

January 8, 2010

Mr. John T. Conway, Senior Vice President,  
Generation and Chief Nuclear Officer  
Diablo Canyon Nuclear Power Plant,  
Units 1 and 2  
Pacific Gas & Electric Company  
77 Beale Street, MC B32  
San Francisco, CA 94105

SUBJECT: DETERMINATION OF ACCEPTABILITY AND SUFFICIENCY FOR  
DOCKETING, PROPOSED REVIEW SCHEDULE, AND OPPORTUNITY FOR A  
HEARING REGARDING THE APPLICATION FROM PACIFIC GAS &  
ELECTRIC COMPANY, FOR RENEWAL OF THE OPERATING LICENSES FOR  
THE DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2

Dear Mr. Conway:

By letter dated November 23, 2009, the U.S. Nuclear Regulatory Commission (NRC) received Pacific Gas & Electric Company's application for renewal of operating licenses DPR-80 and DPR-82 for the Diablo Canyon Nuclear Power Plant (DCPP), Units 1 and 2. Notice of receipt of this application was published in the *Federal Register* on December 11, 2009 (74 FR 65811). The purpose of this letter is to provide the results of the NRC staff's acceptance review of the license renewal application (LRA) for DCPP. The acceptance review determines whether the application contains sufficient information to allow the NRC staff to proceed with the safety and environmental reviews.

The NRC staff has reviewed your application following the guidance in NUREG-1800, Revision 1, "Standard Review Plan for Review of License Renewal Applications for Nuclear Power Plants," and NUREG-1555, "Standard Review Plans for Environmental Reviews for Nuclear Power Plants." As a result, the NRC staff has determined that the application is complete and acceptable for docketing, in accordance with Title 10 of the *Code of Federal Regulations* (CFR) Sections 2.101, 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c). However, the staff's determination does not preclude requests for additional information (RAIs) as the review proceeds.

This letter forwards the NRC staff's safety and environmental review schedule for the DCPP application (Enclosure 1). The NRC staff will follow established review procedures and the enclosed schedule to complete the reviews required by 10 CFR Parts 54 and 51. This schedule has been established in accordance with a 30-month review plan, which includes time to conduct a hearing, should a hearing be requested and granted. Milestones for hearing activities are not included in the enclosed schedule because these dates are established by the Commission or the Atomic Safety and Licensing Board Panel.

We would like to emphasize that the review of your LRA will be very detailed and thorough. The NRC staff will make every effort to meet the scheduled milestones; thus, your responses to the staff's RAIs, if needed, must be complete and provided in a timely manner. We request that you inform the NRC staff as early as possible should potential delays arise in your support of the schedule.

J. Conway

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Finally, we have also enclosed a copy of the notice related to your application that is being sent to the Office of the Federal Register for publication (Enclosure 2). This notice announces the opportunity to request a hearing and to file a petition for leave to intervene.

If you have any questions on this matter, please contact Ms. Kimberly Green, Project Manger, for the review of the DCPD LRA, by telephone at 301-415-1627 or via e-mail at [Kimberly.Green@nrc.gov](mailto:Kimberly.Green@nrc.gov).

Sincerely,

***/RA Sam Lee for/***

Brian E. Holian, Director  
Division of License Renewal  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

Enclosures:  
As stated

cc w/encls: See next page

J. Conway

- 2 -

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Sincerely,

***/RA Sam Lee for/***

Brian E. Holian, Director  
Division of License Renewal  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

Enclosures:  
As stated

cc w/encls: See next page

ADAMS Accession No: ML093631560

OFFICE	PM:RPB2:DLR	LA:RPOB:DLR	PM:RPB2:DLR	PM:RPB2:DLR	BC:RPB2:DLR
NAME	NFerrer	SFiguroa	KGreen	AStuyvenberg	DWrona
DATE	12/30/09	1/4/10	1/4/10	1/5/10	1/6/10
OFFICE	OGC	D:DLR:NRR			
NAME	SUttal (LSubin for)	BHolian (SLee for)			
DATE	1/7/10	1/8/10			

OFFICIAL RECORD COPY

Letter to J. Conway from B. Holian dated, January 8, 2010

SUBJECT: DETERMINATION OF ACCEPTABILITY AND SUFFICIENCY FOR DOCKETING,  
PROPOSED REVIEW SCHEDULE, AND OPPORTUNITY FOR A HEARING  
REGARDING THE APPLICATION FROM PACIFIC GAS & ELECTRIC COMPANY,  
FOR RENEWAL OF THE OPERATING LICENSES FOR THE DIABLO CANYON  
NUCLEAR POWER PLANT, UNITS 1 AND 2

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N. Ferrer

K. Green

A. Stuyvenberg

D. Wrona

A. Wang

M. Peck, RIV

T. Brown, RIV

G. Miller, RIV

N. O'Keefe, RIV

G. Pick, RIV

C. Casto, RIV

I. Couret, OPA

V. Dricks, OPA

W. Maier, RIV

J. Weil, OCA

E. Williamson, OGC

S. Uttal, OGC

R. Rihm, EDO

Diablo Canyon Nuclear Power Plant  
Units 1 and 2

cc:

Chairman  
San Luis Obispo County Board of  
Supervisors  
1055 Monterey Street, Suite D430  
Room 370, County Government Center  
San Luis Obispo, CA 93408

Mr. Terence L. Grebel  
Manager, Regulatory Projects  
Diablo Canyon Nuclear Power Plant  
P.O. Box 56  
Avila Beach, CA 93424

Mr. James R. Becker, Site Vice President  
Pacific Gas & Electric Company  
Diablo Canyon Nuclear Power Plant  
P.O. Box 3, Mail Station 104/6/601  
Avila Beach, CA 93424

Ms. Jennifer Post, Esq.  
Pacific Gas & Electric Company  
77 Beale Street, Room 2496  
Mail Code B30A  
San Francisco, CA 94120

Mr. Gary Butner  
Chief, Radiological Health Branch  
California Department of Public Health  
P.O. Box 997414, MS 7610  
Sacramento, CA 95899-7414

Mr. Tony Brown  
NRC Resident Inspector  
Diablo Canyon Nuclear Power Plant  
c/o U.S. Nuclear Regulatory Commission  
P.O. Box 369  
Avila Beach, CA 93424

Mr. Michael Peck  
NRC Senior Resident Inspector  
Diablo Canyon Nuclear Power Plant  
c/o U.S. Nuclear Regulatory Commission  
P.O. Box 369  
Avila Beach, CA 93424

Regional Administrator, Region IV  
U.S. Nuclear Regulatory Commission,  
Texas Health Resources Tower  
612 East Lamar Boulevard, Suite 400  
Arlington, TX 76011-4125

DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2  
 LICENSE RENEWAL APPLICATION  
 REVIEW SCHEDULE

Milestone	Scheduled	Actual
Receive license renewal application (LRA)	11/24/2009	11/24/2009
Publish Federal Register Notice (FRN) - LRA availability	12/11/2009	12/11/2009
Publish FRN - acceptance/rejection and opportunity for hearing	01/21/2010	
Publish FRN – Intent to conduct Environmental Scoping	01/21/2010	
Public Meeting - license renewal overview	02/10/2010	
Public Meeting – environmental scoping meeting	03/2010	
Deadline for filing hearing requests and petitions for intervention	03/22/2010	
Environmental scoping period ends	04/05/2010	
Audit – Scoping & Screening Methodology	03/15/2010	
Audit - Environmental	TBD	
Audit – Aging Management Programs	04/12/2010	
Inspection - Regional	TBD	
Issue environmental requests for additional information (RAIs)	05/03/2010	
Receive responses for environmental RAIs	06/03/2010	
Issue safety RAIs	06/23/2010	
Receive responses for safety RAIs	07/23/2010	
Issue draft supplemental environmental impact statement (SEIS)	10/15/2010	
Publish EPA FRN - draft SEIS available for comments	10/22/2010	
Public Meeting - draft SEIS meeting	12/02/2010	
Issue safety evaluation report (SER) with open items	12/10/2010	
End of draft SEIS comment period	01/05/2011	
Advisory Committee on Reactor Safeguards (ACRS) Subcommittee meeting	02/2011	
Issue final SER	05/23/2011	
ACRS Full Committee meeting	07/2011	
Issue final SEIS	08/12/2011	
Publish EPA FRN - availability of final SEIS	08/19/2011	
Decision – Director, NRR (22 months if no hearing)	09/26/2011	
Commission decision (30 months if hearing is granted)	05/25/2012	

UNITED STATES NUCLEAR REGULATORY COMMISSION  
NOTICE OF ACCEPTANCE FOR DOCKETING OF THE APPLICATION,  
NOTICE OF OPPORTUNITY FOR HEARING FOR  
FACILITY OPERATING LICENSE NOS. DPR-80 AND DPR-82  
FOR AN ADDITIONAL 20-YEAR PERIOD  
PACIFIC GAS & ELECTRIC COMPANY  
DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2  
AND ORDER IMPOSING PROCEDURES FOR ACCESS TO SENSITIVE UNCLASSIFIED  
NON-SAFEGUARDS INFORMATION (SUNSI) FOR CONTENTION PREPARATION  
DOCKET NOS. 50-275 AND 50-323

The U.S. Nuclear Regulatory Commission (NRC) is considering an application for the renewal of operating licenses DPR-80 and DPR-82, which authorize Pacific Gas & Electric Company (PG&E) to operate the Diablo Canyon Nuclear Power Plant (DCPP), Units 1 and 2, at 3411 megawatts thermal, each. The renewed licenses would authorize the applicant to operate DCPP, Units 1 and 2, for an additional 20 years beyond the period specified in the current licenses. DCPP, Units 1 and 2, are located near San Luis Obispo, California. The current operating licenses expire on November 2, 2024, and August 26, 2025, respectively.

PG&E submitted the application dated November 23, 2009, pursuant to Title 10 of the *Code of Federal Regulations*, Part 54 (10 CFR Part 54) to renew operating licenses DPR-80 and DPR-82. A notice of receipt and availability of the license renewal application (LRA) was published in the *Federal Register* on December 11, 2009 (74 FR 65811).

The Commission has determined that PG&E has submitted sufficient information in accordance with 10 CFR Sections 2.101, 54.19, 54.21, 54.22, 54.23, 51.45, and 51.53(c), to

ENCLOSURE 2

enable the staff to undertake a review of the application, and the application is therefore acceptable for docketing. The Commission will retain the current Docket Nos. 50-275 and 50-323 for operating license Nos. DPR-80 and DPR-82. The determination to accept the LRA for docketing does not constitute a determination that the renewed licenses should be issued, and does not preclude the NRC staff from requesting additional information as the review proceeds.

Before issuance of the requested renewed licenses, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB) and that any changes made to the plant's CLB will comply with the Act and the Commission's regulations.

Additionally, in accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that is a supplement to the Commission's NUREG-1437, "Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants," dated May 1996. In considering the LRA, the Commission must find that the applicable requirements of Subpart A of 10 CFR Part 51 have been satisfied, and that matters raised under 10 CFR 2.335 have been addressed. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the staff intends to hold public scoping meetings. Detailed information regarding the environmental scoping meetings will be the subject of a separate *Federal Register* notice.



Within 60 days after the date of publication of this *Federal Register* notice, 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 renewal of the licenses. Requests for a hearing or petitions for leave to intervene must be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to the Internet or who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail at [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov). If a request for a hearing/petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR Parts 51 and 54, renew the licenses without further notice.

As required by 10 CFR 2.309, 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, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR Parts 51 and 54. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the

following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/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 that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners must jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at (301) 415-1677, to request (1) a digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through EIE, users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at (866) 672-7640. The NRC Meta System Help

Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at [http://ehd.nrc.gov/EHD\\_Proceeding/home.asp](http://ehd.nrc.gov/EHD_Proceeding/home.asp), unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this *Federal Register* notice. Non-timely filings will not be entertained absent a

determination by the presiding officer that the petition or request should be granted or the contentions should be admitted, based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)–(viii).

Detailed information about the license renewal process can be found under the Nuclear Reactors icon at <http://www.nrc.gov/reactors/operating/licensing/renewal.html> on the NRC's website. Copies of the application to renew the operating licenses for DCPD are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852-2738, and at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications.html>, the NRC's website while the application is under review. The application may be accessed in ADAMS through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html> under ADAMS Accession Number ML093340125. As stated above, persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS may contact the NRC PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737, or by e-mail to [PDR.Resource@nrc.gov](mailto:PDR.Resource@nrc.gov).

The NRC staff has verified that a copy of the license renewal application is also available to local residents near the site at the San Luis Obispo Public Library, 995 Palm Street, San Luis Obispo, California 93401, and at the Paso Robles Public Library, 1000 Spring Street, Paso Robles, California 93446.

**Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.**

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A “potential party” is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555-0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The e-mail address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov*, respectively.<sup>1</sup> The request must include the following information:

- (1) A description of the licensing action with a citation to this *Federal Register* notice;
- (2) The name and address of the potential party and a description of the potential party’s particularized interest that could be harmed by the action identified in C.(1);
- (3) The identity of the individual or entity requesting access to SUNSI and the requestor’s basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions

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<sup>1</sup> While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC’s “E-Filing Rule,” the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

of the information requested would not be sufficient to provide the basis and specificity for a proffered contention;

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order<sup>2</sup> setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

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<sup>2</sup> Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.



G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, or after a determination on trustworthiness and reliability, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.<sup>3</sup>

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying

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<sup>3</sup> Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

IT IS SO ORDERED. Dated at Rockville, Maryland, this 12 day of January 2010.

For the Commission.

*/RA/*

Annette L. Vietti-Cook.  
Secretary of the Commission.

**ATTACHMENT 1--General Target Schedule for Processing and Resolving Requests for Access to Sensitive Unclassified Non-Safeguards Information in this Proceeding**

<b>Day</b>	<b>Event/Activity</b>
0	Publication of <i>Federal Register</i> notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) Demonstration of standing; (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.

<b>Day</b>	<b>Event/Activity</b>
A	If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.
>A + 60	Decision on contention admission.