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1 UNITED STATES OF AMERICA

2 NUCLEAR REGULATORY COMMISSION

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4 ATOMIC SAFETY AND LICENSING BOARD PANEL

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6 PRE-HEARING CONFERENCE CALL

7 -----x

8 In the Matter of: : Docket Nos.

9 PACIFIC GAS & : 50-275-LR

10 ELECTRIC COMPANY : 50-323-LR

11 (Diablo Canyon Nuclear: ASLBP No.

12 Power Plant, Units 1 : 10-900-01-LR-BD01

13 and 2) :

14 -----x

15 Wednesday, March 19, 2014

16
17 Teleconference18
19 BEFORE:

20 ALEX S. KARLIN, Chair

21 NICHOLAS G. TRIKOUROS, Administrative Judge

22 DR. PAUL B. ABRAMSON, Administrative Judge

23

24

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P R O C E E D I N G S

1:34 p.m.

JUDGE KARLIN: All right. We are on the record, and the operator has, I believe, opened the lines to members of the public who are in a listen-only mode. And I understand that there may be several of them, and perhaps someone from the media.

This is a pre-hearing conference call in the matter of Pacific Gas and Electric Company's application to renew its licenses for the two nuclear reactors located in San Luis Obispo, California. The docket number of this case for the record is 50-275-LR and 50-323-LR, and the ASLBP number is 10-900-01-LR-BD01.

This pre-hearing conference call is being held pursuant that we -- or a notice, actually, that we issued on February 5th of this year. And today's date is March 19th, 2014.

First, I'm going to just go into the introductions of the Board and then the parties can introduce themselves. For the Board there's me, Alex Karlin, and we also have Nick Trikouros, Judge Trikouros who's here in the room with me in Rockville, Maryland, and Dr. Paul Abramson is on the line and participating telephonically.

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1 Judge Abramson, are you there?

2 JUDGE ABRAMSON: I am, indeed.

3 JUDGE KARLIN: Okay, great. We also have
4 Onika Williams with us in the conference room here.
5 She is a lawyer and law clerk working on this case,
6 and Twana Ellis is our administrative assistant and is
7 handling all the administrative issues here.

8 With that, I'd like to ask the parties to
9 introduce themselves, the representatives of the
10 parties. May we start with Ms. Curran for San Luis
11 Obispo Mothers for Peace.

12 MS. CURRAN: Good afternoon. My name is
13 Diane Curran with the firm of Harmon, Curran,
14 Spielberg and Eisenberg, and I represent the San Luis
15 Obispo Mothers for Peace.

16 JUDGE KARLIN: Great. Thank you, Ms.
17 Curran. Mr. Repka for Pacific Gas and Electric
18 Company, could you introduce yourself and your team?

19 MR. REPKA: Yes, Judge Karlin. This is
20 David Repka. I'm with the law firm of Winston and
21 Strawn based in Washington, D.C., and I represent
22 Pacific Gas and Electric Company. Also on the call are
23 my partner at Winston and Strawn in San Francisco,
24 Tyson Smith, and also Jennifer Post from Pacific Gas
25 and Electric Company. And I'll let each of those just

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1 acknowledge that they're there so we know we have
2 them.

3 MS. POST: Yes, hello. This is Jennifer
4 Post for Pacific Gas and Electric Company, in-house
5 law department.

6 JUDGE KARLIN: Welcome.

7 MS. POST: Thank you.

8 JUDGE KARLIN: Mr. Smith, are you there?

9 MR. SMITH: Yes, Tyson Smith is here.

10 JUDGE KARLIN: Okay, great. Now, I think
11 we'll turn to the Staff. Ms. Uttal, maybe you could
12 introduce the Staff participants today.

13 MS. UTTAL: Yes. This is Susan Uttal
14 representing the Staff. With me is Catherine Kanatas,
15 also a member of OGC, and Elaine Keegan who is Project
16 Manager.

17 JUDGE KARLIN: Okay, welcome. All right.
18 I'm not going to go into the very long background of
19 this case. We've been pending for a few years. I guess
20 we first admitted some Contentions in August of 2010,
21 and at this point there's one Contention, EC1 I'll
22 just call it, that is still pending and that survives.
23 I believe there's also a Waste Confidence Rule-related
24 Contention that's being held -- that's been held in
25 abeyance without being admitted or denied, either way.

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1 But, in any event, our last status conference call was
2 September 19th, 2012, so when we originally started
3 this case we thought we'd have status conferences
4 about every six months. Actually, our last status
5 conference was exactly 18 months ago, so we missed
6 that, but I think it appears to have been relatively
7 quiet vis a vis the adjudicatory process at any rate.
8 But we did think it was the appropriate time at this
9 moment to have a pre-hearing status conference.

10 Now, the purpose of this call, this
11 conference is to -- case management, to try to manage
12 this case as efficiently, and proactively, and fairly
13 as we can. We've been in a waiting mode for a goodly
14 amount of time because, as I understand it, Pacific
15 Gas and Electric has been working on their seismic
16 study and report, and they've been giving us monthly
17 reports on that. Meanwhile, the Staff will be working
18 on its Draft Supplemental Environmental Impact
19 Statement and safety analyses, as well. So, in
20 preparation for the hearing we want to sort of focus
21 on some critical path items that would help us handle
22 this efficiently.

23 We have as an agenda thoughts for this
24 call just a few things. First, item on the agenda
25 would be to ask PG&E to just review and confirm its

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1 schedule as you reported to us most recently on March
2 11th of this year. And then also to turn to the Staff
3 -- second agenda item to ask the Staff to confirm and
4 adjust their schedule. Third is to talk about
5 something we think would help in the management of
6 this case which is the management of dispositive
7 motions and new contentions that may arise from the
8 seismic report and the DEIS that are coming down the
9 pike in the next six to nine months. So, that's one
10 thing we do want to talk about.

11 This is, obviously, not the place or time
12 for any of the parties to argue about the February
13 27th, 2014 petition to suspend the proceeding that Ms.
14 Curran filed in this case, and that was filed in other
15 cases. That's, as I understand it, pending before the
16 Commissioners, and it is not something that this Board
17 will be focusing on, certainly not today, anyway.

18 Is there anything else that any of the
19 other -- any of the parties have, or would suggest, or
20 think we need to talk -- add to the agenda here today?

21 (No response.)

22 JUDGE KARLIN: Okay, I hear none. Is there
23 anything else from Judge Trikouros or Judge Abramson?

24 JUDGE TRIKOUROS: No.

25 JUDGE ABRAMSON: No.

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1 JUDGE KARLIN: Okay, fine. Then let's go
2 with that. Item number one, Mr. Repka, perhaps you
3 could just review with us the schedule. PG&E reported
4 on March 11th that you expect to submit the final
5 seismic study report in June of 2004, '14, I'm sorry.
6 I presume that's still a good estimate.

7 MR. REPKA: This is Mr. Repka. That is
8 still the schedule.

9 JUDGE KARLIN: Okay. Can you tell us what
10 function do you expect the seismic report to serve? Is
11 it going to be something that is in the nature of a
12 supplement to the Environmental Report, is it in the
13 nature of a supplement to the Final Safety Analysis
14 Report, is it a safety document, environmental
15 document, both, neither? You're going to submit it to
16 NRC. What function, or why are you doing that?

17 MR. REPKA: Well, let me start by saying
18 that it is not something that's directly linked to
19 license renewal. It's something that the company is
20 doing to respond to some California legislation to
21 conduct the seismic studies. And the decision to defer
22 license renewal pending the outcome of the studies was
23 a voluntary one. There's not under NRC rules
24 necessarily a link.

25 I think subsequent to all of that, of

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1 course, we've had the NRC's requirements on seismic
2 hazard analyses post-Fukushima, and I think that
3 primarily the report responds to the California
4 legislation, number one. And number two, is something
5 that will be used and incorporated into the company's
6 response to the 5054(f) for seismic hazard analysis
7 post-Fukushima; which, again, is an ongoing safety
8 analysis that the NRC has required as a current
9 licensing basis, current operational issue. So, I
10 think that that information will, ultimately, be
11 incorporated into that effort.

12 In terms of does it have an environmental
13 characteristic, I think I would defer to the NRC Staff
14 as to how they would -- if at all they would use that
15 information as part of their environmental review of
16 license renewal and incorporate it into the Draft
17 Supplemental Environmental Impact Statement on license
18 renewal.

19 Certainly, that's something that the
20 company, once the report is submitted, would be
21 prepared to discuss with the NRC Staff, and really
22 discuss the completely separate issue as to license
23 renewal, the license renewal review, and when that
24 will be restarted, and what might be required from the
25 company or the NRC Staff.

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1 So, I know that's a long answer but it's
2 not directly linked to either the safety or the
3 environmental review. At this point I think it's
4 really best described as part of an ongoing effort
5 that will be incorporated into the post-Fukushima
6 5054(f) response.

7 JUDGE KARLIN: Okay, thank you. Well, I
8 think that covers that item. We can just turn to the
9 Staff at this point, if I could, Ms. Uttal, to tell
10 us. Your last status report was February 20th, and I
11 guess one is due -- the next one is due tomorrow, but
12 your reports indicate the Draft EIS is likely to come
13 out in September of this year?

14 MS. UTTAL: Yes.

15 JUDGE KARLIN: And the final in April of
16 2015?

17 MS. UTTAL: As far as I know, nothing has
18 changed.

19 JUDGE KARLIN: No change on that. And the
20 FSER is the same, April of 2015. Right?

21 MS. UTTAL: Yes.

22 JUDGE KARLIN: Right. What does the Staff
23 -- can you address the question I asked Mr. Repka,
24 which is does the Staff see the seismic report as
25 safety -- we're going to take that into consideration

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1 for safety issues, or for environmental issues, or for
2 both, or for neither, or what?

3 MS. UTTAL: I don't know if I have an
4 answer to that question. I think the Staff anticipates
5 seeing what comes out of it and probably -- and that's
6 why they're holding up on the DSEIS just to make sure,
7 to see if there's something that relevant to the
8 environmental in that report, to make sure that the
9 report is complete when they publish it.

10 JUDGE KARLIN: Right. That seemed to be
11 what was at least part of the thinking because, as
12 your reports would indicate, your issuance of the
13 Draft Environmental Impact Statement has always been
14 sort of connected to the Applicant's submission of its
15 seismic report, so there may be a relationship there.

16 MS. UTTAL: Right. And the same would go on
17 the safety side. If there's something there that
18 necessitates updating something on the safety side,
19 then the Staff would have to decide whether to do a
20 supplemental SER.

21 JUDGE KARLIN: Right. Right. Okay. All
22 right, that's helpful. And I think that's kind of what
23 we thought and expected. And let us now turn to the
24 third item on the agenda, which is really our desire
25 to manage the filings that are going to be associated,

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1 may be associated I hasten to say, with either the
2 PG&E seismic report or the NRC Draft Supplemental
3 Environmental Impact Statement. I mean, the seismic
4 report is due let's just say, or is expected in June
5 of this year. The DEIS is expected in September of
6 this year. I mean, those dates may not be perfect but
7 they're a best estimate at the moment.

8 Now, here's what we're concerned about. In
9 a typical scenario, especially with regard to
10 environmental matters, what we sometimes see is a two-
11 round -- going through two iterations of pleadings and
12 litigation. The first round might come when the
13 seismic report is issued in September -- in June of
14 this year, and that could trigger the Intervenor
15 attempting to file new contentions based upon some
16 alleged inadequacies in the environmental portion of
17 the seismic report, and the Applicant or licensee
18 filing Summary Disposition Motions or Motions to
19 Dismiss based upon the contents of the seismic report,
20 and everyone filing answers, and then perhaps even
21 replies with regard to the new contentions, proposed
22 new contentions, and the Board issuing a decision. And
23 the Board ends up issuing a decision on all those
24 things probably around September of 2014, at which
25 moment the DEIS comes out and we go through the whole

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1 thing again with regard to environmental contentions.
2 And new contentions may be filed, Motions to Dismiss
3 may be filed, briefed, and then again decided, and we
4 think that that's kind of a waste of time and money
5 for everyone, for PG&E, for the Intervenor, for the
6 Staff, for this Board. So, we want to just make it one
7 iteration. And we plan to issue a short order, maybe
8 a couple of pages max that would revise the Revised
9 Scheduling Order. The RSO was issued on November 19th,
10 2012, and we want to revise that to provide all -- to
11 reduce the wastage in the litigation in the next nine
12 months. So, here's what we'll probably do, and we want
13 -- we'll let you talk about this, let you know we're
14 going to do this, and hear you out if you have any
15 concerns.

16 On the environmental side we will amend
17 the RSO, Section II(f)(2). We're going to amend the
18 promptness deadlines for filing of any new or amended
19 contentions, environmental contentions based on any
20 allegedly new information in PG&E's seismic report.
21 And the deadline for filing new or amended contentions
22 based on new information in PG&E's seismic report will
23 be 30 days after the Draft Supplemental Environmental
24 Impact Statement is issued.

25 Likewise, we're going to amend the Revised

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1 Scheduling Order Section II(i)(2), the promptness
2 deadline for filing any dispositive motions based on
3 PG&E's seismic report. And that deadline will be 30
4 days after the Draft Supplemental Environmental Impact
5 Statement is issued. So, we're moving both of those
6 deadlines to 30 days after the Draft Supplemental
7 Environmental Statement is issued by the NRC. And by
8 that we hope to avoid a double filing. We don't need
9 to see those motions filed in June or July, and then
10 simply to be repeated or mooted out in let's say
11 October, so there's going to be one deadline and it's
12 30 days after the DEIS. And that's in the
13 environmental context. And the reason that's in the
14 environmental context is because we anticipate, as
15 normal, the Staff will issue a Draft Environmental
16 Impact Statement.

17 On the non-environmental side, safety side
18 we're not going to change the promptness deadlines set
19 forth in the Revised Scheduling Order. The rationale
20 is the environmental side, to the extent PG&E's
21 seismic report is an environmental document, as a
22 legal matter it will essentially be trumped and mooted
23 by the Draft Supplemental Environmental Impact
24 Statement. So, let's just focus on the Draft
25 Supplemental Environmental Impact Statement.

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1 If you've got complaints about the --
2 environmental complaints about the seismic report,
3 fine, file a contention, but file that contention 30
4 days after the Draft SEIS is out.

5 But on the safety side, there's not going
6 to be a Draft SEIS, so if you've got complaints about
7 the seismic report, the same old deadlines are going
8 to apply, and I guess your safety contentions, if any,
9 would need to be filed 30 days after the seismic
10 report becomes available if there's new information in
11 that report which warrants such new contentions.

12 Do we have any -- I think that's just an
13 efficient way to handle this. I know just hitting you
14 with this, you know, sort of cold, but are there any
15 suggestions or comments? Mr. Repka, do you have any
16 concerns about that approach?

17 MR. REPKA: I do not. Obviously, I have not
18 consulted with my colleagues, but I would say that I
19 don't have any objection to that approach.

20 JUDGE KARLIN: Okay. Well, it's certainly
21 subject to your need to consult with Ms. Post, and
22 your clients, and your colleagues, but okay, that's
23 just an initial reaction. I'll take it as such, we can
24 take it as such.

25 NRC Staff, any concerns, issues with this

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1 approach? Comments?

2 MS. UTTAL: I personally have no concerns,
3 but I haven't consulted with my management.

4 JUDGE KARLIN: Right. Okay. And, Ms.
5 Curran, anything from the Intervenor on this approach?

6 MS. CURRAN: Yes, Judge Karlin, thank you.
7 This makes a lot of sense to us, and we appreciate the
8 increased efficiency of doing a process this way,
9 because it really does help us to conserve our
10 resources and focus on what's important. Thank you.

11 JUDGE KARLIN: Okay. Well, that's what our
12 intent is, and I hope that will be a benefit both to
13 the Intervenor and to Pacific Gas and Electric, Ms.
14 Post, and her legal budget that she has.

15 Okay. We also may end up needing to modify
16 one other provision in the Revised Scheduling Order,
17 and that is we have in that, and we're going to keep
18 in that a deadline, an ultimate deadline for the
19 filing of any and all dispositive motions, Motions for
20 Summary Disposition, Motions to Dismiss, et cetera.
21 And in the Revised Scheduling Order, Section II(i)(5),
22 the ultimate deadline for all dispositive motions is
23 now set at 30 days after the issuance of the Draft
24 Supplemental Environmental Impact Statement.

25 The original logic of that was we don't

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1 want Motions for Summary Disposition being filed after
2 the FEIS comes out. Any Motions for Summary
3 Disposition should be filed and disposed of before the
4 FEIS comes out, but maybe 30 days after the Draft SEIS
5 is a little too early, so we may end up adjusting that
6 and postponing that deadline a little bit to give
7 everyone a little bit more time.

8 Probably what we'll do, we'll think about
9 doing at any rate, is have an ultimate deadline for
10 any Motion for Summary Disposition on any new
11 contentions that are filed or admitted would be 30
12 days after those new contentions are admitted, if you
13 follow, at least in the environmental side. So we're
14 going to focus on that, so the order will reflect the
15 change, probably reflect a change in that deadline, as
16 well.

17 MS. CURRAN: Judge Karlin, this is Diane
18 Curran.

19 JUDGE KARLIN: Yes?

20 MS. CURRAN: I have a question about the
21 deadline for Summary Disposition being after the Draft
22 SEIS. Theoretically, there's a comment period after a
23 Draft EIS comes out, and members of the public put in
24 comments, and the Staff may change its mind after
25 receiving public comment on different issues. And I

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1 guess I hate to see, and I think there would be a
2 problem with NEPA short-circuiting that process.

3 I know that the NRC has a basic policy
4 that once the NRC Staff comes to a final position,
5 that it's not necessary to have the final document in
6 hand, but I would just urge you to set a schedule in
7 a way that the process of taking comment, considering
8 comment can work.

9 You know, for the Mothers for Peace, I
10 know that when the Draft SEIS comes out, we're going
11 to be doing a couple of things. We're going to be
12 looking at whether we have new contentions to file,
13 and we're also going to be preparing comments. And
14 we'd like to have sufficient time to do that.

15 JUDGE KARLIN: Okay. Does anyone else have
16 any thoughts or comments on that?

17 MR. REPKA: This is Dave Repka for PG&E. I
18 would say that the 30 days to file after the DSEIS to
19 file the dispositive motions, I don't think that will
20 short-circuit the NEPA comment period, and I think
21 that's a little bit of an overstatement.

22 I don't have any objection if we want to
23 make that a little -- that period for filing the
24 motion a little longer than 30 days, but if the
25 Mothers for Peace have an objection to something in

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1 the Draft Environmental Impact Statement they
2 certainly can (a) make the comment through the NEPA
3 process on the draft; and (b), if it relates to the
4 contention that's subject to a dispositive motion,
5 will still have the opportunity to respond to the
6 dispositive motion and raise that same objection. And
7 I think that from a time period, if the motion is
8 filed 30 days or 45 days after the Draft Environmental
9 Impact Statement comes out, and then there's another
10 period of time to respond to that, you know, you're
11 looking at over, at least over two months to marshal
12 resources, make comments on the draft, and prepare our
13 response to the specific issue being addressed in the
14 Summary Disposition Motion. So, I don't see the short-
15 circuit, but I do think that if you wanted to add a
16 little bit more time into that, I wouldn't have any
17 objection to that.

18 JUDGE KARLIN: All right. Ms. Uttal, the
19 Staff, any thoughts or suggestions?

20 MS. UTTAL: No, I have nothing to add.

21 JUDGE KARLIN: Okay.

22 MS. CURRAN: Judge Karlin, this is Diane
23 Curran. I just want to clarify that we are going to be
24 potentially commenting on more than the issues we've
25 raised in litigation in the Draft EIS. And, you know,

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1 this is a pretty major juncture in NRC licensing
2 proceeding, the issuance of a Draft EIS and, you know,
3 maybe people are tired at this point because the case
4 has gone on for a long time, but that's really not
5 Mothers for Peace's fault. And we want to make sure
6 that we've given adequate time to participate in the
7 way that NEPA envisions in this NEPA process. And that
8 includes litigation on contested issues, but it also
9 includes commenting on a whole range of issues that
10 are raised by a Draft EIS.

11 JUDGE KARLIN: Right. Right. Well, okay, I
12 guess we can -- we'll have to take that into
13 consideration and try to figure out --

14 JUDGE ABRAMSON: Judge Karlin.

15 JUDGE KARLIN: Yes?

16 JUDGE ABRAMSON: This is Judge Abramson.
17 Ms. Curran, let me just get clear that we don't have
18 any interest at all in curtailing your rights, or your
19 ability, or your efforts to comment on the DSEIS under
20 NEPA. What we are trying to do is to get a handle on
21 Motions for Summary Disposition because, generally,
22 they don't serve a lot of purpose in our hearings, so
23 we're not going to do it in a way to affect your
24 efforts.

25 JUDGE KARLIN: Yes, I think -- I agree with

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1 that, and the idea is the Draft SEIS will come out
2 when it comes out, let's say September 30th of 2014.
3 The Intervenor, the public, members of the public
4 will have an opportunity, obviously, to comment and
5 file comments with the NRC in the normal licensing
6 process, and we don't want to interfere with that, but
7 certainly you want to do that.

8 At the same time, you may think, decide
9 that there is something in the Draft EIS that is
10 inadequate in some way. If you want to file new
11 contentions based upon the inadequacies of new
12 information in the Draft EIS, certainly you, the
13 Mothers for Peace, are entitled to do so. And under
14 our current Scheduling Order, those need to be filed
15 within 30 days of the Draft Supplemental Environmental
16 Impact Statement coming out. So, the current schedule
17 is you can file new contentions.

18 There's no -- that's a promptness
19 deadline. There's no ultimate deadline on new
20 contentions. You can file new contentions at any time
21 after the DEIS, after the FEIS, et cetera, et cetera,
22 so we're not going to inhibit your right to file new
23 contentions if some genuinely new information comes
24 out that you find, your clients find problematic, or
25 not in compliance with the law.

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1 We are, I think, going to try to handle
2 this in a similar way to what we tried to do in the
3 Progress Levy case, if you will remember, in that we
4 tried to use the migration tenet, and we may end up
5 trying to manage this case so that you don't have to
6 file new contentions when the FEIS comes out that
7 precisely duplicates your contentions on the Draft
8 EIS. That's just a whole other second layer of waste
9 of time. And we will address that later in this
10 process six, eight months from now. But, in any event,
11 we're trying to do a somewhat similar thing here, so
12 Motions for Summary Disposition will be cut off at
13 some point before the FEIS so that it does not
14 interfere with us getting to our evidentiary hearing
15 promptly after the FEIS is issued. If you file new
16 contentions based on the FEIS that are genuinely new,
17 so be it. File them, and we will take a look at them
18 at that point.

19 MS. CURRAN: Judge Karlin, this is Diane
20 Curran. I understand what you're saying, and I had not
21 been thinking that we needed to amend contentions to
22 say the same thing. If the Final EIS is the same as
23 the Draft EIS, we'd just go with whatever we have. But
24 I still am -- I guess I'm kind of puzzled by the idea
25 that the Staff after the Draft EIS comes out and

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1 before it has received our has time to review comments
2 on the Draft EIS, if the Staff would be in a position
3 to take an ultimate position on a contention. To me,
4 that kind of undermines -- it definitely undermines
5 NEPA. The idea is that the Agency is going to keep its
6 mind open until it had an opportunity to review all
7 the comments on an EIS. So, I'm just -- I'm a little
8 -- I'm concerned about whether the Summary Disposition
9 process can really be carried out in a fair way before
10 the Final EIS comes out.

11 JUDGE KARLIN: Okay. Well, I guess we will
12 take that under consideration. I guess I see what
13 you're seeing in that if we force the Staff to file a
14 Motion for Summary Disposition on -- well, you'll have
15 to have an admitted contention that they then
16 challenge. And we've got to think about that a little
17 bit because right now you've got one admitted
18 contention. That contention is the ER is inadequate
19 because X, let's say.

20 Well, when the DEIS comes out, I think
21 most people on the line would probably say contention
22 challenge on the ER is probably moot, and you now have
23 to turn to whether the DEIS is adequate or not. So,
24 there probably will be -- the only motion for Summary
25 Disposition that might come in is to say the original

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1 Contention EC1 is moot, and that's the only thing that
2 will happen. Other Motions for Summary Disposition
3 with regard to any newly admitted contentions will
4 probably not be available until the new contentions
5 are admitted, which will be significantly later in the
6 process.

7 MS. CURRAN: What if -- this is Diane
8 Curran, again. What if the DEIS says exactly the same
9 thing as the Environmental Report, and what if a
10 number of groups, the number of experts write in
11 comments to the NRC to say we think you really made a
12 mistake, how does that get considered if the Staff is
13 being asked to take the final, its final position on
14 Summary Disposition? I'm not saying that's going to
15 happen, I'm just saying that's what the process, I
16 think, tries to make room for.

17 JUDGE ABRAMSON: Ms. Curran, this is Judge
18 Abramson. We understand your point. We're not going to
19 let that happen.

20 JUDGE KARLIN: Yes, I agree. Okay. I think
21 that's -- I think we understand the concerns. We'll
22 try to address them. Our goal here is to avoid
23 unnecessary iterations of the same contention, or the
24 same Motions for Summary Disposition, so we will issue
25 a short order which revises the deadlines as we've

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1 discussed. We'll try to think about the issues that
2 Ms. Curran has raised and see what we can do.

3 I mean, one thing to keep in mind, if the
4 Draft EIS comes out and it is identical with regard to
5 the ER -- I mean, the one admitted contention in this
6 case is that the ER is inadequate because it fails to
7 adequately take into consideration or perform the 3D
8 seismic study that needs to be done vis a vis, and
9 should be done, and that should be included in the ER.
10 That's an attempt to synopsise that one.

11 I think that given what's coming down the
12 pike in the next six months, that contention is not
13 likely to survive exactly in tact. There will be a
14 reported submitted, it may not be a 3D one, there will
15 be a Draft EIS that comes out, and I think it would be
16 strange to conceive by -- I'm not going to say any
17 more, but I think there will be Motions for Summary
18 Disposition filed with regard to EC1. And I think
19 there may be new contentions filed. I don't know. It's
20 up to you, it's up to the parties.

21 Anything from Judge Trikouros?

22 JUDGE TRIKOUROS: Well, Ms. Curran, this is
23 Judge Trikouros. I think you also need to consider the
24 fact that once you start moving 30 days beyond the
25 FSEIS, you're starting to move into hearing territory

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1 and, you know, Motions for Summary Disposition really
2 don't have a lot of value, in my opinion, at that
3 point when we're fairly close to a hearing.

4 JUDGE KARLIN: Okay. With that, I think
5 unless someone has anything that's essential or come
6 up, we're going to adjourn the meeting, and appreciate
7 your attention. I think we will issue in the next
8 week, or five days, or so a short order. And I do
9 believe that we will probably be needing to have
10 another pre-hearing conference call sometime perhaps
11 after the -- in six months, or after the DEIS is
12 issued to plan further activities in this case. Judge
13 Trikouros?

14 JUDGE TRIKOUROS: Yes, I'm sorry. I just
15 have one question that I forgot to ask earlier to the
16 Applicant. This seismic work was being done as a
17 result of State of California requirement. Is there
18 any -- what is the State of California going to do
19 with this? Are they going to do reviews and issue any
20 kind of report, or is that -- they just take it and
21 that's it?

22 MR. REPKA: I'll turn to Jennifer Post to
23 try to answer that question.

24 MS. POST: This is Jennifer Post for PG&E.
25 As of right now, we will submit the final report on

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1 the information that we've collected under the studies
2 to both the California Public Utilities Commission and
3 to the California Energy Commission. The California
4 Energy Commission was the entity that recommended we
5 undertake these studies.

6 We've received a letter from the CPCU
7 indicating that they need to review that report in
8 order to adequately consider any application PG&E
9 makes to CPCU for cost recovery of the license renewal
10 process. PG&E does not have a pending application for
11 cost recovery from rate payers of this license renewal
12 process, but that's the indication that we've gotten,
13 that the CPCU feels that this information is important
14 to its consideration of whether or not it will give us
15 cost recovery from rate payers to go through the
16 process of obtaining, or seeking the new license for
17 Diablo Canyon.

18 For more information about what the CEC
19 and/or CPCU intends to do with the results of the
20 report, I would have to refer you to them because we
21 don't have really any insight on that. What we plan to
22 do with the information that will be in the report is
23 roll the additional data we've obtained into the
24 5054(f) seismic hazard reevaluation that we are
25 undertaking for the NRC.

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1 JUDGE KARLIN: Okay.

2 JUDGE ABRAMSON: This is Judge Abramson.
3 Did either of these California agencies that are
4 saying they'd like you guys to do this study have
5 anything to say about the Coastal Commission saying
6 now we can't do it?

7 MS. POST: Well, the Coastal Commission
8 rejected the permit for just one piece of the seismic
9 study. They actually -- we actually were able to
10 undertake a bunch of studies that we did get
11 permitted. The Coastal Commission declined our permit
12 to do offshore three-dimensional seismic studies, but
13 the recommendation from the California Energy
14 Commission was that we perform studies using advanced
15 technologies, including three-dimensional seismic
16 mapping. And we actually did do onshore three-
17 dimensional seismic studies, and we also did two-
18 dimensional seismic studies, so they have not weighed
19 in on the Coastal Commission's denial of our permit
20 for the offshore 3D studies. They also have not yet
21 weighed in on whether or not they might suggest
22 additional studies be done.

23 JUDGE ABRAMSON: So, you were only
24 partially foiled by one California agency.

25 MS. POST: Yes, only partially foiled, but

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1 not really. Actually, we weren't ultimately foiled
2 because the data we were able to collect is
3 sufficient, at least under our preliminary analysis it
4 looks like we were -- the data we were able to collect
5 using the studies that we were able to get permitted
6 is sufficient.

7 JUDGE KARLIN: I suspect that will be an
8 issue that might be, you know -- there might be an
9 issue on that, but certainly we understand that that's
10 the position of PG&E.

11 JUDGE ABRAMSON: This reminds me of a
12 situation we all face where there was a law passed
13 that said you have to have a permanent geologic
14 repository for spent fuel. And the site chosen was
15 neither permanent nor geologic.

16 (Laughter.)

17 JUDGE KARLIN: Yes, exactly. Thank you.

18 I think on that note, we will adjourn, and
19 I'll look forward -- we will be issuing an order, and
20 we'll probably have another pre-hearing conference
21 call sometimes after the DEIS is issued. So, I
22 appreciate your attention and participation, and we
23 will adjourn the meeting at this point. Thank you.

24 (Whereupon, the proceedings went off the
25 record at 2:16 p.m.)

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