

RELATED CORRESPONDENCE

January 17, 2003

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

DOCKETED  
USNRC

January 22, 2003 (11:37AM)

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD OFFICE OF SECRETARY  
RULEMAKINGS AND  
ADJUDICATIONS STAFF

In the Matter of:	)	
	)	
Pacific Gas and Electric Co.	)	Docket No. 72-26-ISFSI
	)	
(Diablo Canyon Power Plant Independent	)	ASLBP No. 02-801-01-ISFSI
Spent Fuel Storage Installation)	)	

PACIFIC GAS AND ELECTRIC COMPANY'S FIRST SET OF INTERROGATORIES  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO  
SAN LUIS OBISPO MOTHERS FOR PEACE ET AL.

In accordance with the schedule established in the Atomic Safety and Licensing Board ("Licensing Board") Memorandum and Order LBP-02-25, dated December 26, 2002,<sup>1</sup> Pacific Gas and Electric Company ("PG&E") hereby requests that the San Luis Obispo Mothers for Peace et al. ("SLOMFP" or "Intervenors")<sup>2</sup> (1) answer this set of interrogatories fully, in writing and under oath, and (2) produce the documents requested below. These responses and documents should be provided within 10 days after service of this request pursuant to the schedule set forth in LBP-02-25.

<sup>1</sup> *Pac. Gas & Elec. Co. (Independent Spent Fuel Storage Installation)*, LBP-02-25, 56 NRC \_\_ (slip op. Dec. 26, 2002).

<sup>2</sup> SLOMFP, as lead intervenor, also represents the following groups and individual, who were admitted as parties by the Licensing Board in its December 2, 2002, Memorandum and Order: Santa Lucia Chapter of the Sierra Club, San Luis Obispo Cancer Action Now, Peg Pinard, Avila Valley Advisory Council, and Central Coast Peace and Environmental Council. *See Pac. Gas & Elec. Co. (Independent Spent Fuel Storage Installation)*, LBP-02-23, 56 NRC \_\_ (slip op. Dec. 2, 2002), at 14-22.

I. DEFINITIONS AND INSTRUCTIONS

A. Scope of Discovery

These interrogatories and document production requests cover all information in the possession, custody, and control of Intervenor, including information in the possession of employees, agents, representatives, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on Intervenor's behalf or otherwise subject to their control. The discovery sought by this request encompasses material contained in, or that might be derived or ascertained from, the personal files of Intervenor's employees, agents, representatives, investigators, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on Intervenor's behalf or otherwise subject to their control.

B. Lack of Information

If Intervenor currently lack information to answer any interrogatory completely, please state:

1. the reasons for the lack of information;
2. the responsive information currently available;
3. the responsive information identified but currently unavailable;  
and
4. when intervenors anticipate receiving such information currently unavailable.

Each of the following requests requires supplementation in accordance with 10 C.F.R. §§ 2.740(e)(1) – (2). PG&E therefore requests that, in the event Intervenor obtain or

discover any additional information that is responsive to any discovery request, Intervenor promptly supplement their responses to these requests.

C. Objections

In the event that Intervenor objects to any interrogatory or document production request under claim of privilege, immunity, or for any other reason, please indicate the basis for asserting the objection, the person on whose behalf the objection is asserted, and describe the factual basis for asserting the objection in sufficient detail so as to permit PG&E to consider, and the Licensing Board to adjudicate, the validity of such objection.

D. Privilege Log

For any document covered by this request that is withheld under a claim of privilege, please furnish a privilege log identifying each document for which the privilege is asserted, together with the following information: date, author and affiliation, recipient and affiliation, persons to whom copies were furnished and their affiliation, the subject matter of the document, and the basis for asserting the privilege.

E. Basis and Description

When an interrogatory requires Intervenor to "state the basis" or give a "description" of a claim, contention, request for remedy, allegation or the like, please provide a complete summary in which the rationale for the position and all pertinent facts, including the identity of persons, dates, documents, and events, are included.

F. Intervenors

References to San Luis Obispo Mothers for Peace, SLOMFP, Santa Lucia Chapter of the Sierra Club, San Luis Obispo Cancer Action Now, Peg Pinard, Avila Valley Advisory Council, Central Coast Peace and Environmental Council, Intervenor, "you," and

“your” refer to any branch, department, division, or other affiliate of the Intervenor, including their employees, agents, representatives, attorneys, consultants, or other persons directly or indirectly employed or retained by them or voluntarily working with them, or anyone else acting on Intervenor’s behalf or otherwise subject to their control.

G. Documents

References to “documents” mean the complete original or a true, correct, and complete copy and any non-identical copies, whether different by reason of any notation or otherwise, of any written or graphic matter of any kind, or any data compilation, no matter how produced, recorded, stored, or reproduced (including electronic or mechanical records or representation of any kind) including, but not limited to, any writing, letter, telegram, facsimile, meeting minutes, meeting notes, memorandum, statement, computer file, book, record, survey, map, study, handwritten note, working paper, chart, tabulation, graph, tape, data sheet, database, data processing card, printout, microfilm or microfiche, interoffice and intraoffice communications, instructions, reports, demands, schedules, notices, recordings, analyses, sketches, manuals, brochures, telephone minutes, calendars, accounting ledgers, invoices, indices, notebooks, personal notes, diary entries, electronic mail, notes of interview, communication, contracts, any other agreements, data compilations, and all other writings and papers similar to any of the foregoing, however designated by you, including all drafts of all such documents.

H. Date

“Date” means the specific day, month, and year, if ascertainable, or if not, the best approximation thereof (including by relationship to other events), and the basis for such approximation.

I. Discussion

“Discussion” means communication of any kind, including, but not limited to, any spoken, written, or signed form of communication.

J. Person

“Person” means any individual, association, group, corporation, partnership, joint venture, or any other business or legal entity.

K. Describe or Identify

The words “describe” or “identify” shall have the following meanings:

1. In connection with a person, the words “describe” or “identify” mean to state the name, last known business address, last known business telephone number, and last known place of employment and job title;
2. In connection with a document, the words “describe” or “identify” mean to give a description of each document sufficient to uniquely identify it among all of the documents related to this matter, including, but not limited to, the name of the author of the document, the name of each person or entity signing or approving the document, the date on which the document was prepared, signed, and/or executed, and any other information necessary to adequately identify the document;
3. In connection with any activity, occurrence, or communication, the words “describe” or “identify” mean to describe the activity, occurrence, or communication, the date of its occurrence, the

identity of each person alleged to have had any involvement with or knowledge of the activity, occurrence, or communication, and the identity of any document recording, referencing or documenting such activity, occurrence, or communication; and

4. In connection with an entity other than a natural person (e.g., corporation, partnership, limited partnership, association, institution, etc.), the words "describe" or "identify" mean to state the full name, address, and telephone number of the principal place of business of such entity.

## II. INTERROGATORIES

### Interrogatory 1

Identify each person who supplied information for responding to these interrogatories and requests for the production of documents. Specifically note the interrogatories for which each such person supplied information.

### Interrogatory 2

Identify each person whom Intervenors expect to provide sworn affidavits or declarations in connection with the written filing for this Subpart K proceeding, and each person who would testify in any subsequent evidentiary hearing. For each person identified, describe that person's professional affiliation, address, area of professional expertise, qualifications, and educational and scientific experience. Also, describe the general subject matter on which each such identified person is expected to provide sworn affidavits or testimony in this proceeding.

Interrogatory 3

For each person identified under Interrogatory 2, provide a list of all publications authored by the expert within the preceding 10 years, and a listing of any other cases in which the expert has testified as an expert at a trial or hearing, or by deposition within the preceding four years.

Interrogatory 4

Identify each document that Intervenors expect to submit, reference, cite, or otherwise rely upon in the written filing in this Subpart K proceeding on SLOMFP Contention TC-2.

Interrogatory 5

Identify and give a description of any specific relief, remedy, corrective actions, order, or other action (other than an evidentiary hearing) that Intervenors will request in connection with SLOMFP Contention TC-2 in this Subpart K proceeding and state the basis for such request.

Interrogatory 6

Identify and describe the "substantial indications that PG&E will not have normal recourse to the ratemaking system" (as referenced in SLOMFP Contention TC-2, page 14)<sup>3</sup> and state any other basis for concluding that independent spent fuel storage installation ("ISFSI")

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<sup>3</sup> See "Supplemental Request for Hearing and Petition to Intervene by San Luis Obispo Mothers for Peace, Avila Valley Advisory Council, Peg Pinard, Cambria Legal Defense Fund, Central Coast Peace and Environmental Council, Environmental Center of San Luis Obispo, Nuclear Age Peace Foundation, San Luis Obispo Chapter of Grandmothers for Peace International, San Luis Obispo Cancer Action Now, Santa Margarita Area Residents Together, Santa Lucia Chapter of the Sierra Club, and Ventura County Chapter of the Surfrider Foundation," dated July 18, 2002.

costs to the present utility applicant PG&E will not be covered by revenues derived from electric rates.

Interrogatory 7

Explain the connection that the Intervenor perceive (as reflected in SLOMFP Contention TC-2, page 15) between the "enormous debts" being addressed in the bankruptcy case and PG&E's current and ongoing cost recovery in the rate base. This explanation should include a description as to how the ability to cover ISFSI costs will be affected by such "debts."

Interrogatory 8

Provide the basis (including citation to regulations) for the Intervenor's assertion that California regulations prevent recovery of Construction Work in Progress costs as related to the proposed Diablo Canyon ISFSI. See SLOMFP Contention TC-2, page 14.

Interrogatory 9

State the basis for Intervenor's argument that PG&E will require debt financing to cover ongoing expenses to develop, construct, operate and/or decommission the ISFSI.

Interrogatory 10

State the basis for Intervenor's argument that PG&E has or will have insufficient revenue or operating income to cover ongoing expenses associated with development, construction, operation and/or decommissioning of the ISFSI.

**III. DOCUMENT PRODUCTION REQUESTS**

Request 1

All documents that are identified, or referred to, in responding to all of the above interrogatories.



Request 2

All documents that Intervenor intend to use, exhibit, or otherwise rely upon in this Subpart K proceeding to support their position on SLOMFP Contention TC-2.

Request 3

All documents suggesting that PG&E will be unable to provide ongoing funding to design, construct, operate and/or decommission the ISFSI because it cannot recover costs as a rate-regulated utility.


Request 4

All documents suggesting that PG&E will be unable to provide ongoing funding to design, construct, operate and/or decommission the ISFSI based on PG&E's lack of access to credit markets.

Request 5

All documents that demonstrate a nexus between PG&E's current access to credit markets and its financial qualifications to develop, construct, operate and decommission the ISFSI.

Respectfully submitted,

A handwritten signature in black ink that reads "David A. Repka". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

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ATTORNEYS FOR PACIFIC GAS &  
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Dated in Washington, District of Columbia  
this 17th day of January 2003

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:	)	
	)	
Pacific Gas and Electric Co.	)	Docket No. 72-26-ISFSI
	)	
(Diablo Canyon Power Plant Independent	)	ASLBP No. 02-801-01-ISFSI
Spent Fuel Storage Installation)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the "PACIFIC GAS AND ELECTRIC COMPANY'S FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS DIRECTED TO SAN LUIS OBISPO MOTHERS FOR PEACE ET AL." have been served as shown below by electronic mail, this 17th day of January 2003. Additional service has also been made this same day by deposit in the United States mail, first class, as shown below.

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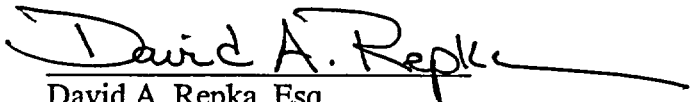
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