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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:

PACIFIC GAS & ELECTRIC COMPANY

(Diablo Canyon Nuclear Power  
Plant, Units 1 and 2)

)  
) Docket Nos. 50-275 and 50-323 - *OLA*  
) (Spent Fuel Reracking)  
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MOTION TO INCLUDE ISSUES RAISED IN GENERIC ISSUE 82 AS  
CONTENTIONS IN THIS PROCEEDING AND TO DIRECT PREPARATION  
OF AN ENVIRONMENTAL IMPACT STATEMENT

By this motion, the Sierra Club requests that the Board direct preparation of an Environmental Impact Statement concerning the possibility of and impact of Zircalloy cladding fires at the Diablo Canyon facility, and that the following contention be admitted at the hearing:

The proposed action significantly increases the consequences of loss of cooling accidents in that a loss of water in the spent fuel pools could lead to spontaneous ignition of zircalloy cladding of the fuel elements in the high density configuration with significant releases of radiation.

The draft report issued by Brookhaven National Laboratory dated January, 1987, and entitled "Beyond Design-Basis Accidents in Spent Fuel Pools (Generic Issue 82)" clearly identifies the

storage of recently discharged nuclear fuel in high density spent fuel storage racks as posing significant dangers to the public health and safety. (Sierra Club Exhibit 1, p. S-6) The proposed spent fuel storage facilities at Diablo Canyon would store freshly discharged fuel in high density racks like those identified in the Brookhaven report as hazardous. (Ferguson Affidavit, attached) Two of the authors specifically recommend against the storage of spent fuel in the manner proposed for Diablo Canyon. (Sierra Club Exhibit 1, Appendix B)

Generic Safety Issue 82 had been identified and prioritized in 1983. (Sierra Club Exhibit 1, p.S-1) However, prior to the Board Notification (BN 87-05) regarding the draft report, no mention had been made of the potential for fuel cladding fires in any of the documents relating to the Diablo Canyon reracking. In particular, no mention is made of the potential for cladding fires in either the Environmental Assessment, or the Generic Environmental Impact Statement, or in the finding of no significant impact for the proposed reracking. The absence of information regarding cladding fires in high density racks is in clear violation of 40 C.F.R. 1502.22 regarding the obligation of the NRC to report on the status of incomplete but relevant information.

The Board Notification contains a false and misleading statement that "the draft report does not pertain directly to currently ongoing licensing efforts for spent fuel pool expansion amendment requests by utilities, including hearings." (Ferguson

Affidavit) Neither the Sierra Club nor several other parties on the Diablo Canyon Service list received copies of the Brookhaven draft report in a timely manner from the NRC. (See Affidavits of Dr. Richard Ferguson, Nancy Culver, and Sandra Silver, attached, as well as the Declaration of Edwin F. Lowry. See also page 1 from the June 20-21 issue of the San Luis Obispo County Telegram Tribune, attached hereto as Exhibit 1. The language of the Board Notification and the lack of transmittal of the report itself appears to represent a conscious effort on the part of NRC staff to withhold important information from those members of the public whose interests are most affected by the potential hazards.

It is unreasonable to expect the Sierra Club to have raised Generic Issue 82 as an issue in the current proceeding on the basis of the Board Notification alone, since the notification denies the pertinence of the issue. That the Sierra Club did bring the matter before the Board within one week of receiving the draft report surely constitutes timely notice.

NRC Staff has argued that the resolution of Generic Issue 82 should be left to "further reviews associated with the licensing of the spent fuel pool amendment at Diablo Canyon." (Diablo Hearings RT p.158, 1.6) It should be pointed out that the Staff already issued a finding of no significant impact more than a year ago without mentioning the issue of fuel cladding fires. Nor has the Staff given any indication as to when or how it intends to resolve the issue. The Sierra Club has no means of



protecting its interests regarding the cladding fire hazards at Diablo Canyon other than to bring them before the Board in the current proceeding.

The Sierra Club has participated in the current proceeding in an orderly and responsible manner. As the sole remaining intervenor, the Club has brought before the Board substantive issues regarding the proposed reracking which would not otherwise have been made part of the public record. The Club's continued participation regarding Generic Issue 82 can only further the development of a sound record on the safety of the proposed action.

If this motion is granted, the proceedings will be extended for an unknown length of time. The fault, however, lies not with the Sierra Club, but rather with those responsible for the reracking review. The hazards of cladding fires in high density racks should have been discussed by the licensee in the Reracking Report in September, 1985, (PG&E Exhibit 2) and in the Commission's NEPA documents in May, 1986.

Since the current proceeding and the Sierra Club's contentions relate to the safety of the proposed high density spent fuel storage system, the inclusion of cladding fire hazards in such a system will not broaden the issues in any significant way. Even though none of the Sierra Club's contentions which have been admitted by the Board relate directly to Generic Issue 82, they were based on all relevant information available at the time of submittal. The Club cannot be held responsible for the

failure of the licensee and NRC Staff to identify important safety issues as required by law.

Moreover, in the its original contentions, the Sierra Club maintained that the reports available to the public failed to consider the "effects of the possible loss of pool cooling capacity on the spent fuel assemblies." (Sierra Club Contention I(A)(3), ALSBP NO. 86-523-03-LA Order June 27, 1986) This contention was not admitted by the Board for lack of specificity, but clearly relates to the possibility of hazards such as cladding fires in high density racks. The Brookhaven report now supplies the specificity which the Board found lacking earlier and which the Club had no way of knowing at the time the contention was written. Additionally, this contention relates indirectly to contention I(B)(7), which concerns alternatives to the proposal, and I(B)(5), dealing with failures of welds, materials and structural elements during the postulated earthquake. As this Board is aware, I(B)(5) was subsumed under Contention II(A), which is an issue in this proceeding.

The licensee and NRC Staff have failed to consider alternatives to the proposed reracking which might mitigate the hazards related to cladding fires. Reracking with low density racks for freshly discharged fuel was not considered. The assumption was made that the proposed high density reracking posed no radiological hazards. (RT p.622, 1.10) In addition, the consideration of alternatives failed to consider public opinion regarding the hazards of cladding fires. (RT p.625, 1.21)

A finding of no significant impact for the proposed reracking is required to consider "the degree to which the proposed action affects the public health or safety." (40 C.F.R. 1508.27 (b)(2)) Failure to consider the possibility of catastrophic cladding fires whose risk is comparable or greater than core melt accidents would be in clear violation of existing law.

The significance of the proposed reracking is also dependent on "the degree to which possible effects on the human environment are highly uncertain or involve unique or unknown risks." (40 C.F.R. 1508.27 (b)(5)) While the problem of cladding fires is not unique to Diablo Canyon, the environmental hazards must, at the present time, be considered highly uncertain and the risks unknown.

The potential for cladding fires in high density racks makes the proposed action highly controversial among those living in the vicinity of the reactor. 40 C.F.R. 1508.27 (b)(4) requires that the degree of controversy also be considered in the determination of the significance of the proposed action.

An earlier finding of no significant impacts in the present case was cited as a reason not to consider other reasonable alternatives or mitigations which might have eliminated or minimized the risks and uncertainties associated with the current proposal. The finding of no significant impact and the concomitant lack of an environmental impact statement severely limited public review and comment on the proposal and its



alternatives.

The finding of no significant impact completely disregarded Generic Issue 82 and the recommendations of the NRC's own consultants at Brookhaven National Laboratory. It ignored significant hazards to the public health and safety, it ignored large and uncertain risks, and it ignored public opinion.

Therefore, the Sierra Club moves that the Board dismiss the finding of no significant impact and order that an environmental impact statement be prepared for the modification of spent fuel facilities at Diablo Canyon.

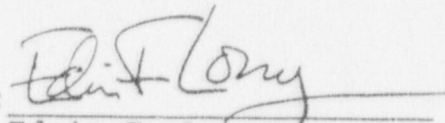
The Club further moves that public hearings be continued to some future date to hear expert testimony regarding Generic Issue 82 as it applies to Diablo Canyon after a proper time for discovery and expert preparation.

Dated: June 29, 1987

Respectfully submitted,

GRUENEICH & LOWRY

By:

  
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