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RE Diablo Canyon

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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10 CFR 2.206 PETITION REVIEW BOARD (PRB)

CONFERENCE CALL

RE

DIABLO CANYON

+ + + + +

TUESDAY

AUGUST 2, 2016

+ + + + +

The conference call was held at 1:00 p.m., Mary Jane Ross-Lee, Chairperson of the Petition Review Board, presiding.

PETITIONER: DAVID LOCHBAUM

PETITION REVIEW BOARD

MARY JANE ROSS-LEE, Petition Review Board

Chairman and Deputy Director of Division
of Engineering, Office of Nuclear
Reactor Regulation

MAGGIE WATFORD, Petition Manager and Project

Manager, Office of Nuclear Reactor
Regulation

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LEE BANIC, Petition Coordinator, Office of
Nuclear Reactor Regulation

BALWANT SINGAL, Project Manager, Office of
Nuclear Reactor Regulation

TECHNICAL MEMBERS:

CHRISTOPHER COOK, Branch Chief, Office of New
Reactors

KRISTY BUCHOLTZ, Technical Reviewer, Office of
Nuclear Reactor Regulation

MICHAEL MAZAIKA, Technical Reviewer, Office of
New Reactors

NRC REPRESENTATIVES:

CHRIS HAIR, Office of the General Counsel
Representative from Office of
Investigations

RUSS ARRIGHI, Representative from Office of
Enforcement

JEREMY GROOM, Region IV Office

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PACIFIC GAS & ELECTRIC REPRESENTATIVES:

TYSON R. SMITH, Winston & Strawn, LLP, Legal
Counsel

ELIJAH DEVAUGHN, Licensing Engineer,
Regulatory Services

Michael Richardson, Licensing Supervisor,
Regulatory Services

KEN SCHRADER, Licensing Engineer, Regulatory
Services

DON SHELLY, Nuclear Engineer, Licensing Basis
Verification Project

RAMA THATIPAMALA, Licensing Engineer,
Regulatory Services

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1 P R O C E E D I N G S

2 1:01 p.m.

3 MS. WATFORD: Okay, great. Well, let's
4 get started.

5 I'd like to thank everyone for attending
6 this meeting today.

7 My name is Maggie Watford and I'm an NRC
8 Project Manager.

9 We are here today to allow the
10 Petitioner, Mr. David Lochbaum, to address the
11 Petition Review Board regarding the 2.206 Petition
12 dated July 14th, 2016.

13 I am also the Petition Manager for this
14 decision [petition].

15 The Petition Review Board Chairman is
16 Mary Jane Ross-Lee.

17 As part of the Petition Review Board or
18 PRB's review of this Petition, Mr. David Lochbaum has
19 requested this opportunity to address the PRB.

20 This meeting is scheduled from 1:00 to
21 2:00 p.m. Eastern. The meeting is being recorded by
22 the NRC Operations Center and will be transcribed by
23 a Court Reporter.

24 The transcript will become a supplement
25 to the Petition. The transcript will also be made

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1 publically available.

2 I'd like to open this meeting with
3 introductions. I'd like the Petition Review Board
4 to introduce themselves.

5 As we go around the room, please be sure
6 to clearly state your name, your position and the
7 office that you work for within the NRC for the
8 record.

9 So, I'll start off. I'm Maggie Watford,
10 I'm a Project Manager. I'm also the Petition
11 Manager. I'm in the Office of Nuclear Reactor
12 Regulation (NRR).

13 CHAIR ROSS-LEE: I'm Mary Jane Ross-Lee.
14 I am the PRB Chair. I'm a Deputy Director in the
15 Division of Engineering in the Operating Reactors
16 (NRR).

17 MR. ARRIGHI: Russ Arrighi, Senior
18 Enforcement Specialist, Office of Enforcement.

19 MS. BANIC: Lee Banic, Petition
20 Coordinator, NRR.

21 MR. COOK: My name is Chris Cook, I'm
22 Chief of the Hydrology Meteorology Branch at the
23 Office of New Reactors, NRO.

24 MR. MAZAIKA: Hi, I'm Mike Mazaika, I'm
25 in the Office of New Reactors and I'm a technical

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1 member.

2 MR. SINGAL: This is Balwant Singal, PM
3 [Project Manager] for Diablo Canyon, Office of NRR.

4 MS. WATFORD: We've completed the
5 introductions at NRC Headquarters.

6 Are there any NRC participants from
7 Headquarters on the phone?

8 MS. BUCHOLTZ: Yes, you have Kristy
9 Bucholtz. I'm a Reactor Engineer in the Radiation
10 Protection and Consequence Branch in the Division of
11 Risk Assessment in the Office of Nuclear Reactor
12 Regulations.

13 MR. HAIR: And this is Christopher Hair
14 from the Office of General Counsel.

15 MS. WATFORD: Alright, are there any NRC
16 participants from the Regional Office on the phone?

17 MR. GROOM: Yes, this Jeremy Groom. I'm
18 the Division of Reactor Projects Branch Chief for
19 Branch A which has oversight of the Diablo Canyon in
20 Region IV.

21 MS. WATFORD: Are there any
22 representatives from the licensee on the phone?

23 MR. SHELLY: Yes, this is Don Shelly. I
24 work at Diablo Canyon on the Licensing Basis
25 Verification Project. I am an engineer for PG&E.

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1 MR. RICHARDSON: Michael Richardson and
2 Ken Schrader from PG&E Reg [Regulatory] Services.

3 MR. DEVAUGHN: I'm Elijah Devaughn, a
4 Licensing Engineer with Regulatory Services.

5 MR. SMITH: I'm Tyson Smith. I'm outside
6 counsel for Pacific Gas & Electric.

7 MS. WATFORD: If that's it from the
8 licensee, then Mr. David Lochbaum, would you please
9 introduce yourself for the record?

10 MR. LOCHBAUM: David Lochbaum, Director
11 of Nuclear Safety Projects for the Union of Concerned
12 Scientists.

13 MS. WATFORD: All right. It is not
14 required for the members of the public to introduce
15 themselves for this call. However, if there are any
16 members of the public on the phone that wish to do so
17 at this time, please state your name for the record.

18 All right, moving on. I'd like to
19 emphasize that we each need to speak clearly and
20 loudly to make sure that the Court Reporter can
21 accurately transcribe the meeting.

22 If you do have something that you would
23 like to say, please first state your name for the
24 record.

25 For those dialing into this meeting,

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1 please remember to mute your phones to minimize any
2 background noise or distractions.

3 If you do not have a mute button, this
4 can be done by pressing the keys star six. To unmute,
5 press the star six keys again. Thank you.

6 At this time, I'll turn it over to the
7 PRB Chairman, Mary Jane Ross-Lee.

8 CHAIR ROSS-LEE: Thank you.

9 This is Mary Jane Ross-Lee. Welcome to
10 the meeting regarding the 2.206 Petition submitted by
11 Mr. David Lochbaum.

12 I'd like to first share some background
13 on our process.

14 Section 2.206 of Title 10 of the Code of
15 Federal Regulations describes the Petition process.
16 The primary mechanism for the public to request
17 enforcement action by the NRC in a public process.

18 This process permits anyone to petition
19 NRC to take enforcement site action related to NRC
20 licensees or license activities.

21 Depending on the results of its
22 evaluation, NRC could modify, suspend or revoke an
23 NRC issued license or take any other appropriate
24 enforcement action to resolve a problem.

25 The NRC staff guidance for the

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1 disposition of 2.206 Petition requests is in
2 Management Directive 8.11 which is publically
3 available.

4 The purpose of today's meeting is to give
5 the Petitioner an opportunity to provide any
6 additional explanation or support for the Petition
7 before the Petition Review Board's initial
8 consideration and recommendation.

9 This meeting is not a hearing nor is it
10 an opportunity for the Petitioners to question or
11 examine the PRB on the merits or the issues presented
12 in the Petition request.

13 No decisions regarding the merits of this
14 Petition will be made at this meeting.

15 Following this meeting, the Petition
16 Review Board will conduct its internal deliberation.
17 The outcome of this internal meeting will be discussed
18 with the Petitioner.

19 The Petition Review Board typically
20 consists of a Chairman, usually a manager at the
21 Senior Executive level at the NRC.

22 It has a Petition Manager and a PRB
23 Coordinator. Other members of the Board are
24 determined by the NRC staff based on the content of
25 the information in the Petition request. The members

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1 have already introduced themselves.

2 As described in our process, the NRC
3 staff may ask clarifying questions in order to better
4 understand the Petitioner's presentation and to reach
5 a reasoned decision whether to accept or reject the
6 Petitioner's request for review under the 2.206
7 process.

8 Also, as described in our process, the
9 licensee has been invited to participate in today's
10 meeting to ensure that it understands the concerns
11 about Diablo Canyon.

12 While the licensee may also ask questions
13 to clarify the issues raised by the Petitioner, I
14 want to stress that the licensees are not a part of
15 the PRB's decision making process.

16 Licensees will have an opportunity to ask
17 the Petitioner questions after his presentation.

18 Now, I'd like to summarize the scope of
19 the Petition under consideration and the NRC
20 activities to date.

21 On July 14th, 2016, you submitted to the
22 NRC a Petition under 2.206 regarding your concerns
23 about an apparent violation of 10 CFR 50.9,
24 completeness and accuracy of information by Pacific
25 Gas & Electric concerning the alternate source term

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1 license amendment request for Diablo Canyon Power
2 Plant.

3 You requested NRC to issue a demand for
4 information pursuant to 10 CFR 2.204 to Pacific Gas
5 & Electric requiring the company to provide the NRC
6 with a written explanation as to why its June 17,
7 2015 license amendment request failed to include all
8 the accurate information needed by the NRC staff to
9 complete its review and the measures it will implement
10 so as to comply with 10 CFR 50.9 in future submittals.

11 Allow me to discuss the NRC activities to
12 date.

13 On July 19th, 2016, the Petition Manager
14 contacted you to discuss the 10 CFR 2.206 process and
15 to offer you an opportunity to address the PRB.

16 You requested to address the PRB by phone
17 prior to its internal meeting to make the initial
18 recommendation to accept or reject the Petition for
19 review.

20 As a reminder for the phone participants,
21 please identify yourself if you make any remarks as
22 this will help us in the preparation of the meeting
23 transcript that will be made publically available.

24 Thank you.

25 Mr. David Lochbaum, I'll turn it over to

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1 you to allow you the opportunity to provide any
2 information you believe the PRB should consider as
3 part of this Petition.

4 You will have about 30 minutes for your
5 presentation.

6 MR. LOCHBAUM: This is David Lochbaum.

7 Thank you and I appreciate the attention
8 to this issue.

9 I wanted to provide a little background
10 for the Petition and then answer any clarifying
11 questions the staff or the licensee has about our
12 Petition.

13 In 2013, in March of 2013, UCS issued a
14 report that included a section pointing out, we felt,
15 50.9 was a regulation that wasn't being enforced by
16 the Nuclear Regulatory Commission.

17 Subsequent to that report, I had
18 discussions with NRC staff and managers about that
19 recommendation or the recommendation we made in that
20 report that the NRC should consistently enforce 50.9.

21 In the report and in those discussions,
22 I mentioned that I had worked in the licensing
23 department at a number of licensees and there was a
24 variety on how licensing departments handled
25 submittals.

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1 At the Grand Gulf facility, the licensing
2 manager made us -- or had us try to anticipate every
3 question the NRC reviewers might possibly make and
4 address those in the submittal with the goal of having
5 zero questions being asked during the review.

6 At the Hope Creek and Salem plants, it was just
7 the opposite. The question was absolute barest
8 minimum. Don't provide anything, you know, make them
9 ask. Make the NRC ask for stuff, don't volunteer.

10 So, with that experience in mind, which
11 led to the 2013 report we put out, we noticed that
12 there were, in the year 2012, there were over a
13 thousand records in ADAMS, public ADAMS, that the NRC
14 sent out asking requests for addition information.

15 We are not contending that every one of
16 those RAIs is a violation of 50.9, but it would seem
17 to -- quite possible that -- or quite impossible that
18 none of them were 50.9 violations given the volume.

19 So, that led to our 2013 report
20 recommendation. And, once we found that the NRC was
21 aware of and not going to act upon the numerous RAIs,
22 that led to our decision this year to take it to a
23 different level, do something different.

24 So, in March of this year when I was in
25 D.C. for the Regulatory Information Conference, I

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1 spent some time in the public document room
2 researching the basis for 50.9. And, we also
3 submitted a Freedom of Information Act request
4 seeking the statements of consideration behind that
5 regulation that was adopted years ago.

6 Equipped with a better understanding of
7 what 50.9 was and what the NRC's expectations
8 associated with this regulation were, we decided that
9 our next step would be to file a 2.206 Petition, not
10 to impose a civil penalty or anything like that, but
11 to seek a demand for information. And, also point
12 out that this is a regulation that needs to be
13 followed, not just read.

14 So, we started looking for test cases
15 where we could use -- point out -- that would be
16 suitable for a 2.206 Petition and, with all apologies
17 to PG&E that wanted the license amendment request for
18 Diablo Canyon seemed to be the best candidate.

19 Primarily because there was an issue of
20 both repetitive and concessions that one of the
21 reasons of the RAIs was incomplete information that
22 was very clear on the record.

23 So, the record is very clear that the
24 original submittal was both incomplete and
25 inaccurate. 50.9 requires both. We would have opted

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1 on either one of them, but this seemed to be a good
2 test case because it involved both incompleteness and
3 inaccuracies. So, we submitted the Petition.

4 The other factor in the decision to do a
5 Petition this year at this time was the Project AIM
6 that's ongoing. The NRC is looking at downsizing and
7 limiting or restricting what it's doing and how it
8 does it. And, one of the things that's on the table
9 is RAIs.

10 The fact that RAIs go out, just that
11 there's an inefficiency built into the process.

12 From the stakeholder meeting that was
13 held last Tuesday, the industry representatives
14 pointed out that many of these RAIs are questions
15 that don't need to be asked, that can be found with
16 just a little bit of research or homework.

17 But, in, as our case, the CFR 2.206
18 suggests some of the RAIs are due to problems on the
19 licensee's side.

20 But, regardless of whose side of the
21 ledger that the fault lies, the effect is
22 inefficiencies and FTEs, full-time equivalent
23 resources, that are being applied to reviews and re-
24 views of license amendment requests that might be
25 better applied elsewhere.

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1 So, because it's right on the surface,
2 50.9 submittals should be accurate and complete and
3 because any incomplete and inaccurate submittals have
4 an FTE burden, resource burden that becomes more and
5 more important as the NRC pursues Project AIM, we
6 felt that it was the right time to try to take this
7 to the next step and get this issue resolved or better
8 handled.

9 So, therefore, we submitted the Petition
10 seeking - and we deliberately selected demand for
11 information because of sending a message.

12 But, what we're really trying to seek is
13 improved performance in the future, you know. And,
14 to do that, you have to understand why this event
15 occurred as well as understand what steps will be
16 taken to prevent recurrence on Appendix 10 CFR [50]
17 Appendix B a fix to this problem.

18 So, that's a little nutshell or the
19 background for our concern about 50.9 and associated
20 violations and why we took this action at this time
21 for this licensee.

22 With that background, I'd be glad to
23 answer any questions, clarifying questions if the NRC
24 staff or licensee has about our Petition.

25 Thank you.

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1 CHAIR ROSS-LEE: This is Mary Jane Ross-
2 Lee, PRB Chair.

3 At this time, does the staff here at
4 Headquarters have any questions for Mr. David
5 Lochbaum?

6 Looking around the room, I see none.

7 How about is there any Headquarters staff
8 on the phone that have questions for Mr. David
9 Lochbaum?

10 Hearing none, do any of the staff from
11 the Region have questions for Mr. David Lochbaum?

12 Does the licensee have any questions?

13 Okay, so, I'm going to assume with that,
14 that there are no questions. So, I will conclude
15 this.

16 Mr. David Lochbaum, thank you for taking
17 the time to provide the NRC staff with clarifying
18 information on the Petition you submitted.

19 MR. LOCHBAUM: This is David Lochbaum.

20 I've just got a quick -- the fact that
21 there are no questions shows that my Grand Gulf
22 training paid off. I anticipated all questions and
23 was ready. So, that was good training and good
24 experience.

25 Thank you.

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1 CHAIR ROSS-LEE: Before we do close, does
2 the Court Reporter need any additional information
3 for the meeting transcript?

4 COURT REPORTER: Yes, Maggie, would you
5 be able to provide me a service list of individuals
6 who were on the call today?

7 MS. WATFORD: Sure, I will do that.

8 COURT REPORTER: Sure, can I provide you
9 with an email address?

10 MS. WATFORD: Yes.

11 COURT REPORTER: Okay. Let me know when
12 you're ready.

13 MS. WATFORD: I'm ready.

14 COURT REPORTER: Okay. It's
15 porrecoa@gmail.com. Can you read that back to me?

16 MS. WATFORD: Sure, I have
17 porrecoa@gmail.com.

18 COURT REPORTER: That's correct.

19 MS. WATFORD: Okay.

20 COURT REPORTER: Cool, thank a lot,
21 Maggie, I appreciate that.

22 MS. WATFORD: Thank you.

23 COURT REPORTER: Yes.

24 CHAIR ROSS-LEE: With that, this meeting
25 is concluded and we will be terminating the phone

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1 connection.

2 Thank you.

3 (Whereupon, the above-entitled matter

4 went off the record at 1:20 p.m.)

5

6

7

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