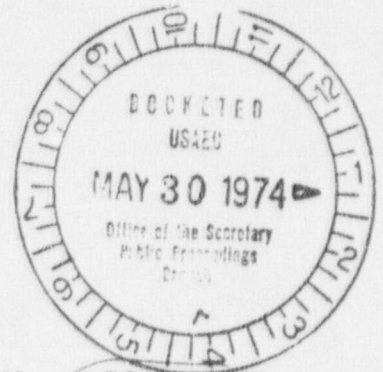


May 30/1974

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION



In the Matter of)
PACIFIC GAS AND ELECTRIC COMPANY) Docket Nos. 50-275 OL
(Diablo Canyon Nuclear Power) 50-323 OL
Plant, Units 1 and 2))

ORDER RELATIVE TO PETITIONS
TO INTERVENE

1. In the special prehearing conference on March 26 and 27, 1974, April 30, 1974 and May 1, 1974, intervenors were given an opportunity to present their contentions and the Applicant and Regulatory Staff were given the opportunity to respond to each contention. The Board has considered this record as well as the documents filed by the parties in its determination as to which contentions are acceptable for the purpose of discovery. After discovery is closed, in accordance with 10 CFR §2.752, the parties will be given an opportunity to refine the contentions approved for discovery and a determination will be made by the Board as to which contentions meet the requirements of 10 CFR §2.714 and are otherwise appropriate for consideration in the evidentiary hearing. In its Order following this prehearing conference, the Board will also issue its ruling on the Motion for the consolidation of the parties on certain contentions.

B/91

Petition of John J. Forester and Lonnie Valentine,
as individuals and as members of the Ecology
Action Club of California Polytechnic State
University.

2. The following contentions are acceptable for the purpose of discovery: 2, 3b and 10 consolidated; 3c but limited to information developed subsequent to the environmental hearing in September 1973; 6 but limited to the routes of transportation to and from the facility ^{1/}; 7 but limited to domestic sabotage ^{2/}; 13 with last two sentences deleted; and 15.

3. The following contentions are rejected:

Contentions 1 and 1a -- a mere allegation that special circumstances unique to this facility will be established does not meet the threshold test for a challenge under 10 CFR §2.758 or establish a basis to consider generic issues. (See footnote 1, supra).

Contention 3a -- is outside the scope of this proceeding since it is an alleged environmental effect of customer use of electricity. ^{3/}

^{1/} Vermont Yankee Nuclear Corporation (Vermont Yankee Nuclear Power Station) ALAB-56, WASH-1218 at page 395 (June 6, 1972); In the Matter of Long Island Lighting Company (Shoreham Nuclear Power Station), ALAB-99, RAI-73-2 at pp. 56-57 (February 1, 1973).

^{2/} See Shoreham, footnote 1, supra, at p. 851.

^{3/} Consumers Power Company (Midland Plant, Units 1 and 2) CLI-74-5, RAI-74-1 at page 28 (January 24, 1974).

Contention 3d -- the testimony in the NEPA hearing was extensive and witnesses were subjected to exhaustive cross-examination. Reconsideration would be repetitive.

Contention 4 -- The Board concurs with the position of the Applicant and Staff. 4/

Contention 5 -- The Board agrees with the Staff that there is no factual issue.

Contention 8 -- The Board concurs with the Applicant and Staff that this is the subject of a generic rulemaking proceeding and is, therefore, not for consideration in an individual licensing proceeding.

Contention 9 -- The Board concurs with the Applicant and Staff that this is a generic question which is the subject of a rulemaking proceeding and not appropriate for consideration in an individual licensing proceeding.

Contention 11 -- The Board concurs with the statement of Applicant and Staff.

Contention 12 -- The Board concurs with the Staff's position. 5/

Contention 14 -- The Board concurs with the Staff's position. 6/

4/ Tr. pp. 86-88.

5/ Tr. 122.

6/ Tr. 130.

Contention 16 -- The Board concurs with the Applicant's
and Staff's position. 7/

Contention 17 -- The Board concurs with the Applicant
and Staff that this is not a contention but a
conclusion. 8/

Contention 18 -- The Board concurs with the Applicant and
Staff. 9/

Contention 19 -- The Board concurs with the Staff that
it is similar to Contention 5 and that there is no
issue of fact. 10/

Contention 20 -- The Board concurs with the Applicant
and Staff that there is no issue of fact. 11/

Contention 20A -- The Board concurs with Applicant and
Staff that this is a conclusion or summary and not
a contention. 12/

Petition of the People of the State of
California and the Public Utilities
Commission of the State of California

4. California was recognized as a party to this pro-
ceeding by the Board designated to rule on petitions for

7/ Tr. 138, 139.
8/ Tr. 141.
9/ Tr. 143, 144.
10/ Tr. 147.
11/ Tr. 156.
12/ Tr. 161.

leave to intervene in its Memorandum and Order of December 14, 1973, under 10 CFR §2.714. This Board adopts the same position as set forth in the prior Board's Memorandum and Order referred to above. This determination is also based on the further explanation by California in the prehearing conference. 13/

Petition for a Hearing and Leave to Intervene
of Scenic Shoreline Preservation Conference, Inc.
(November 15, 1973)

5. The following contentions are admitted for the purpose of discovery:

Contentions 1, 2 and 3 combined; 4, 5, 6 and 7, but limited to new information only; 9 but limited to local transportation to and from the plant; 11, 14 and 15.

The following contentions are not admitted for the purpose of discovery:

Contention 8 -- The ECCS was the subject of a generic rulemaking proceeding. This contention as originally stated and as enlarged in the prehearing conference is outside the scope of an individual licensing proceeding since it does not meet a threshold test for specificity under 10 CFR §2.714 or §2.758.

13/ Tr. 171.

Contention 10 -- The Board concurs with the position stated by Applicant and Staff. 14/

Contentions 12 and 13 -- The Board went into the question of the transmission line in the NEPA review and permitted exhaustive cross-examination by this intervenor. The contentions do not raise anything new.

6. In the special prehearing conference, permission was requested to add some additional contentions. The Board stated that any additional contentions would be considered if they were submitted in writing, with good cause established for the late filing, and after responses were received from the Applicant and Staff. 15/

Petition by Scenic Shoreline Preservation Conference, Inc., to Suspend Construction of Diablo Canyon Nuclear Power Plants Units 1 and 2, (December 3, 1973).

7. The following contentions (conclusions) are accepted for the purpose of discovery:

Contentions 1, 2, 3, 5, 6, 7 and 8.

Paragraphs 4 and 9 were covered by the Board's Order of April 3, 1974.

Contention 10 -- is rejected since it was considered in the NEPA review during which this intervenor was permitted

14/ Tr. 213 through 215.

15/ Tr. 241.

exhaustive cross-examination on the transmission lines.
The cofferdam is now moot.

Contention 11 -- is rejected since the ECCS was the subject of a generic rulemaking proceeding and the contention does not establish that special circumstances relating to this facility would make it an appropriate consideration.

Contention 12 -- is rejected since it was thoroughly considered in the NEPA review.

Petition of Elizabeth E. Apfelberg and
Sandra A. Silver, as representatives of
the San Luis Obispo Mothers for Peace and
as individuals. (As amended January 12, 1974)

8. The following contentions are acceptable for the purpose of discovery:

Contentions 1, 2, 3B, 4B, C and G, 7 but limited to domestic sabotage, 8, and 9 (originally 2D).

Contention 5 -- is rejected since the Board concurs with the Applicant and Staff. 16/

Contention 6 -- is rejected for the reasons stated by the Applicant and Staff. 17/

16/ Tr. 327.

17/ Tr. 329.

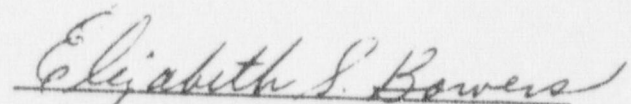
Petition of William P. Cornwell

9. This petition dated April 2, 1974, and as amended on May 4, 1974, will not be considered in this Order since the Applicant was late in receiving the amended petition and has informed the Board it is preparing a response. This matter will be covered in a separate Board Order.

10. All parties who are interested in proceeding with discovery requests should do so as soon as possible. The Board will close discovery a reasonable time after the additional Staff's or Applicant's documents or updating of existing documents are released. 18/

IT IS SO ORDERED.

THE ATOMIC SAFETY AND
LICENSING BOARD


Elizabeth S. Bowers, Chairman

Issued at Bethesda, Maryland
this 30th day of May 1974.