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Title: Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant

Docket Number: 50-275-LR and 50-323-LR

DOCKETED

September 20, 2011 (2:00 p.m.)

OFFICE OF SECRETARY
RULEMAKINGS AND
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Location: (teleconference)

Date: Tuesday, September 20, 2011

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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ATOMIC SAFETY AND LICENSING BOARD PANEL

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PRE-HEARING CONFERENCE

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IN THE MATTER OF: : Docket Nos. 50-275-LR

PACIFIC GAS & ELECTRIC : 50-323-LR

COMPANY : ASLBP No. 10-900-01-LR-BD01

(Diablo Canyon Nuclear :

Power Plant Units 1 & 2):

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Tuesday, September 20, 2011

Teleconference

The above-entitled matter came on for
prehearing conference, pursuant to notice, at 2:00
p.m.

BEFORE:

ALEX S. KARLIN Chairman

NICHOLAS G. TRIKOUROS Administrative Judge

PAUL B. ABRAMSON Administrative Judge

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P R O C E E D I N G S

(2:00:50 p.m.)

CHAIR KARLIN: Okay. Hello, this is Alex Karlin. I'm on the Atomic Safety and Licensing Board for the Pacific Gas & Electric Diablo Canyon matter.

This is an adjudicatory proceeding involving a challenge to PG&E's application to renew its licenses for two nuclear power plants located in San Luis Obispo County, California.

For the record, the docket number of this proceeding is 50-275LR and 50-323LR, and it's Atomic Safety and Licensing Board number 10-890-01-LR-DB01.

This conference call is being held with the parties pursuant to a notice that we issued on August 31st of this year. The date today is September 20th, and this conference call -- pre-hearing conference call is being conducted telephonically. And there are two types of telephone lines here, and hopefully they will work correctly. One type of line is for the parties, the lawyers for the parties who can speak, and who will talk and ask questions, and discuss certain pre-hearing issues. And a second type of line is for members of the public, and the media, and interested persons who want to listen in. So, we're conducting this as if it was a courtroom

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1 proceeding where the lawyers and the parties speak,
2 and the members of the public can attend, and listen
3 and watch.

4 With that said, I think we ought to go
5 through the introductions. The Board is -- consists of
6 myself, Alex Karlin, Dr. Paul Abramson is also on the
7 line. Dr. Abramson, are you there?

8 ADMIN. JUDGE ABRAMSON: I am.

9 CHAIR KARLIN: Very good. Nick Trikouros
10 is also here with us in Rockville. And John Eser is
11 our lawyer and law clerk who is helping us on this
12 case.

13 Could we ask -- I want to ask at this
14 point for the parties -- counsel for the parties to
15 identify themselves and any of their clients who are
16 on the line. Let's start with the San Luis Obispo
17 Mothers for Peace. Ms. Curran?

18 MS. CURRAN: This is Diane Curran. Good
19 afternoon. Representing San Luis Obispo Mothers for
20 Peace. And there's no one in my office on the line
21 with me. I believe that some members of Mothers for
22 Peace may be listening.

23 CHAIR KARLIN: Okay, great. Thank you, Ms.
24 Curran. For the Applicant, Pacific Gas & Electric
25 Company, Mr. Repka, could you introduce yourself and

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1 the other members of your team.

2 MR. REPKA: Yes, Judge Karlin. This is
3 David Repka and I represent Pacific Gas & Electric.
4 And I'm on the line from Washington. I also expect on
5 the line for PG&E counsel would be my associate, Tyson
6 Smith and Jennifer Post, counsel for PG&E. They are
7 both at a separate location in San Francisco, and I'll
8 just ask them to confirm that they are on the line.

9 MS. POST: Yes, Jennifer Post is on the
10 line.

11 MR. SMITH: And Tyson Smith is on the line,
12 as well. Thank you.

13 CHAIR KARLIN: Great. Thank you. And for
14 the Staff, Ms. Uttal or Mr. Subin, are you on the
15 line?

16 MR. SUBIN: Yes, I have myself here, Lloyd
17 Subin, Maxwell Smith and Lauren Woodall for the Staff.

18 CHAIR KARLIN: Okay. Lauren Woodall, very
19 good.

20 Is there anyone else on the line with a
21 speaking line? There probably shouldn't be, but okay.
22 I just thought I would check. Woodall, Lauren
23 Woodall. Okay.

24 A little bit of background. This is a six
25 month status conference call that we like to hold to

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1 sort of keep abreast of what's going on and manage
2 this case efficiently. I'll review the background,
3 relative immediate background of the case, and then
4 we'll proceed to talk about what's on the -- what we
5 have for items to talk about on the agenda.

6 As a background matter, more than a year
7 ago, on August 4th, 2010, this Board issued a decision
8 admitting four contentions proffered by the San Luis
9 Obispo Mothers for Peace, three contentions, and one
10 of them where we found a prima facie case in favor of
11 a variance, and indicated that that should be
12 considered by the Commission.

13 That decision has been appealed by the
14 Staff and the Applicant, different parts of that
15 decision, to the Commission and the Commission has yet
16 to rule on any of those appeal issues.

17 We had our last conference call, status
18 conference on February 23rd of this year, so it's
19 about six months. Nothing quite exact about this is
20 necessary. And since then, of course, on March 3rd,
21 2011 -- I mean, March 11th, 2011, the Fukushima
22 Daiichi earthquake and tsunami occurred.

23 Subsequent to that, on April 10th, PG&E
24 sent a letter to NRC Staff or Commissioners requesting
25 a deferral of certain aspects of the licensing

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1 proceeding until certain 3D seismic studies could be
2 completed. On April 14th, a petition was filed to
3 suspend all -- before the Commission, not before us,
4 to suspend all of the adjudicatory licensing
5 proceedings. And then later on May 31st, NRC issued
6 a response to PG&E, essentially saying that they would
7 delay Final Safety and Environmental Reviews until the
8 completion of PG&E's 3D seismic studies.

9 Based on those activities, on June 7th
10 this Board issued a notice that the adjudicatory
11 proceeding would be delayed by 52 months was our
12 approximation, although we may actually beat that and
13 do better than that if the Applicant and the Staff are
14 able to fulfill their schedules as they've indicated
15 they hope to. And we also asked at that order for
16 PG&E to submit monthly status reports to us on the
17 status of their 3D studies, seismic studies. And PG&E
18 has, indeed, been doing that and so we've gotten their
19 status reports, the first one being on July 12th.

20 Also on July 12th, the NRC's Task Force,
21 Fukushima Task Force issued its 90-day report, and 30
22 days thereafter San Luis Obispo Mothers for Peace
23 filed a new proposed -- motion to file a new
24 contention, what I will call the Fukushima contention
25 in this matter.

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1 Answers were filed to that Fukushima
2 contention on September 6th. On September 9th, three
3 days later, the Commission issued a ruling, CLI-11-
4 5 denying the petition to suspend all the proceedings.
5 On September 13th, the Interveners filed a reply. And
6 on September 14th, there was a joint motion filed by
7 all the parties to amend the deadline for certain of
8 the mandatory disclosure.

9 And I think that pretty much covers the
10 background, except to say we also did note, and we
11 want to ask just a question or two about the fact that
12 over the summer it appears that the Applicant is
13 requesting to change its safe shutdown earthquake for
14 the Diablo Canyon facilities from its current status
15 to a different safe shutdown earthquake. And I just
16 want to find out if that's relevant to this case or
17 not.

18 So, with that said, our current status is
19 we have to wait until the Final Environmental Impact
20 Statement is issued before we can conduct the
21 evidentiary hearing in this matter. The regs say so,
22 10 CFR 2.332(d), so we're in a waiting mode a bit, and
23 our -- the best we want to do is try to manage things
24 and prepare for the hearing so that when the trigger
25 events occur we will be prepared, all the parties will

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1 be prepared to conduct the hearing expeditiously and
2 fairly, and fully.

3 So, for today here's what the Board has
4 thought would be useful to cover. One, first, we're
5 going to just ask -- review PG&E's schedule regarding
6 the 3D seismic studies. Two, review the Staff's
7 schedule for issuing the FEIS and FSER. Three, we're
8 going to rule on the joint motion to amend the
9 deadline for the mandatory disclosures. Four, we're
10 going to ask the relevance of PG&E's plan to request
11 a change in its safe shutdown earthquake.

12 What we're not going to cover -- and I
13 think that's probably about it. What we're not going
14 to cover is the Fukushima contention. We're not going
15 to hear oral arguments on that today, except perhaps
16 to ask about the idea of a surreply that was suggested
17 in the reply.

18 We're not going to talk about a site visit
19 or a limited appearance statement session. We still -
20 - the majority of the Board still thinks those would
21 be a good idea, but it's just not the time or moment
22 to actually sort of sit down and schedule anything.
23 There's a lot of time yet to come in this case, it
24 seems, so there's no urgent need to set either a site
25 visit or a limited appearance statement session now.

1 We're not going to talk about another
2 issue, which is Contention EC4, which involves a
3 terrorist attack on the facility. As we said at our
4 last conference call, that contention will entail --
5 may entail safeguards information, may entail even
6 classified information. I don't know. And in the
7 mandatory disclosures, and in the conduct of that
8 hearing for that contention we will need to be
9 prepared to handle that information appropriately and
10 carefully. But since the Commission hasn't ruled on
11 that contention, we thought it would be better to just
12 wait a bit before we get into the meat of those
13 issues, because they're going to require some time and
14 attention from us all to make sure we manage, and have
15 a protective order that deals with the SGI and the
16 other confidential information appropriately.

17 With that, those four items on the agenda,
18 is there anything else that anyone else thinks we need
19 to cover, or want us to cover today now?

20 MR. REPKA: Nothing from PG&E.

21 CHAIR KARLIN: Okay. Then we'll just
22 proceed as laid out. Is there anything else that Judge
23 Trikouros or Judge Abramson would like to say at this
24 point, jump in.

25 (No response.)

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1 CHAIR KARLIN: No? Hearing none.

2 Review of the PG&E Schedule, Agenda Item
3 1. On September 13th, PG&E submitted its most recent
4 schedule for the performance and completion, I guess,
5 of the -- what I'll just call the 3D seismic studies.
6 It seems -- it was very helpful. I think the Board
7 thinks that this is a helpful thing for us to have and
8 to see. And I'm not sure whether we have any specific
9 questions on that. Judge Trikouros or Abramson, some?

10 One of the questions I guess I had was, if
11 you could attend to them, Mr. Repka and Mr. Smith, the
12 3D high-energy marine studies, the filing was
13 September 13th, but the little attachment is dated
14 September 1st. So, in any event, it talks about the
15 3D high-energy marine studies. And you contemplate
16 that the permits will be issued for that, estimated
17 August of 2012. Right? Are you with me there?

18 MR. REPKA: Yes, I see that.

19 CHAIR KARLIN: I guess that entails getting
20 some environmental permits for discharging or making -
21 - for doing this. Is that a -- how firm is that date?
22 Does that look pretty good, or is that problematic, or
23 you're not sure of that?

24 MR. REPKA: Well, I'll address this
25 briefly, and then Ms. Post is probably closer to it,

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1 and she can amplify, if necessary.

2 Yes, there's environmental permitting
3 associated with the high-energy marine studies. And
4 that is -- I would describe it as a fairly significant
5 permitting process in which there are potential
6 environmental impacts related to the noises and the
7 other issues associated with those studies. And those
8 need to be addressed, and that process is going to
9 take some time.

10 So, as to how firm it is, I think that's
11 our best estimate. I wouldn't characterize it as a
12 firm date. And there's also certainly no guarantee
13 that the studies would even be permitted, in which
14 case they won't be done.

15 CHAIR KARLIN: Right, good point. Ms. Post,
16 anything to add on that?

17 MS. POST: I would only say that I agree
18 with what Mr. Repka said in terms of characterization.
19 And what we are really going to try to do, Judge
20 Karlin, is as we have more information that
21 potentially has that date slipping either forward or
22 backward, because we'd like to get these studies done
23 as soon as we can, and we're making great efforts to
24 do that. We would let you know in our monthly update
25 reports.

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1 CHAIR KARLIN: Okay, good. That would be
2 helpful. I think that seems to be an important date
3 that may not be entirely within your control. I mean,
4 you've applied for the permits, but some -- do you
5 have to get a permit from, what agency is that? State
6 agencies, I presume, or --

7 MS. POST: We need a permit from the
8 California State Lands Commission, and we also need a
9 permit from the California Coastal Commission. It's
10 the California State Lands Commission that will be
11 performing the Environmental Impact Report associated
12 with the permit.

13 CHAIR KARLIN: Okay.

14 MS. POST: And they have already started
15 that process. There has been a public meeting on the
16 Environmental Impact Report. They've got a consultant
17 on board during the work, and that consultant is
18 working very quickly at our request and encouragement,
19 as well as the Agency's request and encouragement,
20 obviously. But as you said, we don't, necessarily,
21 have control over that process in terms of any sort of
22 slippage or delay.

23 My experience, not necessarily with this
24 specific process, but with Environmental Impact
25 Reports generally, is that they do get delayed and are

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1 issued, typically, at least a month if not a little
2 bit longer after expected. We're trying to make sure
3 that doesn't happen in this instance, but we will
4 certainly provide notice to you and to the parties if
5 that does occur.

6 CHAIR KARLIN: Okay, great. Thank you.

7 Another question I think we had -- I had,
8 and I think we wanted to ask this of the Staff, as
9 well, when we get to their report. But right now,
10 perhaps Mr. Repka, you could help us.

11 We ask -- I mean, our notice, our request
12 asked for you to also give us information about the
13 Coastal Zone Management Act, process, and permit, and
14 consistency, so you have reflected that at the bottom
15 of that chart.

16 Are they part of the critical path of you
17 completing the 3D studies, or are they a separate
18 thing?

19 MR. REPKA: They are separate from the 3D
20 studies, but I believe that they are going to look and
21 consider the 3D studies, but I'll ask Ms. Post to
22 clarify.

23 MS. POST: Right now we are thinking of
24 those permitting processes as separate, but I believe
25 we are hopeful that the seismic data collected in

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1 performing the 3D seismic studies will be helpful to
2 the Coastal Commission in its analysis and
3 consideration of coastal consistency under the CZMA.

4 The Coastal Commission had previously
5 taken the position in response to our coastal
6 consistency showing in the environmental report that
7 the 3D studies were necessary to their making their
8 consistency determination. So, we are hopeful that
9 there is also -- the results of the studies will be
10 important to their consistency determination, but they
11 are two separate coastal issues. In other words, we
12 need a coastal development permit in order to perform
13 the seismic studies, in addition to the coastal
14 consistency determination that we need in the context
15 of license renewal.

16 CHAIR KARLIN: Okay, thank you.

17 JUDGE TRIKOUROS: Yes, this is Judge
18 Trikouros. I just want to get one confirmation. The
19 final seismic report is currently scheduled for August
20 2013. That date is the date that's the trigger date is
21 looks like for the separate report we got on the SEIS
22 and the SER filings by the Staff. So, do I take it
23 then that the -- any delays or any problems associated
24 with the Coastal Zone Management Act permit are
25 independent of the SEIS/SER filings?

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1 CHAIR KARLIN: That question would probably
2 more to -- you're directing that to the Staff?

3 JUDGE TRIKOUROS: I'm actually directing it
4 to the Staff, specifically, but to anyone who can
5 answer.

6 MR. REPKA: Judge Karlin, I'm happy to take
7 a first shot at it.

8 CHAIR KARLIN: Okay.

9 MR. REPKA: Certainly, they are --

10 CHAIR KARLIN: This is Mr. Repka speaking.

11 MR. REPKA: Yes, it is. They're two
12 separate things. I think that the seismic report is
13 something that the Staff is looking for as a basis for
14 issuing the SEIS to determine if there's any new and
15 significant information, would be my assumption, which
16 would then be the trigger under the schedule for the
17 Atomic Safety and Licensing Board.

18 The coastal consistency determination is
19 just something that needs to be completed in order for
20 the NRC to issue the renewed license, so that's not
21 something that needs to be completed prior to moving
22 forward with the Staff's review.

23 CHAIR KARLIN: Mr. Subin, would you care to
24 comment on that? As I understand it, it's kind of --
25 is the -- what's the connection --

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1 MR. SUBIN: We have to have that
2 determination to complete the SEIS.

3 CHAIR KARLIN: You have to have what
4 determination?

5 MR. SUBIN: The CZMA.

6 JUDGE TRIKOUROS: This is Judge Trikouros
7 again. You need it for the final license issuance, as
8 Mr. Repka said, or do you need it for the SEIS/SER?

9 MR. SUBIN: Well, in 51.49 it requires the
10 status of the compliance, 51.49 what is it -- 45,
11 excuse me, (d), Status of Compliance. And it's
12 required for that.

13 CHAIR KARLIN: Yes.

14 MR. SUBIN: So, there would be no issuance
15 of the license unless we had that coastal consistency.

16 CHAIR KARLIN: All right. So, that -- you
17 agree with Mr. Repka.

18 MR. SUBIN: Yes, we agree. There's no
19 disagreement whatsoever.

20 CHAIR KARLIN: All right.

21 MR. SUBIN: Go ahead, Max.

22 MR. MAXWELL SMITH: Judge Karlin?

23 CHAIR KARLIN: Yes?

24 MR. MAXWELL SMITH: This is Max Smith on
25 behalf of the Staff. I'd like to add in, too, as a

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1 practical matter it makes sense to wait on finishing
2 the FSEIS until the CZMA permit is issued, because
3 that way the information in the IS doesn't become
4 stale, and that requires supplementation. So, the
5 Staff believes it's more efficient to wait longer to
6 issue the IS until after the seismic studies are
7 completed, and the CZMA certifications obtained.

8 JUDGE TRIKOUROS: All right. Now, that's
9 a significant -- this is Judge Trikouros again.
10 That's a significant change in the schedule for the
11 issuance of the SEIS.

12 MR. SUBIN: We were hoping that they would
13 have the coastal consistency sooner, but --

14 CHAIR KARLIN: This is Mr. Subin speaking
15 who started. If we're going to have --

16 MR. SUBIN: We would be able to complete
17 the SEIS but there would be no -- we would not be able
18 to issue the license until we had that, which is the
19 bigger problem. So, yes, we could have our SEIS
20 completed showing that it was pending, but we would
21 not be able to issue the license.

22 CHAIR KARLIN: Right. So, let --

23 MR. SUBIN: I'm trying not to peg it to the
24 coastal zone consistency, but you did ask me when we
25 would issue a license. And that was not when it was

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1 requested originally.

2 CHAIR KARLIN: Well, this is Alex Karlin.
3 And let's all try to identify ourselves as we speak,
4 because we're having multiple lawyers from the parties
5 speak, so it's going to be a little more difficult for
6 the court report.

7 But now let us, perhaps, turn to the
8 Staff's status report. And I think we're already kind
9 of halfway there. Because your report on September
10 15th says, "The Staff expects to finalize it's Safety
11 and Environmental Reviews to include issuance of the
12 Final Supplemental Environmental Impact Statement and
13 any necessary supplements to the Safety
14 Evaluation Report between February 2004 and May 2014.
15 This estimate is based on the Applicant issuing its
16 final report on the 3d seismic studies by August 2013,
17 as stated in PG&E's update."

18 So, that's good, and that's helpful. So,
19 what you're saying is your completion of the SEIS,
20 Final SEIS and Final SER are keyed to the final report
21 of the 3D studies, not keyed to the Coast Zone
22 Management consistency determination.

23 MR. SUBIN: Correct.

24 CHAIR KARLIN: Okay. But you then further
25 are saying that the ultimate issuance of the license

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1 would -- you would want to have the --

2 MR. SUBIN: Well, we could not issue it
3 without that.

4 CHAIR KARLIN: Without that. And why is
5 that, 51.45(b)?

6 MR. SUBIN: Correct.

7 CHAIR KARLIN: Okay. Well, I -- that's not
8 the way I -- okay. That's fine. Go ahead.

9 JUDGE TRIKOUROS: This is Judge Trikouros.
10 I have another question.

11 The -- your status -- the Staff's status
12 report of September 15th identifies a date for final
13 documents. Are there going to be draft documents
14 filed prior to that?

15 MR. SUBIN: Yes. There will probably be a
16 draft supplemental SER, if one is necessary.

17 JUDGE TRIKOUROS: Okay. And does --

18 MR. SUBIN: And we were hoping to do that
19 within that time frame.

20 JUDGE TRIKOUROS: Oh, within the February--

21 MR. SUBIN: Correct. I've already accounted
22 for that.

23 JUDGE TRIKOUROS: I see.

24 MR. SUBIN: Yes.

25 JUDGE TRIKOUROS: Would you need -- for

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1 the Draft Supplemental EIS, would you need the August
2 2013 final report, or could you move forward with the
3 April 2013 preliminary report?

4 MR. SUBIN: We would need the final report,
5 is my understanding.

6 CHAIR KARLIN: So, let me jump in then to
7 ask a question. Your -- this is a question to the
8 Staff. This is Alex Karlin, again. September 15th
9 Staff report, what I'd like -- doesn't say anything
10 about the Draft SEIS. So, when do you expect to issue
11 the Draft SEIS?

12 MR. SUBIN: The draft, probably some time
13 about the time that they issue the final seismic
14 report.

15 CHAIR KARLIN: So, the draft --

16 MR. SUBIN: Which should give us enough
17 time to get comment, and whatever.

18 CHAIR KARLIN: So, the draft --

19 MR. SUBIN: That's why we have the six to
20 nine months there.

21 CHAIR KARLIN: Okay. So, the Draft SEIS,
22 the Staff expects to issue it sometime after you get
23 the final 3D seismic report.

24 MR. SUBIN: Correct.

25 CHAIR KARLIN: And the final 3D seismic

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1 report is currently estimated to be August 2013.
2 Right?

3 MR. SUBIN: Correct.

4 CHAIR KARLIN: Therefore, the Draft SEIS is
5 sometime after August 2013. Right?

6 MR. SUBIN: Right.

7 CHAIR KARLIN: And before the Final SEIS.

8 MR. SUBIN: Correct.

9 CHAIR KARLIN: Okay. So, in the future
10 could you include, please --

11 MR. SUBIN: I will put a time line if you
12 need, for the draft.

13 CHAIR KARLIN: Well, just an estimated --

14 MR. SUBIN: Okay.

15 CHAIR KARLIN: -- date for the Draft SEIS.
16 And did you -- you also referred to a Draft
17 Supplemental FSER?

18 MR. SUBIN: It would be with open items, if
19 there was one. Right.

20 CHAIR KARLIN: And if you --

21 MR. SUBIN: Right.

22 CHAIR KARLIN: If you have a -- could you
23 include that in your monthly reports?

24 MR. SUBIN: Okay. If that would be
25 necessary. Again, we don't know. We're not --

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1 CHAIR KARLIN: If necessary. We understand
2 that you may decide it's not necessary.

3 MR. SUBIN: Correct.

4 CHAIR KARLIN: Okay.

5 JUDGE TRIKOUROS: Now, that was the other
6 question that I had again. This is Judge Trikouros.

7 So, the need -- this identification of a
8 possible supplement to the SER, is that in any way
9 associated with any of the seismic work going on
10 there?

11 (Off mic comments.)

12 MR. SUBIN: Again, we're not sure. We're
13 not anticipating anything at this moment.

14 JUDGE TRIKOUROS: All right.

15 CHAIR KARLIN: Hold on a second, please.
16 I'm going to put you on mute for a moment.

17 (Pause.)

18 CHAIR KARLIN: All right, everyone, are you
19 back on line? Hello?

20 MR. REPKA: Yes.

21 MS. CURRAN: Yes.

22 CHAIR KARLIN: We're back on. So, I needed
23 that caucus for a moment.

24 All right. Do we have any more questions,
25 Judge Trikouros or Judge Abramson, about either the

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1 PG&E schedule or the Staff's schedule?

2 (No response.)

3 CHAIR KARLIN: Okay. Nothing further on
4 that.

5 Turning to the third item for the agenda.
6 We've already covered the Staff's schedule and the
7 PG&E schedule. Is the motion -- the joint motion to
8 amend the deadline. And we looked at that, and we --
9 the Board agrees and will grant -- that is granted.
10 We will issue a short order to that effect, but you'll
11 consider that granted. And we -- that makes sense
12 given the 52 month extension that's been caused by the
13 conduct of the 3D seismic studies.

14 The fourth item on the agenda that we
15 wanted to just ask quickly about was, we noted that on
16 July 29th, 2011, NRC issued a memo reflecting that
17 there had been a meeting with the Applicant, PG&E.
18 And PG&E "will be requesting that the current
19 licensing basis be revised so that the Hosgri
20 earthquake, not the double-design earthquake, be
21 equated to the Diablo Canyon safe shutdown
22 earthquake." And the Staff noted that was a first of
23 a kind request.

24 Can I ask PG&E, has PG&E submitted such a
25 request at this point?

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1 MR. REPKA: This is Dave Repka. The answer
2 is no, that license amendment request has not yet been
3 filed. The memo documenting the meeting that you're
4 referring to was actually I believe the fourth pre-
5 application meeting on this topic.

6 CHAIR KARLIN: Okay.

7 MR. REPKA: And it -- yes, I don't think
8 PG&E would agree with the characterization of what was
9 being considered as a change to the licensing basis.
10 I think we believe it's a clarification that the safe
11 shutdown earthquake for Diablo Canyon has been the
12 Hosgri earthquake since the time of initial licensing.
13 But there are several earthquakes in the licensing
14 basis, so it would involve -- potentially, the license
15 amendment would involve a clarification of the
16 licensing basis documents.

17 So, that has not yet been filed. Our view
18 is that's a completely separate matter from license
19 renewal. It's a current licensing basis issue
20 addressed as part of the ongoing Part 50 licensing
21 process. And, of course, would be subject to the
22 hearing process, as appropriate, if in fact PG&E
23 submits a license amendment request.

24 CHAIR KARLIN: Okay. So, does the Staff
25 agree that that would be something that, I guess,

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1 would be noticed separately in some way and be subject
2 to potential request for a hearing and a separate
3 process or something?

4 MR. SUBIN: Yes, that's correct. Mr. Repka
5 stated that correct.

6 CHAIR KARLIN: Okay. It just seemed -- I
7 don't know whether -- is it something that is part of
8 the mandatory disclosures being at least relevant to
9 the contentions in this case?

10 MR. REPKA: I don't believe it would be
11 relevant to the contentions in this case. I think the
12 seismic contention that we're currently making
13 disclosures on is the SAMA issue, and this really
14 wouldn't affect or relate to the SAMA evaluations for
15 seismic, or any other events.

16 CHAIR KARLIN: Okay.

17 MS. CURRAN: Judge Karlin, this is Diane
18 Curran. Mothers for Peace would disagree with that,
19 because the subject matter is the seismic risk, which
20 is the subject of Contention EC1. So, I guess we'd
21 like to see that included in the disclosures.

22 CHAIR KARLIN: Well, we're not going to --
23 I don't think we're going to rule on anything like
24 that at this point. We just want to -- I just noted -
25 - we noted that that was going on, and we just

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1 wondered if that was part of this proceeding, or a
2 separate proceeding. And we're certainly not here to
3 resolve anything like that. It was just an
4 informational point. Judge Trikouros?

5 JUDGE TRIKOUROS: Yes, I just wanted to
6 clarify that what Mr. Repka said would be true only if
7 the seismic risk basis in the SAMA was, in fact,
8 conservative relative to this Hosgri fault?

9 MR. REPKA: Well, the seismic SAMA and
10 seismic hazards analysis in the revised SAMA
11 evaluation is based upon the shoreline fault, provides
12 the most revised seismic hazards. The original SAMA
13 was based upon the Hosgri, and all the other
14 earthquakes in the area as is the revised. So,
15 seismic hazard information is really independent of
16 the licensing basis safe shutdown earthquake. And to
17 the extent there is seismic probabilistic hazard
18 information that is subject -- that would be included
19 in our disclosure documents, and has been
20 consistently.

21 CHAIR KARLIN: Okay. And I would just note
22 for the record that the document we were referring to
23 is in ADAMS at ML111920567.

24 Finally, we'll turn to the thing we're not
25 really going to discuss, which is the Fukushima

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1 contention, we call it, are calling it. It's the
2 contention -- the motion to file a new contention, the
3 new contention of August 11th, 2011. This is not the
4 time or place for oral argument on that, but I would
5 like to ask, and I think we want to ask a couple of
6 questions.

7 First, in the reply that you filed, Ms.
8 Curran, you noted that, in Footnote 2 I think it was,
9 that the parties would not object to a response by the
10 Applicant and the Staff regarding the impact of CLI-
11 11-5. That seems fair and logical. Are the Applicant
12 and Staff interested in filing such a s

13 MR. REPKA: This is Dave Repka for PG&E.
14 PG&E is not requesting the opportunity to file a
15 surreply.

16 CHAIR KARLIN: Okay. Staff?

17 MR. SUBIN: Staff wouldn't be requesting
18 one either.

19 CHAIR KARLIN: Would not. Okay. Well, it
20 seems to me that it could be helpful to the Board for
21 you to tell us what you think, if anything, about the
22 CLI-11-5 as it may or may not apply to this
23 contention.

24 The Commission issued a ruling. They
25 addressed a number of somewhat related issues, so we

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1 would -- I think we would be interested, not going to
2 require, but we'd be interested in hearing from the
3 Applicant and the Staff on that issue in a short, not
4 to exceed let's say 10 pages from each of you by next
5 -- in a week. Let's say next Tuesday, COB September
6 27th. Again, not required, but we would encourage it,
7 and I'd be interested in seeing what you can help us
8 with on that.

9 Second, Ms. Curran, we have this question.
10 In the reply in Footnote 1, you indicate that this
11 document, I guess it was prepared by yourself and Ms.
12 Goldstein, and Mr. Tultooey, I guess is how you
13 pronounce it, primarily. Is that correct?

14 MS. CURRAN: That's right.

15 CHAIR KARLIN: Is that also true for the
16 original contention itself, were you the main team
17 working on this?

18 MS. CURRAN: Yes. Well, I had their
19 assistance. The contention is basically my work.

20 CHAIR KARLIN: Okay. I just wanted to sort
21 of understand that.

22 MS. CURRAN: Yes. There were so many --
23 you know, there were something like 20 cases in which
24 very similar contentions were filed. And the
25 responses were very similar, so --

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1 CHAIR KARLIN: Okay. Yes, but the original
2 contention, as well as the reply were primarily the
3 work product of those three individuals.

4 MS. CURRAN: Yes.

5 CHAIR KARLIN: Okay. That's helpful.

6 We're not -- okay, so we're not going to
7 have oral argument on that contention right now. We're
8 going to take it under consideration. We may decide
9 that we might want to hear oral argument. I might say
10 that if we decide we would need oral argument, we're
11 probably going to want to do -- move out pretty
12 crisply on that and quickly, so we're going to ask the
13 parties to clear the decks and make yourselves
14 available for that, if we decide we're going to ask
15 for it.

16 Are there any other -- I think we're
17 pretty much done with the agenda, unless there's
18 anything else.

19 JUDGE TRIKOUROS: Yes, I do have --

20 CHAIR KARLIN: Judge Trikouros, yes.

21 JUDGE TRIKOUROS: Yes. This is regarding
22 the status report for the seismic work again. I just
23 want to make sure I understand this schedule.

24 If I read this correctly, we are -- you
25 are currently performing surveys or soon to start

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1 performing surveys for the 2D, 3D low-energy marine,
2 and also the 2D onshore?

3 MR. REPKA: That is -- this is Dave Repka.
4 That's correct, as shown in the status report.

5 JUDGE TRIKOUROS: Right. And those are
6 scheduled to be completed at the end of this year.
7 So, there will be a preliminary report then on each of
8 those.

9 I don't know what they're likely to not
10 likely to show, but it looks to me as if regardless of
11 what they show, we're moving on to the completion of
12 the 3D in April. And then that final report that is
13 indicated for August 2013, that is basically the
14 report that covers all of the work that was done.
15 Right? Not just the 2D -- the 3D high-energy.

16 MR. REPKA: That would be my understanding,
17 that that would be a roll-up report. If Ms. Post has
18 any other information, I'll just ask that she correct
19 me.

20 JUDGE TRIKOUROS: What I was really looking
21 at was to make sure that I understand where there was
22 a potential for some delays in our proceeding. The
23 work coming out of the 2D, 3D low-energy or onshore
24 will be available much sooner, so it wasn't clear to
25 me how that information would be utilized, or how

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1 likely that was to cause delays.

2 CHAIR KARLIN: Anything else?

3 JUDGE TRIKOUROS: All right. That's fine.

4 CHAIR KARLIN: Judge Abramson, anything
5 else from you?

6 ADMIN. JUDGE ABRAMSON: Nothing else.

7 CHAIR KARLIN: Okay, thank you.

8 Well, I think, therefore, we've completed
9 our modest agenda, and appreciate the time and
10 attention from all the parties, and your responses and
11 answers. We appreciate the monthly status reports
12 that you give, and we pay attention to them. And we
13 manage our case, and try to plan this on that basis,
14 so it's important for us, and appreciate you giving us
15 your best estimates.

16 In terms of action items coming out of
17 this conference call or pre-hearing, first, the motion
18 to extend the deadline is hereby granted. We will
19 issue a short maybe one sentence order to that effect
20 probably tomorrow, but in the meantime you can stand
21 down if you were worried about that, and you do not
22 need to file those mandatory disclosures on September
23 30th.

24 Second, the Applicant and the Staff are
25 invited to file surreplies focusing solely on the

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1 impact or relevance of CLI-11-5 by close of business
2 September 27th, 2011. And that's pretty much it absent
3 some other event that comes up, or possibly an oral
4 argument on the Fukushima contention.

5 We will plan on having a six-month status
6 conference call in about six months, in maybe March or
7 April of next year.

8 MS. CURRAN: Judge Karlin, this is Diane
9 Curran. I just wanted to remind you, I think you
10 requested that in the upcoming status reports the NRC
11 Staff include the date for the -- expected date for
12 the final -- for the draft, excuse me, EIS. And
13 that's something that's very useful to us. I wanted
14 to make sure that got remembered.

15 CHAIR KARLIN: Thank you. That's a good
16 point. And definitely, that is -- we're not going to
17 issue an order to that effect but I think we have
18 requested it, and Mr. Subin and the Staff have agreed.
19 So, yes, please -- we'll look for the Draft SEIS
20 estimated date in the monthly report, as well as
21 others. I'm not trying to limit it, but I'm just
22 saying we -- that is something we want to look at, as
23 well. Thank you, Ms. Curran.

24 Anything else from Mr. Repka, Mr. Subin,
25 anyone? Hearing nothing, I appreciate it. Thank you

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1 for being on the call, and we will stand adjourned.

2 MS. CURRAN: Bye.

3 CHAIR KARLIN: Bye.

4 MS. POST: Thank you.

5 (Whereupon, the proceedings went off the
6 record at 2:43 p.m.)

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