

ORAL ARGUMENT NOT YET SCHEDULED

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

_____)	
Friends of the Earth,)	
)	
<i>Petitioner,</i>)	
)	
v.)	
)	
U.S. Nuclear Regulatory Commission,)	No. 14-1213
United States of America,)	
)	
<i>Respondents,</i>)	
)	
Pacific Gas & Electric,)	
)	
<i>Intervenor.</i>)	
_____)	

**PETITIONER’S UNOPPOSED MOTION TO VOLUNTARILY DISMISS
THE PETITION**

Pursuant to Federal Rule of Appellate Procedure 42(b) and the Court’s order of July 7, 2016, Petitioner Friends of the Earth (Friends) submits this motion to voluntarily dismiss the petition for review in the above-captioned case. Federal Respondents and Intervenor Pacific Gas & Electric Co. (PG&E) do not oppose this motion. Pursuant to Federal Rule of Appellate Procedure 39(a), each party has agreed to bear its own costs relating to this Petition.

1. Friends sought review by this Court of an action by the Nuclear Regulatory Commission (NRC) approving Revision 21 to the Final Safety Analysis Report as Updated (FSARU) for Diablo Canyon Nuclear Power Plant, Units 1 and 2, without a required license amendment proceeding, in violation of 42 U.S.C. § 2239.

2. This matter has been in abeyance since April 13, 2015, pending completion of a certain proceeding involving the same parties and related factual and legal issues before the NRC. On June 2, 2016, the NRC issued a final order that terminated that proceeding. Memorandum and Order, CLI-16-09, Docket Nos. 50-275, 50-323 (June 2, 2016) (attached as Exhibit 1 to Federal Respondents' Status Report filed June 6, 2016 (ECF No. 1617166)).

3. On July 5, 2016, the parties—Friends, Federal Respondents, and PG&E—filed a joint motion requesting the Court to issue an order “directing the parties to file motions to govern further proceedings within 14 days after any petition to review the NRC’s June 2, 2016 order, or by August 15, 2016, whichever occurs first.” ECF No. 1623127 at 5. The parties contended that “[s]uch a deadline would provide an appropriate amount of time following the August 1, 2016 deadline to seek review of the [NRC’s June 2, 2016 order] for the parties to confer and, if possible, jointly file a motion to govern future proceedings.” *Id.* at 5-6.

4. On July 7, 2016, the Court ordered the parties to “file motions to govern future proceedings within 14 days of the filing of any petition for review of the [NRC’s] June 2, 2016 order, CLI-16-09, Docket Nos. 50-275, 50-323, or by August 15, 2016, whichever occurs first.” ECF No. 1623434.

5. The deadline to file a petition for review of that action in this Court was August 1, 2016. *See* 28 U.S.C. § 2344. Friends has not sought judicial review of that action.

6. On June 20, 2016, Friends and PG&E, along with other parties, submitted a “Joint Proposal” to the California Public Utilities Commission, which, if approved, would result in the closing of Diablo Canyon Units 1 and 2 at the expiration of its current licenses (November 2, 2024 and August 26, 2025, respectively). Joint Proposal of Pacific Gas & Electric Company, Friends of the Earth, Natural Resources Defense Council, Environment California, International Brotherhood of Electrical Workers Local 1245, Coalition of California Utility Employees and Alliance for Nuclear Responsibility to Retire Diablo Canyon Nuclear Power Plant at Expiration of the Current Operating Licenses and Replace it with a Portfolio of GHG Free Resources (June 20, 2016), <http://www.pge.com/includes/docs/pdfs/safety/dcpp/JointProposal.pdf> at 3.

7. Petitioner now submits this motion for voluntary dismissal of the petition for review.

Respectfully submitted,

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Dated: August 15, 2016

Counsel for Petitioner

CERTIFICATE OF SERVICE

I certify that on August 15, 2016, I served “Petitioner’s Unopposed Motion to Voluntarily Dismiss the Petition” in the above-captioned case upon all counsel registered with the Court’s CM/ECF system.

Respectfully submitted,

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