

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

In the Matter of:)	
PACIFIC GAS & ELECTRIC COMPANY)	Docket Nos. 50-275 and 50-323
(Diablo Canyon Nuclear Power)	(Spent Fuel Reracking)
Plant, Units 1 and 2))	
)	

DECLARATION OF EDWIN F. LOWRY

1. I, Edwin F. Lowry, declare:

2. I am the attorney for the Sierra Club in the Diablo Canyon Reracking Proceedings, No. 50-275-OLA and 50-523-LA. I am competent to testify, and if called to do would testify as follows:

3. At the end of March, or early April, 1987, I received a copy of a notification in the form of a memorandum from Thomas M. Novak, Acting Director, Division of PWR Licensing-A to the Commission concerning the subject "BNL Draft Report On Spent Fuel Pool Accidents (BN87-05)," That notification concerned a Draft Brookhaven Report titled "Beyond Design Basis Accidents In Spent Fuel Pools (Generic Issue 82)" by V. L. Sailor, et al. That notification was unaccompanied by any copy of the draft report.

4. I had not previously been aware of the report or its contents.

5. The notification, which is part of the record as Sierra Club Exhibit 1, stated that the draft report does not pertain

directly to currently ongoing licensing efforts for spent fuel pool expansion amendment requests by utilities, including hearings. It stated that the draft report was being provided to the commissioners because it might involve substantial public, congressional, or press interest.

6. The notification also stated "We also are providing the report by copy of this Board Notification to the Boards and Service lists for the Diablo Canyon Plant and Vermont Yankee Stations." As stated above, I did not receive a copy of the draft report with the notice.

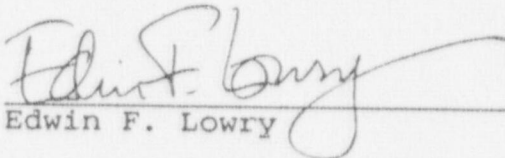
7. Because the notice stated that the draft report did not directly deal with any currently ongoing licensing amendments, I did not feel it necessary separately to request a copy of the draft report. Had a copy of the draft report been included with the notification, I am certain that I would have attempted immediately to raise the conclusions in the report as a contention in the Diablo spent fuel reracking hearings.

8. It was only after I received a copy of the report itself from Dr. Richard Ferguson on or about June 10, 1987, that the direct nature of the draft report and the Diablo Canyon proceedings became evident to me. The draft report recommends that recently discharged fuel not be loaded into high density spent fuel racks in order to avoid the possibility of a zircalloy cladding fire which could occur spontaneously if a high density spent fuel pool were to lose its cooling water. Because the Diablo Canyon reracking involves both high density reracking and

zircalloy clad fuel elements, the recommendation are draft report is directly related to the current proceedings.

9. Upon reading the recommendations in the draft report, I expeditiously contacted Judge Cotter and counsel for NRC Staff and PG&E to request that the draft report be considered in the current reracking hearings. Judge Cotter suggested that the matter be taken up on the first day of hearings.

10. I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed in San Francisco, California on June 29, 1987.


Edwin F. Lowry

WEEKEND The COUNTY TELEGRAM-Tribune

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Controversial report looms over Diablo

By Mark Brown
and Teresa Brown
Telegram-Tribune

A surprise report utility officials say is no surprise may become the key factor in whether one reactor at Diablo Canyon nuclear power plant could be shut down next spring.

The report, known as the "Brookhaven Report," deals with the possibility of a nuclear fire and may be the most dramatic element to come out of four days of Nuclear Regulatory Commission hearings in Avila Beach.

The hearings were held to determine whether Pacific Gas and Electric Co.'s plans to store more nuclear waste at Diablo Canyon nuclear power plant are safe. PG&E said they are; opponents armed with government reports said they aren't.

PG&E wants to pack the nuclear waste closer together in its two storage pools, so it can accommodate 30 years' worth of waste, instead of only five years.

Opponents of PG&E's plan said they didn't get the Brookhaven report until last week.

But PG&E officials said they should have gotten a copy of the report in March along with the rest of the people on the NRC mailing list.

Richard Ferguson, local Sierra Club president and a Cal Poly physics instructor, was virtually a one-man band in bringing about the hearings.

If the judge admits the Brookha-

Diablo's 'Doubting Thomas'

By Mark Brown
Telegram-Tribune

Rich Ferguson emphasizes that it's not Pacific Gas and Electric Co.'s fault that they're storing nuclear waste at Diablo Canyon nuclear power plant.

But Ferguson's adamant that if PG&E is going to store waste at Diablo Canyon, they've got a responsibility to do it right.

That's what caused a week of hearings — and could cause a lot more headaches — for PG&E and the Nuclear Regulatory Commission.

"Ideally, of course, we'd like to see the federal government honor their contracts" to build a nuclear waste dump, Ferguson said.

"That's the first thing to remember; this whole discussion should never be happening. We want to get the feds off the dime and get a

permanent solution to the waste storage problem. It doesn't make sense to keep generating this stuff when you have to store it on an earthquake fault."

But the reality is that the waste will stay here a long time.

"What we're trying to do is say 'All right, if we don't have anything to do (with the waste) and the plant's not going to go away and we've got to keep it here, we're going to insist this be done as safely as possible.'"

Ferguson believes that if he wins the decision concerning storage of nuclear waste at Diablo, it could force the plant to be temporarily shut down while PG&E comes up with a new plan.

He believes he has credibility with the hearing officials, though PG&E attorneys have called him the one

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ven report, Ferguson said, the new round of hearings it brings may mean Diablo Canyon could run out of fuel storage space before it gets an OK to put in more storage.

"They don't have five years of storage out there," Ferguson said. "They've only got enough until next March." That's when Unit 1 will require its second refueling.

There are room for 270 fuel rods

in each of the two Diablo Canyon storage pools. Each pool will already have 66 slots full of nuclear waste after the refueling of Unit 2 at Diablo Canyon is completed this year.

The rest of the room, Ferguson said, is required to be left open in case PG&E needs to remove all of the fuel from both reactors during an unforeseen emergency.

PG&E officials agreed that NRC rules require such emergency space be available.

If PG&E tried to fill all the spaces with spent fuel, "we'd complain bitterly," Ferguson said. "Then they wouldn't have any place for emergencies."

PG&E, meanwhile, maintains the Brookhaven report has nothing to do with Diablo Canyon, and that its contents have been no secret.

"I got my copy in March," said PG&E attorney Bruce Norton. "The public documents room (at Cal Poly) has a copy. I find it very strange indeed that some of the people on the mailing list (like Ferguson) say they didn't get it."

(The Telegram-Tribune, also on the mailing list, did not receive a copy of the report, either.)

The report was studied by PG&E technical employees and put aside as unrelated to Diablo Canyon, Norton said. It was studied again after "all this flap" brought up by opponents, Norton said, and was still deemed irrelevant.

There were actually two reports from Brookhaven National Laboratory which the Sierra Club wanted admitted as evidence in last week's hearing.

The first Brookhaven report was admitted. It dealt with the racks crashing together in a quake. PG&E said that's not a problem; Ferguson said that NRC regulations were clearly written to prevent such crashing.

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EXHIBIT 1

PROOF OF SERVICE

I, Deborah M. Hunt, declare that on June 29, 1987, I deposited 87 copies of the attached Motion to Include Issues Raised in Generic Issue 82 as Contentions in This Proceeding and to Direct Preparation of an Environmental Impact Statement in the United States mail with postage thereon fully prepaid and addressed to the parties listed below: 501 JUN 30 1987

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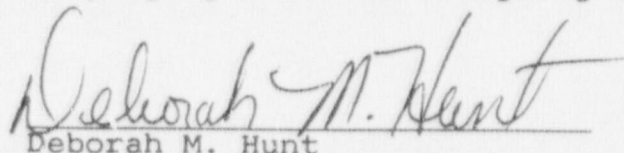
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Ms. Nancy Culver
192 Luneta Street
San Luis Obispo, CA 93401

I am, and was at the time of the service of the attached paper, over the age of 18 and not a party to the proceeding.

I declare under penalty of perjury that the foregoing is true and correct.



Deborah M. Hunt