	RELIEF
<input checked="" type="checkbox"/> FEDERAL QUESTION <input type="checkbox"/> DIVERSITY <input type="checkbox"/> OTHER (SPECIFY): 	<input type="checkbox"/> FINAL DECISION OF DISTRICT COURT <input type="checkbox"/> INTERLOCUTORY DECISION APPEALABLE AS OF RIGHT <input type="checkbox"/> INTERLOCUTORY ORDER CERTIFIED BY DISTRICT JUDGE (SPECIFY): <input checked="" type="checkbox"/> OTHER (SPECIFY): Petition for review of agency order	<input type="checkbox"/> DEFAULT JUDGMENT <input type="checkbox"/> DISMISSAL/JURISDICTION <input type="checkbox"/> DISMISSAL/MERITS <input type="checkbox"/> SUMMARY JUDGMENT <input type="checkbox"/> JUDGMENT/COURT DECISION <input type="checkbox"/> JUDGMENT/JURY VERDICT <input type="checkbox"/> DECLARATORY JUDGMENT <input type="checkbox"/> JUDGMENT AS A MATTER OF LAW <input type="checkbox"/> OTHER (SPECIFY): 	<input type="checkbox"/> DAMAGES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> INJUNCTIONS: <input type="checkbox"/> PRELIMINARY <input type="checkbox"/> PERMANENT <input type="checkbox"/> GRANTED <input type="checkbox"/> DENIED <input type="checkbox"/> ATTORNEY FEES: SOUGHT \$ _____ AWARDED \$ _____ <input type="checkbox"/> PENDING <input type="checkbox"/> COSTS: \$ _____

CERTIFICATION OF COUNSEL

I CERTIFY THAT:

1. COPIES OF ORDER/JUDGMENT APPEALED FROM ARE ATTACHED.
2. A CURRENT SERVICE LIST OR REPRESENTATION STATEMENT WITH TELEPHONE AND FAX NUMBERS IS ATTACHED (SEE 9TH CIR. RULE 3-2).
3. A COPY OF THIS CIVIL APPEALS DOCKETING STATEMENT WAS SERVED IN COMPLIANCE WITH FRAP 25.
4. I UNDERSTAND THAT FAILURE TO COMPLY WITH THESE FILING REQUIREMENTS MAY RESULT IN SANCTIONS, INCLUDING DISMISSAL OF THIS APPEAL.

s/Diane Curran
January 30, 2009
Signature
Date

COUNSEL WHO COMPLETED THIS FORM

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****THIS DOCUMENT SHOULD BE FILED IN DISTRICT COURT WITH THE NOTICE OF APPEAL. ****
****IF FILED LATE, IT SHOULD BE FILED DIRECTLY WITH THE U.S. COURT OF APPEALS.****

CERTIFICATE OF SERVICE
When All Case Participants are Registered for the
Appellate CM/ECF System

I hereby certify that on (date) February 4, 2009, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature /s/ Diane Curran

CERTIFICATE OF SERVICE
When Not All Case Participants are Registered for the
Appellate CM/ECF System

I hereby certify that on (date) _____, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature _____