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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
Ivan W. Smith, Chairman
Jerry Harbour
Gustave A. Linenberger, Jr.

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In the Matter of
PACIFIC GAS AND ELECTRIC COMPANY
(Diablo Canyon Nuclear Power
Plant, Unit 1)

Docket No. 50-275-OLA
Facility OL No. DPR-80
(ASLBP No. 88-566-03-OLA)

April 13, 1988

MEMORANDUM AND ORDER
(Providing for Amended and Supplemental
Petition for Leave to Intervene)

The Board's Memorandum and Order of March 11, 1988 addressed the petition for leave to intervene (two documents) by the San Luis Obispo Mothers for Peace. We provided an opportunity for the Licensee and the NRC Staff to answer the petition, which they did on March 29 and March 31 respectively.

Both the Licensee and the Staff recognize that the petition properly expresses a concern about an "aspect" of the proceeding falling within the scope of the notice of opportunity for hearing as required by 10 CFR § 2.714(a)(3).

However, the Licensee and Staff have reservations concerning the interest and standing requirement of Section 2.714, although each

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acknowledge that the petition can probably be corrected to cure any standing defect.

The document filed by Edie Clark asserts that she and other members of the petitioner organization live within twelve miles of the Diablo Canyon Plant. Ms. Clark signed the document on behalf of the San Luis Obispo Mothers for Peace. The Board believes that it is a safe assumption that Ms. Clark and the other members alluded to by her have standing in their own right to intervene in the proceeding. We have no reason to question Ms. Clark's assertion that she is petitioning as a member and representative of the San Luis Obispo Mothers for Peace. The missing item -- that she and the other members have actually authorized the Mothers for Peace to represent their interests -- is a triviality that need not occupy the Board further.

However, the Board recognizes that the Licensee has a right to be assured that the members of the organization do, in fact, live within the geographic area of interest in the proceeding. We therefore require that in any amended or supplemental petition filed by Mothers for Peace, the names and addresses of those members depended upon for standing in this proceeding be set forth.

The Licensee also would have the Board withhold its finding of standing because the two documents constituting the petition contain

only "generalized assertions" insufficient to demonstrate any injury. We disagree. Assuming that the members of Mothers for Peace do in fact live close to the Diablo Canyon Plant, their expression of concern about the seismic questions to be resolved by the Long Term Seismic Program, satisfy the "injury" considerations of standing to intervene. Moreover, the document submitted by Ms. Clark refers to examples of outstanding issues and questions.

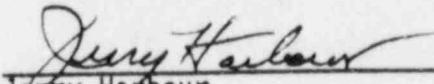
By this order, the Board sets aside the provisions of Sections 2.714(a)(3) and (b) which permit the filing of amended and supplemental petitions within fifteen days of the special prehearing conference without leave of the presiding officer. Instead we require that the San Luis Obispo Mothers for Peace submit its supplemental petition setting forth at least one specific contention it wishes to have litigated together with the basis for each contention in accordance with the order below. After considering any contentions, the Board will set a special prehearing conference if appropriate.

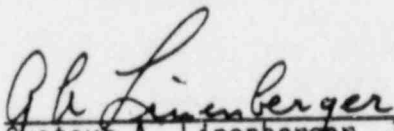
ORDER

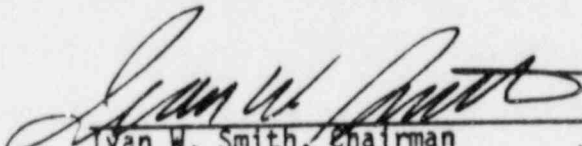
The San Luis Obispo Mothers for Peace may file an amended and supplemental petition for leave to intervene in accordance with the terms of this order on or before April 28, 1988.

The Licensee may file an answer to any amended or supplemental petition within ten days after its service and the NRC Staff may file its answer within fifteen days after service.

ATOMIC SAFETY AND LICENSING BOARD


Jerry Harbour
ADMINISTRATIVE JUDGE


Gustave A. Linenberger, Jr.
ADMINISTRATIVE JUDGE


Ivan W. Smith, Chairman
ADMINISTRATIVE LAW JUDGE

Bethesda, Maryland

April 13, 1988