



EG&G Idaho, Inc.

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*Hans Schierling
for file
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August 14, 1984

Mr. T. M. Novak
Assistant Director for Licensing
Division of Licensing
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

DISPOSAL OF DIABLO CANYON RESTRICTED DOCUMENTS - DKM-7-84

Dear Mr. Novak:

On August 2, 1984, Mr. Hans Schierling indicated that both T. K. Burr and I could destroy the restricted documents which you had sent us via your June 1, 1984 memorandum. The documents (Copy #6 and #7) were the in camera transcripts of the meeting on May 22, 1984, in San Francisco. Both Copies #6 and #7 were properly disposed of per the Department of Energy's procedure for destroying secret--restricted data. This process was witnessed by myself and EG&G Idaho security officer H. E. Schnuckel. If I can provide any further information to you, please telephone me at FTS 583-1274.

Very truly yours,

D. K. Morton

D. K. Morton
Applied Mechanics Branch

jb

cc: J. O. Zane, EG&G Idaho

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United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 84-1410

September Term, 19 83

San Luis Obispo Mothers for Peace;
Scenic Shoreline Preservation Conference,
Inc.; Ecology Action Club; Sandra Silver;
Gordon Silver; Elizabeth Apfelberg; and
John J. Forster,

Petitioners

v.

United States Nuclear Regulatory Commission
and United States of America,
Respondents

United States Court of Appeals
for the District of Columbia Circuit

FILED AUG 17 1984

GEORGE A. FISHER
CLERK

BEFORE: Wright and Ginsburg, Circuit Judges, and
Robb, Senior Circuit Judge

ORDER

Petitioners seek a stay pending this court's review of the Nuclear Regulatory Commission's (NRC or the Commission) decision authorizing full-power operation of the Diablo Canyon Nuclear Power Plant (Unit 1). The licensing proceedings for the Diablo Canyon facility have had a troubled history. When Pacific Gas and Electric Company (PG&E) commenced construction of the plant, it was assumed that the closest earthquake fault was about twelve miles away, with a postulated magnitude of 6.75 on the Richter scale. Four years later, however, it was discovered that the plant site was only three miles from a major active offshore earthquake fault — the Hosgri Fault — with a postulated magnitude of 7.5 on the Richter scale. Construction of the plant continued after discovery of its proximity to the Hosgri Fault, with concurrent reanalysis of the facility's seismic design.

In 1981, the Commission authorized low-power (less than 5% of full power) operation and testing of the Diablo Canyon facility. Two months later, however, the NRC suspended the low-power license after learning of newly discovered errors in the seismic design of equipment and

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piping and of weaknesses in PG&E's quality assurance program. The Commission lifted the low-power license suspension in part on November 8, 1983, and lifted the remainder of the suspension on April 13, 1984.

On August 10, 1984, a divided Commission issued the order at issue here, authorizing PG&E to operate the Diablo Canyon facility at full power. Three of the five Commissioners voted for the order. One of the Commissioners, Lando W. Zech, Jr., stated he "would need several more weeks before [he] could come to a decision." Another, James A. Asselstine, expressed grave concern about "the Commission's treatment of two issues: the complicating effects of earthquakes on emergency planning, and the re-evaluation of the adequacy of seismic design for small and large bore piping in the plant." As to the first matter, Commissioner Asselstine stated his view that "the Commission is compelled as a matter of law and logic to afford the parties to this proceeding an opportunity to litigate the issue prior to authorizing the issuance of a full power license for the plant." With regard to seismic design, Commissioner Asselstine reported he is "not yet satisfied that the Commission has the information needed to conclude, with a high degree of confidence, that all significant seismic design errors for this plant have been identified and corrected." He considered the Commission's immediate final disposition of the adequacy of the plant's seismic design "particularly unfortunate" since exploration of the questions involved in sufficient detail "could be completed in a matter of a few weeks."

We share the view, supported by the statements of Commissioners Zech and Asselstine, that if a close call is involved, the past history of this project and the public concerns at stake counsel adding to the balance an extra measure of caution. Although respondent and intervenor suggest that the probability is very low that any accident with significant off-site consequences will occur while the petition for review of the Commission's licensing decision is pending, we conclude that the magnitude of the harm that could result should that probability eventuate warrants grant of a stay. Accordingly, it is

ORDERED by the Court that the NRC's August 10, 1984, Order authorizing full-power operation of the Diablo Canyon Nuclear Power Plant (Unit 1) is stayed pending the court's review. It is

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FURTHER ORDERED by the Court that this case be expedited, and the case shall be scheduled for oral argument during this court's November-December 1984 sitting period. The case shall be scheduled for argument on the same day and before the same panel as San Luis Obispo Mothers for Peace, et al. v. NRC, No. 81-2035 and consolidated cases. The following briefing schedule shall apply:

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| Certified index to the record to be filed | -- August 27, 1984 |
| Petitioners' brief to be served and filed | — September 17, 1984 |
| Respondent's brief to be served and filed | — October 9, 1984 |
| Brief of intervenor in support of respondent to be served and filed | — October 22, 1984 |
| Petitioners' reply brief, if any, to be served and filed | — November 6, 1984 |

To the extent that the issues in No. 81-2085 overlap with the issues presented in this case, the parties may incorporate by reference portions of their briefs in No. 81-2035.

Per Curiam

Senior Circuit Judge Robb would not grant the stay.