

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

In the matter of
Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant
Units 1 and 2

Docket Nos. 50-275-LR, 50-373-LR
July 29, 2024

NOTICE OF CONGRESSIONAL COMMUNICATION

Petitioners San Luis Obispo Mothers for Peace (“SLOMFP”), Friends of the Earth (“FoE”), and Environmental Working Group (“EWG”) hereby notify the Commissioners, ASLB and parties to this proceeding of their communication with Senator Alex Padilla regarding their appeal of LBP-24-06, the Atomic Safety and Licensing Board’s (“ASLB’s” or “Board’s”) Memorandum and Order (Denying Request for Hearing and Terminating Proceeding) (July 3, 2024) (hereinafter “LBP-24-06”). *See* the attached Letter from Jane Swanson, Hallie Templeton, and Caroline Leary to Senator Padilla re: Ongoing Concerns with Diablo Canyon Nuclear Plant Re-Licensing (July 29, 2024). The letter notifies Senator Padilla of the Board’s decision and expresses Petitioners’ hope that the Commissioners will honor their commitment to Senator Padilla to conduct a new and thorough review of seismic risks to the Diablo Canyon nuclear power plant in this proceeding, including the hearing process. It also requests him to intervene if the Commission refuses. We are letting the Commission and parties know as a courtesy, given that we are requesting action concerning this proceeding.

Respectfully submitted,

/signed electronically by/

Diane Curran

Harmon, Curran, Spielberg, & Eisenberg, L.L.P.

1725 DeSales Street N.W., Suite 500

Washington, D.C. 20036

240-393-9285

dcurran@harmoncurran.com

Counsel to San Luis Obispo Mothers for Peace

/signed electronically by/

Hallie Templeton

Friends of the Earth

1101 15th Street, 11th Floor

Washington, DC 20005

434-326-4647

htempleton@foe.org

Counsel to Friends of the Earth

/signed electronically by/

Caroline Leary

Environmental Working Group

1250 I St N.W.

Washington, DC 20005

202-667-6982

cleary@ewg.org

Counsel to Environmental Working Group

July 29, 2024



July 29, 2024

Hon. Alex Padilla
255 E. Temple St. Suite 1860
Los Angeles, CA 90012
By email to: Nate Bentham, nate_bentham@padilla.senate.gov

Subject: Ongoing Concerns with Diablo Canyon Nuclear Plant Re-Licensing

Dear Senator Padilla:

We write with great appreciation for your continued advocacy of your constituents' interest in protecting public health and safety from any unsafe operation of the Diablo Canyon nuclear plant (DCPP), including the risk of an earthquake-caused radiological accident in the fault-laced region where the reactors are located. The developments described in this letter are especially vital for you, given your prior statements regarding public hearings and concerns raised about seismic risks as part of DCPP's relicensing. As you know, public concern about the safety of DCPP is mounting – and rightfully so – now that Pacific Gas & Electric Co. (PG&E) has abandoned its previous commitment to close the reactors in 2024 (Unit 1) and 2025 (Unit 1). Instead, PG&E has applied to the U.S. Nuclear Regulatory Commission (NRC) for a 20-year renewal term.

We were initially heartened when, in a Senate Environment and Public Works Committee hearing on April 19, 2023, you obtained a commitment from NRC Chairman Christopher T. Hanson that the NRC will “take another look” at seismic risk “as part of the license renewal process.” Mr. Hanson bound NRC to this obligation in no uncertain terms during his formal, public testimony, and without objection or demurrer from any of the fellow Commissioners who sat beside him.

Upholding this promise is crucially important to public safety and environmental protection in two respects. First, an independent review of seismic risks at the highest level is necessary because PG&E steadfastly refuses to consider the impact on license renewal of new information showing that the potential for seismic core damage at DCPP is in the very high range of one in a thousand per year due to thrust faults that lie beneath the DCPP site. Second, the NRC's regulations excuse PG&E from addressing seismic risks in its license renewal application and omit seismic risk from the agency's review process. Thus, the agency's technical staff are not requiring PG&E to address the critical new information before relicensing. *Only by virtue of Chairman Hanson's commitment would the NRC evaluate the significance of the new information or provide a public hearing.*

Unfortunately, the NRC is refusing to deliver on this commitment. We are deeply troubled by the recent decision by a three-judge panel of the NRC's Atomic Safety and Licensing Board (ASLB), agreeing with NRC staff and PG&E that the Chairman's commitment to you has no legal effect. On that basis, the ASLB rejected our request for a hearing on the seismic risk posed by continued operation of DCP. *See* Memorandum and Order (Denying Request for Hearing and Terminating Proceeding) (July 3, 2024) (NRC ADAMS Accession No. ML24185A197).

Accordingly, the ASLB will not hear testimony from our highly qualified seismic expert, Dr. Peter Bird, Professor Emeritus of Geophysics and Geology at the University of California at Los Angeles. Nor will the ASLB require the submission of testimony from PG&E and the NRC Staff, or weigh the evidence presented by the parties. Instead, the NRC is poised to continue wearing blinders while rubber-stamping PG&E's grossly inadequate license renewal application, thereby placing the public at extreme risk.

In the attached appellate brief to the NRC Commissioners, we have demanded that the Commission honor Chairman Hanson's commitment that in the uniquely grave circumstances presented by PG&E's proposal to operate DCP for as much as 20 additional years, the NRC will independently review all relevant information regarding seismic risks in the license renewal proceeding. Implicit in that commitment is a promise to use the adjudicatory hearing process to test PG&E's dated and self-serving technical reports against the highly qualified and independent expertise of Dr. Bird.

We will continue updating you on this proceeding as it unfolds. We are hopeful that Chairman Hanson and his fellow Commissioners will honor their commitment to you. If not, we respectfully request you to insist on it. Our safety and the health of our environment hang in the balance.

Sincerely,

s/Jane Swanson, Board President, San Luis Obispo Mothers for Peace

s/Hallie Templeton, Legal Director and Senior Campaigner, Friends of the Earth

s/Caroline Leary, Chief Operating Officer and General Counsel, Environmental Working Group

Encl.: Brief by San Luis Obispo Mothers for Peace, Friends of the Earth, and Environmental Working Group on Appeal of LBP-24-06

Cc: Hon. Laphonza Butler
Hon. Salud Carbajal
Hon. Adam Schiff
NRC Commissioners and parties to terminated license renewal proceeding

CERTIFICATE OF SERVICE

I certify that on July 29, 2024, I served the foregoing Notice of Congressional Communication on the ASLB and the parties to this proceeding by posting it on the NRC's Electronic Information Exchange.

/signed electronically by/
Hallie Templeton