

**Group B**

**FOIA/PA NO: 2014-0071**

**RECORDS BEING RELEASED IN THEIR ENTIRETY**

MEMORANDUM TO: Eric J. Leeds, Director  
Office of Nuclear Reactor Regulation

FROM: Renée M. Pedersen, Differing Views Program Manager  
Office of Enforcement

SUBJECT: DIFFERING PROFESSIONAL OPINION INVOLVING  
DIABLO CANYON SEISMIC ISSUES  
(DPO-2013-002)

The purpose of this memorandum is to advise you of a Differing Professional Opinion (DPO) that was submitted to me as the Differing Views Program Manager (DVPM). I received the DPO on July 19, 2013, and screened it in accordance with the guidance included in Management Directive (MD) 10.159, "The NRC Differing Professional Opinions Program." On July 31, 2013, I notified senior management and the submitter that the preconditions for acceptance were met and that the submittal was accepted for review within the DPO Program as DPO-2013-002.

The DPO (Enclosure 1) raises concerns about a 2011 Pacific Gas and Electric (PG&E) report to the NRC that included a reevaluation of the local geology surrounding the Diablo Canyon Power Plant. In particular, the DPO focuses on whether adequate action was taken to address the new seismic information into the current licensing basis and whether appropriate actions were taken to address operability.

Because the DPO takes issue with positions established by your organization, in accordance with section (D)(3)(c) of the MD Handbook, I am forwarding this DPO to you for appropriate action.

MD 10.159-036 specifically addresses your responsibilities as Office Director. In brief, you are required to:

- ☐ Establish an independent ad hoc panel (DPO Panel) to review the issue, draw conclusions, and make recommendations to you regarding the disposition of the issues presented in the DPO.

CONTACT: Renée M. Pedersen, OE  
[Renee.Pedersen@nrc.gov](mailto:Renee.Pedersen@nrc.gov)  
(301) 415-2742

- ☐ Provide appropriate oversight of and support to the DPO Panel to ensure a thorough and timely review of the DPO (while maintaining process independence).
- ☐ Review the DPO Panel's report to ensure that it clearly, accurately, and completely addresses the tasks outlined in your memorandum establishing the panel. Issue a DPO Decision to the submitter within the current 120-day timeliness goal (November 29, 2013).
- ☐ Request EDO approval for DPO extensions beyond the 120-day timeliness goal. (Requests should be forwarded thru the DVPM with the reason for the delay and a new completion date.)
- ☐ Forward status updates during the disposition of the DPO and until the time that all follow-up actions are complete. (Updates should be emailed to the DVPM by the last day of the month and will be communicated to the submitter and distributed to all DPO participants and the cognizant DEDO and the Commission in the DPO Monthly Status Report.)
- ☐ Identify and assign appropriate follow-up actions and establish completion dates within 2 weeks of issuing the DPO Decision. (The DVPM and submitter should be copied on any follow-up action memoranda or correspondence.)
- ☐ Notify the DVPM of follow-up action schedule delays, including the reason for the delay and a revised completion schedule. (The DVPM will subsequently notify the submitter, reflect it in the DPO Monthly Status Report, and report it to the applicable DEDO.)
- ☐ Forward a summary of the DPO to the DVPM for inclusion in the Weekly Information Report. (In the event the DPO is appealed, the summary will be postponed until the DPO Appeal Decision is issued.)
- ☐ Take action to positively recognize the DPO submitter if the submitter's actions result in significant contributions to the mission of the agency.
- ☐ Review the DPO Case File for public release when the case is closed if the submitter requests public release.

Disposition of this DPO should be considered an important and time sensitive activity. DPO timeliness is calculated beginning on the day the DPO is accepted for review (July 31, 2013) until the day the DPO Decision is issued (November 29, 2013).

Process Milestones and Timeliness Goals for this DPO are included as Enclosure 2. The timeframes for completing process milestones are identified strictly as goals—a way of working towards reaching the DPO timeliness goal of 120 calendar days.

Although timeliness is an important DPO Program objective, the DPO Program also sets out to ensure that issues receive a thorough and independent review. Therefore, if you or the DPO Panel determines that an extension beyond 120 calendar days is necessary at any time during the process, please send me an email with the reason for the extension request and a new completion date. I will subsequently forward this request to the EDO for approval.

In an effort to provide necessary oversight and tracking, you should open an action item to address the three key deliverables:

- (1) DPO Decision (November 29, 2013);
- (2) Follow-up action memorandum (2 weeks after DPO Decision); and
- (3) Weekly Information Report Summary (2 weeks after DPO Decision).

Please ensure that all DPO-related activities are charged to Activity Code ZG0007.

Because this process is not routine, I will be meeting and communicating with all parties during the process to ensure that everyone understands the process, goals, and responsibilities. I will be subsequently sending you information intended to aid you, the DPO Panel, and support staff in implementing the DPO process.

An important aspect of our internal safety culture includes respect for differing views. As such, all employees involved in the process should be instructed to exercise discretion and treat this matter sensitively. In an effort to preserve privacy, minimize the effect on the work unit, and keep the focus on the issues, employees should be instructed to simply refer to the employee as the DPO submitter. Managers and staff should be counseled against "hallway talk" on the issue.

As a final administrative note, please ensure that all correspondence associated with this case include the DPO number in the subject line, be profiled in accordance with ADAMS template OE-011, be identified as non-public with limited viewer rights to those included on distribution of correspondence and be filed in the applicable DPO Case File folder in the ADAMS Main Library.

Enclosures:

1. DPO submittal
2. Milestones and Timeliness Goals

cc: (w/o enclosures)  
M. Johnson, DEDRP  
R. Mitchell, AO

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OE R/F

ADAMS ACCESSION NO.: (Package) ML

OFFICE	OE/CRB	OE/CRB	OE/CRB	OE:D
NAME	MSewell	RPedersen	DSolorio	RZimmerman
DATE	8/ /2013	8/ /2013	8/ /2013	8/ /2013

MEMORANDUM TO: Eric J. Leeds, Director  
Office of Nuclear Reactor Regulation

FROM: Renée M. Pedersen, Sr. Differing Views Program Manager  
Office of Enforcement

SUBJECT: APPEAL OF DIFFERING PROFESSIONAL OPINION DECISION  
INVOLVING DIABLO CANYON SEISMIC ISSUES  
(DPO-2013-002)

In my capacity as the Differing Professionals Opinion Program Manager (DPOPM), and in coordination with the Acting Director, OE, I am notifying you that we have received, screened, and accepted a DPO appeal for DPO-2013-002, involving seismic issues at the Diablo Canyon Power Plant. On June 24, 2014, I notified senior management and the submitter that the appeal was accepted for review within the DPO Program.

The DPO appeal process is included in Section E of the handbook for Management Directive (MD) 10.159, "The NRC Differing Professional Opinions Program."  
[http://www.internal.nrc.gov/ADM/DAS/cag/Management\\_Directives/md10.159.pdf](http://www.internal.nrc.gov/ADM/DAS/cag/Management_Directives/md10.159.pdf)

In accordance with the guidance in MD 10.159, the office director is required to develop a written statement of views (SOVs) on the contested issues included in the appeal and provide it to the Executive Director for Operations (EDO) through the DPOPM.

In providing the SOVs, please keep in mind that the scope of the DPO appeal is dictated by the scope of the DPO. Thus, notwithstanding any additional issues addressed in other documents (e.g., DPO Panel report, DPO Decision, DPO appeal submittal), the DPO appeal evaluation conducted by the EDO will focus on the scope of the DPO.

Please forward the office director's SOVs by July 11, 2014.

Once the DPOPM receives the SOVs from the office director, we will forward the SOVs to the EDO along with the DPO appeal package for review and issuance of a DPO Appeal Decision.

In accordance with MD 10.159, the EDO has complete discretion to conduct the review of the DPO appeal in any manner deemed appropriate. As such, the EDO may choose to:

- conduct a series of interviews (including one with the submitter),
- establish another independent review of the issues, or
- implement another evaluation strategy.

CONTACT: Renée M. Pedersen, DPOPM  
[Renee.Pedersen@nrc.gov](mailto:Renee.Pedersen@nrc.gov)  
(301) 415-2742

Marge Sewell, DPOPM/Backup  
[Margaret.Sewell@nrc.gov](mailto:Margaret.Sewell@nrc.gov)  
(301) 415-8045

Therefore, the office director, members of the staff responsible for the established position, members of the DPO Panel, and the DPO submitter may be contacted by the EDO to engage in a discussion on this case.

The timeliness goal for the DPO Appeal Decision is 30 to 60 calendar days of receiving the DPO appeal package from the DPOPM.

On an administrative note, please ensure that the memorandum including the SOVs includes the DPO number in the subject line, be profiled in accordance with the Agencywide Document Access Management System (ADAMS) template OE-011, be identified as non-public with limited viewer rights to those included on distribution of the correspondence, and declared an official agency record *when the correspondence is issued*. Please email the ADAMS accession number for the record to [DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov) and the record will be filed in the applicable DPO case file folder in the ADAMS Main Library. Following this process will ensure that a complete agency record is generated for the disposition of this DPO. If the submitter requests that the documents included in the DPO Case File be made public when the process is complete, you will be provided specific releasability review guidance to support discretionary release.

Please do not hesitate to contact me or Marge Sewell if you have any questions.

*We're here to help!!*

Enclosure:  
DPO appeal submittal

cc: (w/o enclosures)  
R. Zimmerman, Acting DEDMRT  
M. Galloway, AO

DISTRIBUTION:  
Dan Dorman, NRR  
P. Holahan, OE  
N. Hilton, OE  
D. Solorio, OE  
M. Peck, OCHCO  
M. Case, OIP  
B. Hill, NRO  
R. Bernhard, RII  
DPO-2013-002 File

OE R/F

**ADAMS ACCESSION NO.: (Package) ML**

OFFICE	OE/CRB	OE/CRB	OE:D
NAME	RPedersen	DSolorio	PHolahan
DATE	6/ /2014	6/ /2014	6/ /2014

## DPO Milestones and Timeliness Goals

DPO-2013-002: Diablo Canyon Seismic Issues

Assigned to: Eric Leeds, NRR

DPO Panel: Michael Case, Panel Chair;  
Britt Hill, Panel Member; Rudolph Bernhard, Panel Member

DPO Milestone	Timeliness Goals*	Actual Date
Individual submits DPO (NRC Form 680)	None	7/19/2013
DPOPM receives, screens, and accepts DPO	8 days	7/31/2013
DPOPM forwards DPO to office manager	7 days	8/2/2013
Office manager establishes DPO Panel	14 days	9/3/2013
DPO Panel conducts review and issues report <ul style="list-style-type: none"> <li>- meets with submitter (≈7 days)</li> <li>- establishes Statement of Concern (≈7 days)</li> <li>- confirms schedule with office manager (≈7 days)</li> <li>- completes review (≈ 49 days after start of review)</li> <li>- writes report (≈21 days after completion of review)</li> </ul>	70 days	
Office manager issues DPO Decision	21 days	5/29/2014
<b>DPO TIMELINESS GOAL</b> (time from acceptance of DPO to DPO Decision)	120 days 11/29/2013 1/31/2014 (1) 3/28/2014 (2) 4/30/2014 (3) 5/30/2014 (4)	302 days

\*The timeframes for completing process milestones are identified strictly as goals—a way of working towards reaching the Differing Professional Opinions (DPO) timeliness goal of 120 calendar days.

Office managers should e-mail requests for extension beyond the 120-day timeframe to [DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov) and the DPOPM will forward the request to the EDO with a recommendation.

- (1) New Schedule approved by EDO 12/3/2013. Extension due to several scheduling issues including leave commitments, the Government Shutdown, and the complex nature of the issue.
- (2) New Schedule approved by EDO 1/30/2014. Extension due to development of information from the licensee (which has been delayed due to the holidays and an illness), addition of a peer review of the information, and the complex nature of the issue.

- (3) New Schedule approved by EDO 3/28/2014. Extension due to complex nature of issue and need for Panel to gather information from the licensee.
- (4) New schedule approved by EDO 5/9/2014. The schedule has been impacted by the complex nature of the issue, the need to gather information from the licensee, and competing schedule commitments.



<b>DPO Appeal Milestone</b>	<b>Timeliness Goals*</b>	<b>Actual Date</b>
Individual submits DPO Appeal (NRC Form 690)	NLT 21 days of DPO Decision	6/23/2014
DPOPM screens, accepts, and requests statement of views from OD or RA	4 days	6/24/2014
OD or RA provides statement of views to DPOPM	14 days	6/27/2014
DPOPM provides DPO appeal package to EDO	2 days	7/7/2014
EDO issues DPO Appeal Decision	30-60 days	9/9/2014
<b>DPO APPEAL TIMELINESS GOAL</b> (time from acceptance of appeal to DPO Appeal Decision)	50-80 days	77 days

\*The timeframes for completing process milestones are identified strictly as goals—a way of working towards reaching the DPO appeal timeliness goal of 80 calendar days.

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Friday, July 19, 2013 2:42 PM  
**To:** Pedersen, Renee; DifferingViews Resource  
**Cc:** Howell, Art; Evans, Michele; Rutledge, Steven  
**Subject:** ACTION REQUESTED: Attached DPO  
**Attachments:** DPO Diablo Canyon Seismic Issues.pdf

This DPO is publicly available as part of  
ML14252A743.

Ms. Pedersen,

Please accept and process the attached DPO.

Thank you,  
Michael Peck  
423-855-6515

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Tuesday, August 20, 2013 10:17 AM  
**To:** Pedersen, Renee  
**Subject:** QUESTION: DPO-2013-002, Memo Forwarding Differing Professional Opinion Involving Diablo Canyon Seismic Issues

Ms. Pedersen,

Please provide an update on the status of DPO-2013-002. Has Mr. Leeds assigned a committee chair person?

Thank you,  
Michael Peck  
423-855-6515

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**From:** Hasan, Nasreen  
**Sent:** Friday, August 02, 2013 4:01 PM  
**To:** Leeds, Eric  
**Cc:** Bergman, Thomas; Campbell, Andy; Campbell, Vivian; Fuller, Karla; Dorman, Dan; Uhle, Jennifer; Howell, Art; Evans, Michele; Markley, Michael; Wertz, Trent; Weber, Michael; Merzke, Daniel; Peck, Michael; Rutledge, Steven; OKeefe, Neil; Wittick, Brian; Sewell, Margaret; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Johnson, Michael; Mitchell, Reggie  
**Subject:** DPO-2013-002, Memo Forwarding Differing Professional Opinion Involving Diablo Canyon Seismic Issues

August 2, 2013

**MEMORANDUM TO:** Eric J. Leeds, Director  
Office of Nuclear Reactor Regulation

**FROM:** Renée M. Pedersen, Sr. Differing Views Program Manager /RA/  
Office of Enforcement

Please see the link below.

[View ADAMS P8 Properties ML13213A248](#)  
[Open ADAMS P8 Package \(DPO 2013 002, Differing Professional Opinion Involving Diablo Canyon Seismic Issues \)](#)

ADAMS Package: ML13213A248  
Memo: ML13213A249  
DPO Submittal: ML13214A162  
Milestones and Timeliness Goals: ML13213A259

Note: This document is limited to those on distribution only

*Thank you,  
Nasreen Hasan  
Administrative Assistant*

***Office of Enforcement***  
***Location / Mailstop: O-4A15A***  
***Office #: (301)415-2741***  
***Fax: (301)415-3431***

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Thursday, August 29, 2013 6:46 AM  
**To:** Pedersen, Renee  
**Cc:** Sewell, Margaret  
**Subject:** QUES: Status of DPO Panel

Renée,

Thank you for the update. I was beginning to think that the DPO had been lost in the system.

While seismic is in the title of the DPO, this DPO is really not about seismic technical issues. I've made the assumption that all seismic evaluations (included in the FSAR or presented in the NRC Research Information Letters) are correct. This DPO is about how the agency enforces design and licensing bases requirements and verifies operability for non-conforming and unanalyzed conditions. These issues could be applied to any NRC licensing basis requirements (flooding, ECCS acceptance criteria, containment accident response).

Looking at Handbook 10.159, Section D, "Implementation of the Differing Professional Opinions Program," the panel should also include a third panel member submitted by the employee filing the DPO. Will this DPO panel include one of the individuals I named on the NRC Form 680?

Thank you,  
Michael

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**From:** Pedersen, Renee  
**Sent:** Wednesday, August 28, 2013 12:48 PM  
**To:** Peck, Michael  
**Cc:** Sewell, Margaret  
**Subject:** Status of DPO Panel

Hi Michael,

Just letting you know that NRR is in the final stages of putting the DPO Panel together. So far, it looks like Mike Case (RES) as the DPO Panel Chair. I think that Mike will bring his licensing experience and his previous experience as a DPO Panel Chair, not to mention his all around deep thinking and common sense to the team. They are also looking at Cliff Munson (NRO) as a panel member. I think that Cliff will bring seismic technical skills to the team.

I'll let you know when the panel is finalized.

Renée

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Thursday, August 29, 2013 8:37 AM  
**To:** Pedersen, Renee  
**Cc:** Sewell, Margaret  
**Subject:** DPO-2013-002 - Potential Panel Conflict

Ms. Pedersen,

I would like to alert you to a potential conflict with Mr. Munson as a DPO panel member. Mr. Munson is listed as a senior advisor with the Division of Site Safety and Environmental Analysis. Annie Kammerer is shown on the NRC web page as currently assigned to this division. Dr. Kammerer was largely responsible for the prevailing NRC position on the Diablo Canyon seismic issues and was the primary contributor to the NRC response to my non-concurrence. Dr. Kammerer went so far pressing her viewpoint to include making OIG allegations against me related to the Diablo Canyon seismic issues (I subsequently received an OIG clearance letter related to these allegations).

Please consider Mr. Munson's organizational relationship with Dr. Kammerer during panel selection.

Thank you,  
Michael Peck, PhD

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**From:** Pedersen, Renee  
**Sent:** Wednesday, August 28, 2013 12:48 PM  
**To:** Peck, Michael  
**Cc:** Sewell, Margaret  
**Subject:** Status of DPO Panel

Hi Michael,

Just letting you know that NRR is in the final stages of putting the DPO Panel together. So far, it looks like Mike Case (RES) as the DPO Panel Chair. I think that Mike will bring his licensing experience and his previous experience as a DPO Panel Chair, not to mention his all around deep thinking and common sense to the team. They are also looking at Cliff Munson (NRO) as a panel member. I think that Cliff will bring seismic technical skills to the team.

I'll let you know when the panel is finalized.

Renée

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Tuesday, September 03, 2013 10:12 AM  
**To:** Pedersen, Renee  
**Cc:** Sewell, Margaret  
**Subject:** RES: DPO Panel

Thank you for the update. Mr. Hill would have the same potential conflict as Mr. Munson, both belonging to DSEA. I think as long as everyone recognizes that Dr. Kammerer should not provide input or review to the DPO, the proposed panel should be fine.

Michael Peck

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**From:** Pedersen, Renee  
**Sent:** Friday, August 30, 2013 4:35 PM  
**To:** Peck, Michael  
**Cc:** Sewell, Margaret  
**Subject:** DPO Panel

Happy Friday!

What are your thoughts on a panel including:

Mike Case, Panel Chair  
Britt Hill, Panel member  
Rudy Bernhard, Panel member

Renée

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Monday, September 09, 2013 12:06 PM  
**To:** Hill, Brittain  
**Cc:** Pedersen, Renee  
**Subject:** RES: ACTION: DPO Panel needs viewer rights to DPO  
**Attachments:** DPO Diablo Canyon Seismic Issues.docx

Attachment is publicly available as part of ML14252A743.

Attached as requested.

mshp

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**From:** Pedersen, Renee  
**Sent:** Monday, September 09, 2013 11:58 AM  
**To:** Peck, Michael  
**Subject:** FW: ACTION: DPO Panel needs viewer rights to DPO

Michael,

Can you send Britt a copy of the Word file that you used to create your DPO submittal?

Renée

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**From:** Hill, Brittain  
**Sent:** Monday, September 09, 2013 11:48 AM  
**To:** Pedersen, Renee  
**Subject:** RE: ACTION: DPO Panel needs viewer rights to DPO

Hi Renée -

Thanks for getting the read permissions set for the ADAMS file, but the pdf appears to be just a scan of a printed document rather than a searchable, workable text file generated from the original word processing document.

Is it possible to simply get an electronic version of the original file for Enclosure 1 (pages 2-42)? Looks like it was prepared in Word, and most word processors print directly to pdf (rather than paper-scan) these days. There are a number of small figures and small (e.g., <8-pt) text with highlights, superscripts etc. (e.g., p 9-18), which scan and print poorly but should be legible in the original file.

Thanks-  
Britt



**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Monday, September 23, 2013 1:31 PM  
**To:** Case, Michael  
**Cc:** Bernhard, Rudolph; Hill, Brittain; Pedersen, Renee  
**Subject:** RES: DPO-2013-002 - Response to Action Items  
**Attachments:** E-Mail - Seismic Issues.pdf; NCP 2012-001 public.pdf

Mr. Case,

In response to the Actions Items from our September 18<sup>th</sup> call:

1. **The Big Picture:** My differing view focused on the failure of Region IV to take enforcement action following discovery that Diablo Canyon was no longer operating within the bounds of the plant design bases as required by the Operating License.
  - 10 CFR 50, App B, Criterion III, required PG&E to ensure that the design bases and regulatory requirements were translated into the plant design (<http://www.nrc.gov/reading-rm/doc-collections/cfr/part050/part050-appb.html>)
  - App B, Criterion XVI required PG&E to take prompt corrective actions when the design basis no longer matched the plant.

Corrective action may include changing the plant design bases to match the non-conforming condition (FSARU under 50.71.e, see NEI 98-03, <http://www.nrc.gov/reading-rm/doc-collections/reg-guides/power-reactors/rg/01-181/>). For this corrective action path, 10 CFR 50.59 is used to determine if an amendment to the license (50.90) is required before the licensee makes the proposed FSARU changes (see NEI 96-07, "Guidelines for 10 CFR 50.59 Evaluations," ML003636043).

In this case, prior NRC approval was required. However, the NRC refused to accept the licensee's amendment request (LAR). The NRR PM stated that agency would not accept the LAR for review because of deviations between the proposed new design basis and the agency acceptance criteria.

The failure to meet the plant design bases and regulatory requirements also called into question the operability of technical specification required equipment (see the attachment to RIS 2005-20, Appendix C-1, <http://pbadupws.nrc.gov/docs/ML0735/ML073531346.pdf>). Plant operation may only continue during the corrective action period if:

- (1) The licensee demonstrates that specified safety function(s) for technical specification required equipment can still be met, given effect of the non-conforming condition, or
- (2) The NRC provides exemption or waiver for the applicable regulatory requirement(s).

Plant operation should cease since neither of these actions were completed.

2. **Past Attempts for Resolution have Been Unsuccessful:** A good understanding of the agency's use of design bases, including the 50.59 process (NEI 96-07), is required before these issues can be effectively addressed. Over the past several years I've heard many folks argue about what design bases is or is not and how operability is defined. In most of these cases, these positions were not based on written agency guidance but rather on what the individual thought it was or should be at that point in time. From my perspective, it appeared that many consensuses on the Diablo Canyon design bases were reached based on the position of the loudest person in the room rather than on agency policy.

The non-concurrence (attached, NCP-2012-001, ML120450843) addressed the failure of PG&E to meet the license and agency operability policy. The NRC response appeared to focused more on a technical argument justifying why it didn't make sense to meet the current licensing basis. The response also included broad statements that the operability requirements were met. However, I felt that the agency did not address the specific issues raised in the non-concurrence:

- ASME Code requirements were not meet
- Use of the Hosgri as an alternate method was inappropriate because the evaluation was not limiting for seismic qualification of technical specification equipment.

### 3. NRC Personnel Involved With Diablo Canyon Seismic Issues

#### NRR - DORL

Allen Wong, NRR PM (301-415-3081): Mr. Wong was the Diablo Canyon PM until about 2010. He authored the April 2009 transmittal letter for Research Information Letter 09-001, "Preliminary Deterministic Analysis of Seismic Hazard at Diablo Canyon NPP from Newly Identified 'Shoreline Fault.'" Mr. Wong added the conclusion (on his own) that the new seismic information was within the Diablo Canon design and licensing bases in this letter. I later understood from Mr. Wong that he included this statement based on unverified statements from PG&E.

James Polickoski, NRR PM (301-415-5430): Mr. Polickoski replaced Mr. Wong as the Diablo PM. He conducted several public meetings with PG&E during 2011 to discuss how the new seismic information should be incorporated into the Diablo Canyon Operating License. These meetings resulted in consensus that a license amendment was required. PG&E followed these meetings with License Amendment Request 11-05 to designate the Hosgri Evaluation as the SSE for the plant. My view was that NRC approval of this request would have resolved many of these issues. At the NRC's request, PG&E also submitted Letter DCL-1-124 identifying deviations between the Hosgri analysis and the Standard Review Plan requirements for the SSE. The NRC subsequently requested PG&E withdraw LAR 11-05 after review of DCL-1-124. Transcripts are available for several of these public meetings.

Joseph Sebrosky, NRR PM (301-415-1132): Mr. Sebrosky replaced Mr. Polickoski early 2012 as the Diablo PM.

Michael Markley, NRR Branch Chief, Plant Licensing Branch 4 (301-415-2064): Mr. Markley expressed the view PG&E was required to update the FSARU with the new seismic information, as required by 50.71(e), but not required to evaluate new information on the operability of technical specification equipment. Mr. Markley's position on operability was contrary to both NEI 98-03 and RIS 2005-20 and appeared to have political motivation. At this point PG&E had concluded that operability could not be successfully demonstrated based on comparing the new information to the SSE. Mr. Markley's group would have been task with coordinating the review of a PG&E waiver request to support continued plant operation following a declaration that technical specification equipment were inoperable. Giving the public controversy involving reversing the NRC position on seismic operability after several years and the level of Diablo intervenor involvement, processing a waiver request would have been a difficult task.

#### RES

Annie Kammerer (currently assigned to NRO, 301-873-3923): Dr. Kammerer was the primary contributor to RIL 09-001 and RIL 12-01 "Confirmatory Analysis of Seismic Hazard at the Diablo Canyon Power Plant from the Shoreline Fault Zone." I understood that that she was the agency's seismic design bases expert. She maintained that the Hosgri ground motion spectrum, as the controlling fault for Diablo Canyon, solely established the plant seismic design basis. Dr. Kammerer was also the primary contributor to the agency response to NCP-2012-001. On several occasions I tried to discuss the requirements of NEI 97-04, "Guidance and Examples for Identifying 10 CFR 50.2 Design Bases," Appendix B (<http://www.nrc.gov/reading-rm/doc-collections/reg-guides/power-reactors/rg/division-1/division-1-181.html>), the Diablo Canyon FSARU, RIS 2005-20 "Operability Guidance," and NEI 96-07 for 50.59s. She

made it very clear that these details were a waste of her time since seismic design basis was only depend on ground motion.

#### Region IV

Kriss Kennedy, Director Division, Region IV Reactor Projects – requested the Task Interface Agreement (TIA) – Concurrence on Diablo Canyon Seismic Qualification Current Licensing and Design Basis (TIA 2011-010), August 1, 2011, ML112130665).

Neill O'Keefe Chief Branch B Director Division, Region IV Reactor Projects(817-200-1141): Mr. O'Keefe supervised the Diablo Canyon resident inspectors and relied heavily on the NRR for Diablo Canyon licensing basis issues.

Elmo Collins (retired) Regional Administrator for the Region IV

Tom Farnholtz Chief Engineering Branch 1 Division of Reactor Safety Region IV 817-200-1243 , - Responsible for inspection activities affecting Diablo Canyon seismic issues

4. **Travel to Rockville:** My management will support an overnight trip to Rockville to discuss DPO issues, provided that the trip takes place prior to the end of the current fiscal year (we are thinking that training travel may be hard during a continued resolution). If a trip is needed, then my management request that I schedule it in the next couple of days to commit the travel funds. Please let me know if you feel that an in-person meeting would enhance your knowledge of the DPO issues.
5. I have attached a copy of the February 2011 e-mail (not in Adams) recommending initiation of enforcement action against PG&E.

Thank you,  
Michael

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**From:** Case, Michael  
**Sent:** Friday, September 13, 2013 1:39 PM  
**To:** Peck, Michael  
**Cc:** Bernhard, Rudolph; Hill, Brittain  
**Subject:** Diablo Canyon DPO Panel

Hi Mike. I volunteered to be the chair for your DPO on Diablo Canyon seismic issues. Eric (Leeds) set up the panel and got the information to us last week. He was going to meet with the panel for a kickoff meeting but it's not until the week of the 23<sup>rd</sup>. My faithful advisor Rene advises me to not let any spare time go to waste so our panel is trying to get together for a meet and greet next week. We would like to have a similar meet and greet with you so we all can get to know each other and see if we can get some preliminary next steps set up.

From a schedule perspective, I'm out Thursday and Friday so we're trying to see if we can get this meeting set up on Monday, Tuesday, or Wednesday. Could you give me some time frames that might be good those days and I'll have someone set up a teleconference.

Thanks for your contributions and I'm looking forward to getting your insights on this issue.

Best regards,

Mike

**From:** Peck, Michael  
**To:** Allen, Don; Miller, Geoffrey  
**Cc:** Deese, Rick; Wang, Alan; Polickoski, James; Pruett, Troy; Farnholtz, Thomas; Denissen, Christie; Braisted, Jonathan; Markley, Michael; Kennedy, Kriss  
**Subject:** ACT: Diablo Canyon - Recommendation for Regulatory Disposition  
**Date:** Thursday, February 03, 2011 11:39:53 AM  
**Attachments:** Diablo Canyon Seismic White Paper.docx

Don, Geoff,

I have attached the resident inspectors recommendation for the regulatory disposition of the failure of PG&E to perform an operability evaluation following discovery of the shoreline fault. This recommendation includes a potential greater than green finding (we believe an SDP Phase III is needed) and potential escalated traditional enforcement issue. These are ongoing violations.

Thank you,  
Michael Peck, Ph.D.  
Senior Resident Inspector  
Diablo Canyon Power Plant  
Office: (805) 595-2354  
Cell : (805) 602-1120

## **Resident Inspectors Recommendation for Regulatory Disposition of the Failure of Pacific Gas & Electric to Perform an Operability Evaluation Following Discovery of the Shoreline Fault**

(February 2, 2011)

### **Summary**

The inspectors identified that Pacific Gas and Electric (PG&E) did not evaluate new seismic information against the plant design and licensing basis. This new information resulted in about 60% increase in the safe shutdown earthquake peak ground accelerations than previously evaluated for plant seismic qualification. The licensee has not evaluated the affect this new information has on the operability of plant structures, systems and components (SSC) as required by regulatory requirements and station procedures. The licensee did compare the new seismic information against the Long Term Seismic Program (LTSP) deterministic spectrum. However, the inspectors concluded that this comparison was not adequate to demonstrate plant seismic safety. This comparison only provided indication of seismic margin to the Hosgri Event (HE), one of the three design basis earthquakes. The inspectors identified that the Operating Basis Earthquake (OBE) and Safe Shutdown Earthquake (SSE) were more limiting for seismic qualification in some cases.

The inspectors concluded that PG&E provided incomplete and/or inaccurate information to the Nuclear Regulatory Commission (NRC) in Event Notification 44675 and in the corrective action program regarding the affect of the Shoreline Fault on the current plant seismic qualification design and licensing basis. This incomplete and/or inaccurate information was used by the NRC Staff to make incorrect conclusions related to the affect of the new seismic information on plant safety.

### **Nuclear Safety Concern**

Diablo Canyon SSCs may not be able to perform their specified safety functions following a Safe Shutdown Earthquake. Figure 1 shows the increase in predicted ground motions at the site from an reevaluation of three near plant earthquake faults. New seismic studies established that ground motions from the Los Osos, San Luis Bay, and Shoreline Faults now exceed the ground motions of the Safe Shutdown Earthquake (not shown on the graph). Table 1 compares the peak ground acceleration from each fault (at 5% damping)<sup>1</sup> with the OBE and SSE peak ground motions (0.2 g and 0.4 g).<sup>2</sup> PG&E has not evaluated the increase in seismic ground motion against the SSC qualification basis for the OBE and SSE. The previous NRC replacement reactor head inspection concluded very little seismic margin exists for some RCS pressure boundary ASME Section III Boiler and Pressure Vessel Code limits.<sup>3</sup> The increases in OBE and SSE seismic loading from the new information would likely result, if evaluated, in ASME Code allowable limits being exceeded; rendering some RCS pressure boundary components inoperable.

### **Diablo Canyon Seismic Design and Licensing Basis**

The Diablo Canyon design and licensing basis required that plant Seismic Class I SSC maintain their safety function following an earthquake. This design basis included:

- Part 50, Appendix A, General Design Criterion (GDC) 2, Design Bases for Protection Against Natural Phenomena. GDC 2 required that Diablo Canyon SSC important to safety be designed to withstand the effects of earthquakes without loss of capability to perform their safety functions.<sup>4,5</sup>
- Part 50, Appendix B, Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants. Appendix B established the quality assurance requirements for the design, construction, and operation of nuclear power plant structures, systems, and components that prevent or mitigate the consequences of postulated accidents that could cause undue risk to the health and safety of the public. The requirements of Appendix B apply to the seismic qualification of SSC.<sup>6</sup>

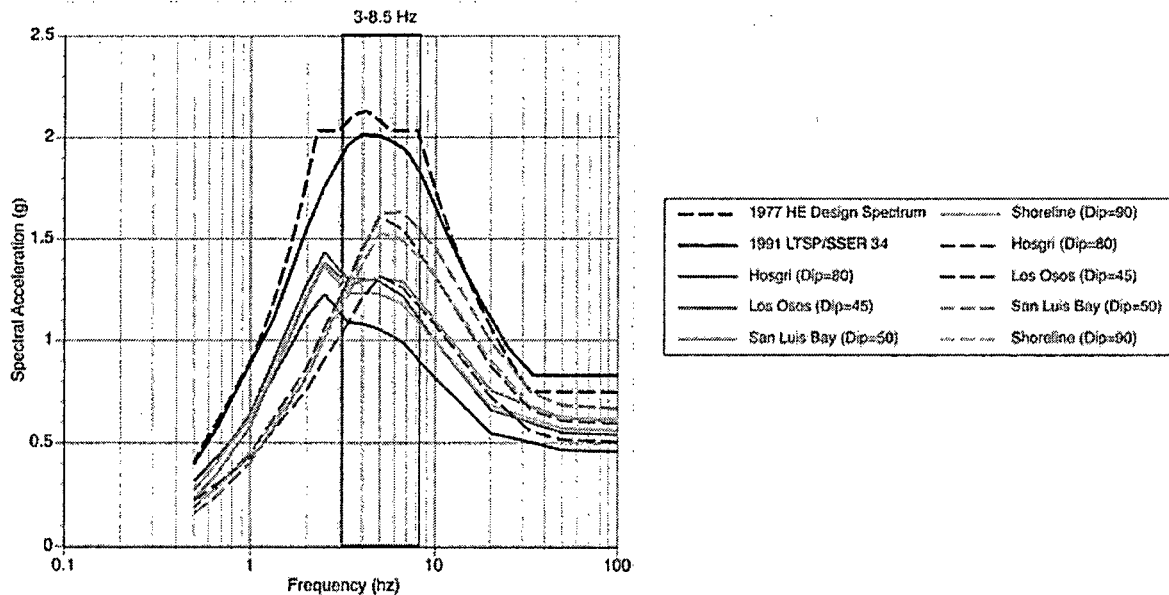


Figure 1. Increased Predicted Ground Motions from Near Plant Earthquake Faults

Table 1. Comparison of Reanalysis to Diablo Canyon SSE

Reanalyzed Fault <sup>7</sup>	Peak Ground Acceleration <sup>8</sup>	Ratio of increased peak ground motion to current SSE	Ratio of increased peak ground motion to current OBE
Shoreline Faults	0.62 g <sup>(a)</sup>	1.6 g <sup>(b)</sup>	1.6 g <sup>(c)</sup>
Los Osos	0.60 g <sup>(a)</sup>	1.5 g <sup>(b)</sup>	1.5 g <sup>(c)</sup>
San Luis Bay	0.68 g <sup>(a)</sup>	1.7 g <sup>(b)</sup>	1.7 g <sup>(c)</sup>

Notes: <sup>(a)</sup> peak ground at 84percentile at 5% damping.

<sup>(b)</sup> ratio with SSE peak ground acceleration 0.40 g at 2% damping

<sup>(c)</sup> ratio with SSE peak ground acceleration 0.40 g at 2% damping

(peak ground motion defined as point of max frequency, (right side of chart)<sup>9</sup>

- Part 100, Appendix A, Seismic and Geologic Siting Criteria for Nuclear Power Plants. Appendix A required that Diablo Canyon be designed that certain SSC remain functional following a shutdown earthquake.<sup>10</sup> These plant features are those necessary to ensure:

- (1) The integrity of the reactor coolant pressure boundary,
- (2) The capability to shut down the reactor and maintain it in a safe shutdown condition, or
- (3) The capability to prevent or mitigate the consequences of accidents that could result in potential offsite exposures comparable to the guideline exposures of 10 CFR Part 100.

These requirements lead to the establishment of three design basis earthquakes for Diablo Canyon:

- (1) *Operating Basis Earthquake* (Design Earthquake) - That earthquake which could reasonably be expected to affect the plant site during the operating life of the plant; it is that earthquake which produces the vibratory ground motion for which those features of the nuclear power plant necessary for continued operation without undue risk to the health and safety of the public are designed to remain functional.
- (2) *Safe Shutdown Earthquake* (Double Design Earthquake) - That earthquake based upon an evaluation of the maximum earthquake potential which produces the maximum vibratory ground motion for which certain structures, systems, and components are designed to remain functional.

(3) *Hosgri Event* - a special postulated 7.5 M earthquake to occur on the Hosgri Fault line.

### Factors Affecting Seismic Qualification

Seismic qualification of SSC begins with the ground motion from each design basis earthquake. However, others factors including the shape of the associated spectra, the damping values used, the methods of analysis, the load combinations employed, the allowable stresses, or other acceptance criteria are equally or more significant in seismic qualification.<sup>11</sup> While counterintuitive, the OBE, the earthquake with the least ground motion, was more limiting for some SSC than the larger HE earthquake.

Damping is an important factor used in seismic qualification. Damping is a quantitative measure of the energy dissipation of a material or structural system as it responds to dynamic excitation. Damping is used in seismic qualification to mathematically model and solve dynamic equations of motion for a vibratory system in which energy is dissipated. In an elastic dynamic seismic analysis, the analytical model calculates the amount of energy dissipated by specifying the amount of viscous damping (proportional to the velocity). Two important applications of seismic damping are considered for seismic qualification of SSCs. The first is the critical seismic damping value applied to the response spectrum for a given earthquake. The licensee developed response spectra for each of the three design basis earthquakes. These response spectra include critical seismic damping specific to each design basis earthquake (2% for the OBE, 2% and 5% for the SSE, and 7% for the Hosgri Event).<sup>12</sup> A second set of damping values, also specific to each design basis earthquake, and dependent upon the structure, system, or component under consideration, are used in seismic qualification analyses, and are listed in Table 2.

**Table 2. Specific Percentages of Critical Damping Used for Seismic Class I & II SSC<sup>13</sup>**

Type of Structure	% of Critical Damping		
	OBE	SSE	HE
Welded structural steel assemblies	1.0	1.0	4.0
Bolted or riveted steel assemblies	2.0	2.0	7.0
Mechanical components (PG&E purchased)	2.0	2.0	4.0
Vital piping systems (except reactor coolant loop)	0.5	0.5	3.0
Reactor coolant loop	1.0	1.0	4.0
Replacement Steam Generators	2.0	4.0	4.0
Integrated Head Assembly	4.0	6.85	6.85
CRDMs (Unit 2)	3.0	4.0	4.0
Foundation rocking (containment structure only)	5.0	5.0	NA
Containment structures and all internal concrete structures	2.0	5.0	7.0
Other conventionally reinforced concrete structures above ground, such as shear walls or rigid frames	5.0	5.0	7.0

Figure 2 illustrates the affect that damping has on component amplification and displacement velocity for an earthquake normalized with a 1.0 g peak horizontal ground acceleration (Point A).<sup>14</sup> For the natural frequency range for most seismically qualified SSC (3.3 – 8 Hz, between Points B & C), velocity and acceleration can vary greatly with damping. For example, the figure shows that a component with a natural frequency of 3.3 Hz, using a damping value of 0.5% results in a velocity of approximately 125 in/sec, while using a damping value of 10% results in a velocity of only about 55 in/sec. Figure 3 illustrates how changes in assumed damping directly affect acceleration at the auxiliary building floor for the Hosgri Event. The figure shows that applying a larger damping value results in a much lower acceleration.

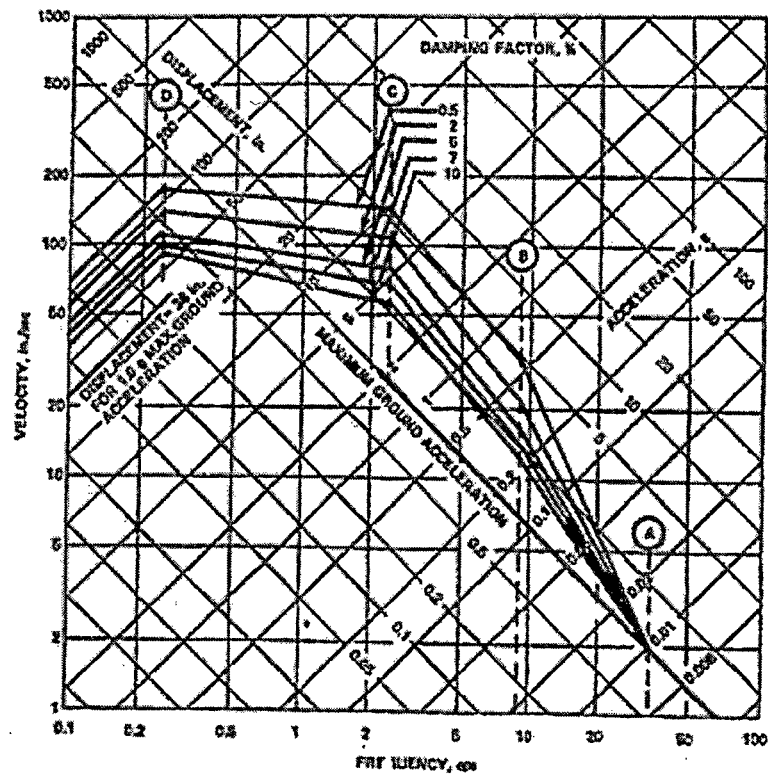


Figure 2. Horizontal Design Response Spectra – Scaled to 1g Horizontal Ground Acceleration

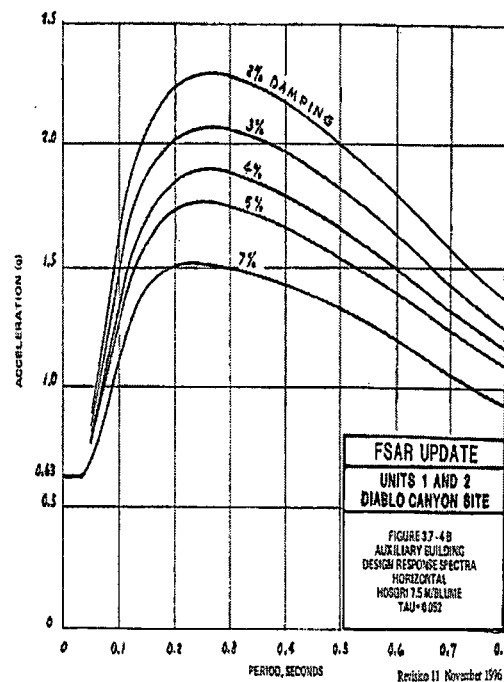


Figure 3. Comparison of Auxiliary Building Horizontal Floor Acceleration (Hosgri) as a Function of Damping



Another important factor affecting seismic qualification of plant SSC are the load combinations for each design basis earthquakes. For example, seismic qualification for the reactor coolant system (RCS) requires compliance with ASME Sec III Section III Boiler and Pressure Vessel Code. The required RCS load combinations are different for each of the three design basis earthquakes:<sup>15</sup>

$$OBE = \text{Deadweight} + \text{Pressure} + \text{Thermal}$$

$$SSE = \text{Deadweight} + \text{Pressure} + \text{Reactor Coolant Loop Pipe Rupture}$$

$$HE = \text{Deadweight} + \text{Pressure}$$

The ASME Code reactor coolant loop pipe rupture evaluation was excluded for the Hosgri Event because this design basis earthquake was not considered the Safe Shutdown Earthquake for Diablo Canyon.<sup>16</sup> The Hosgri Event is a unique earthquake to Diablo Canyon and differs from the Safe Shutdown Earthquake when considering SSC seismic qualification. Qualification for the Hosgri Event was limited to specific Class I components needed to support the alternate safe shutdown path.<sup>17</sup>

#### Examples of SSCs limited by the OBE or SSE

Seismic qualification of the primary RCS pressure boundary was limited by all three design basis earthquakes. For some SSC, the HE was more limiting, for others, the SSE or OBE was more limiting for seismic qualification. For example, the inspectors identified that the OBE and SSE were more limiting for some RCS pressure boundary components during the Unit 2 replacement reactor head inspection. The replacement head designer used inappropriately high seismic damping values when demonstrating that RCS pressure boundary met Section III of the ASME Boiler and Pressure Vessel Code. For corrective action, the designer recalculated RCS component stress using the current licensing basis (CLB) damping values and discovered that some reactor head components exceeded Code allowable values for the OBE.<sup>18</sup> The designer again recalculated Code allowable stress using the higher damping values provided in RG 1.61, "Damping Values for Seismic Design of Nuclear Power Plants," Revision 1. The second recalculation also resulting in component stress levels exceeding Code allowable. The design subsequently demonstrated Code acceptance criteria by substituting the time history method with response spectrum method. Incorporating the higher RG 1.61 damp values into the CLB required a licensee amendment. The end result did not provide for much margin to accommodate an increase in the design basis earthquake. The recalculation concluded that the SSE was more limiting.<sup>19</sup> For example, as shown in Figures 4 and 5, the control rod drive mechanism pressure housing assembly (CRDM) bending moments were more limiting for the SSE than the HE.

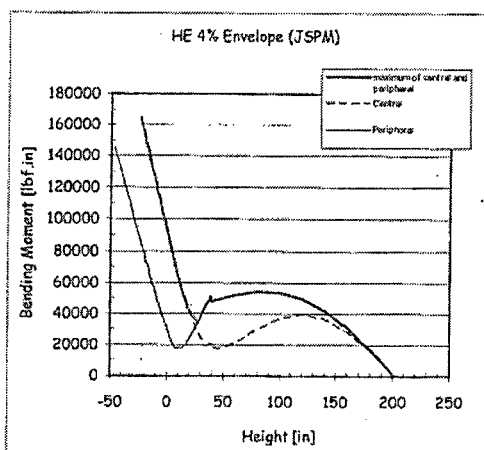


Figure 4  
HE Maximum CRDM Bending Moments

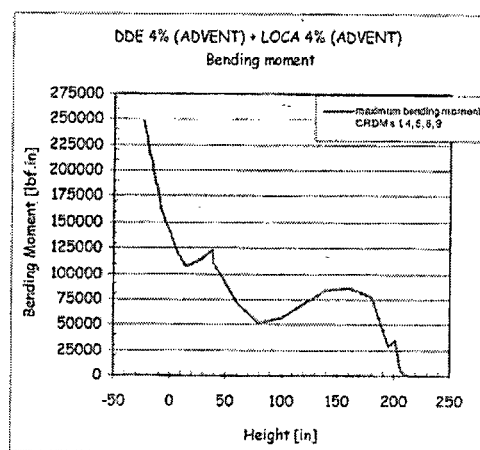


Figure 5  
SSE Maximum CRDM Bending Moments

The recalculation also identified that SSE loads were more limiting than the HE for the control rod drive mechanism pressure housing assembly and the external loads for the vessel head closure weld shear forces (6,332 lbs for the SSE compared to 4,431 lbs for the HE). Also, both the OBE and SSE inner and outer diameter shear forces were more limiting than the HE (OBE was 9,764 lbs, SSE was 6,567 lbs, while the HE was only 4,432 lbs).<sup>20</sup>

Similar to the RCS pressure boundary, the inspectors also identified that the seismic qualification for many reactor components were limited by the SSE. For example, the SSE was more limiting for Unit 2 replacement reactor head integrated head assemble seismic analysis<sup>21</sup> and the reactor vessel level system nozzle connections to the reactor vessel head torsion moments.<sup>22</sup>

The Diablo Canyon FSARU stated that the seismic qualification of other components, including the reactor coolant pump support feet,<sup>23</sup> the reactor vessel evaluation,<sup>24</sup> the pressurizer and surge line analysis, and the dynamic reactor coolant loop analysis<sup>25</sup> were all limited by the SSE, rather than the HE.

**Table 3. Comparison of Diablo Canyon Seismic Analysis**

	Operating Basis Earthquake (Design earthquake)	Safe Shutdown Earthquake (Double design earthquake)	Hosgri Event	Long Term Seismic Program Deterministic Spectrum
Part of Plant Design Basis (10CFR 50.2)	Yes	Yes	Yes	No – Presented as a margin analysis for the Hosgri Event
Quality Assurance Requirements	10 CFR 50, App B	10 CFR 50, App B	10 CFR 50, App B	Peer review.
Method of Analysis	Part 100, App A	Part 100, App A	Geological Survey Circular 672	Best estimate 7.2 M (84% ground motion)
Description	Earthquake epicenters within 200 and faults within 75 miles of the plant	Earthquake epicenters within 200 miles and faults within 75 miles of the plant	Limited to a 7.5 M earthquake on the Hosgri Fault	Limited to an earthquake on the Hosgri Fault (weighted average of 3 faulting styles)
Design Response Spectra	Time history (RG 1.60)	Time history (RG 1.60)	Time history (alternate method)	Best estimate - From Fault Model.
SSC Qualification	Equipment necessary to remain functional for continued operation	Class I SSC qualified per FSAR design basis (RG 1.29 & RG 1.100)	Limited Class I to support alternate safe shutdown path (exceptions to RG 1.29) <sup>26</sup>	Not included - Used HCLPF <sup>(a)</sup> values from probabilistic analysis
Damping	2%	2%	7%	5% (84% ground motion)
Reactor coolant system seismic qualification	Compliant with 50.55a (ASME Sec III Code allowable stress)  Deadweight + Pressure  Deadweight + Pressure + Thermal	Compliant with 50.55a (ASME Sec III Code allowable stress)  Deadweight + Pressure  Deadweight + Pressure + Reactor coolant loop pipe rupture (LPR)	Compliant with 50.55a (ASME Sec III Code Allowable stress)  Deadweight + Pressure only (no LPR – HE not considered a shut shutdown earthquake) <sup>27</sup>	N/A – Not used for qualification (used probabilistic values to determine failure points)
RCS Loop Damping	1.0% Code Case N-411	1.0% Code Case N-411	4.0% Code Case N-411	N/A – Not used
Vital Piping Systems Damping	0.5%	0.5%	3.0% (2% for piping less than 12" diameter)	N/A – Not used
Limiting for Seismic Qualification of SSC?	Yes – In some cases OBE is the most limiting	Yes – In some cases SSE is the most limiting	Yes – In some cases HE is the most limiting	Not used for seismic qualification

Notes: <sup>(a)</sup>HCLPF (high confidence low probability of failure) probabilistic value derived from the following terms: Fs – Strength factor, Fu – Inelastic energy absorption factor (ductility), Fqm – Qualification method factor, Fd – Damping factor (level expected at or near failure), Fm – Modeling factor, Fmc – Mode combination factor (adjusts for conservatism in testing), Fecc – Earthquake component combination factor, Fss – Spectral shape factor, Fgmi – Ground motion incoherency factor, & Fir – Inelastic structural response factor.

The seismic qualification of the containment and turbine building were limited by the SSE at some locations.<sup>28</sup> For example, the maximum containment horizontal seismic displacement was greater for the SSE than for the HE at the 88 foot through 206 foot levels. The SSE was not only limiting in some cases for structural loading, but also for location dependent seismic displacements used for SSC qualification at those locations.

#### **Long Term Seismic Program (LTSP)**

PG&E limited their evaluation of the Shoreline Fault to a comparison of the LTSP deterministic spectrum. This comparison only provided an indication of seismic margin to the HE, not the OBE or the SSE. As previously indicated, the OBE and SSE are more limiting than the HE for seismic qualification of many SSC. In 1988, PG&E issued the LTSP Final Report. The Final Report included a 7.2 M deterministic evaluation of the HE ground motion using a weighted average for faulting style (strike-slip, oblique, and thrust).<sup>29</sup> This deterministic evaluation became known as the LTSP 84% Spectrum. At the completion of the LTSP, PG&E concluded that the original plant seismic design basis (OBE, SSE and HE) was adequate.

The NRC documented acceptance of the LTSP Final Report in SSER 34 (1991). The Staff stated that the LTSP provided a supplemental verification that the plant could withstand a 7.2 M event on the Hosgri Fault. The SSER stated that the LTSP did not change the plant design bases for Diablo Canyon.<sup>30</sup> The Diablo Canyon seismic design and licensing basis would continue to be the OBE and SSE, plus the HE evaluation basis, along with the associated analytical methods, initial conditions, and original qualification-basis criteria.

In 1991, PG&E made three commitments associated with the closure of the LTSP:

- (1) Use the LTSP to maintain seismic margins prior to future modifications of certain plant equipment,<sup>31</sup>
- (2) Maintain a strong geosciences and engineering staff to keep abreast of new geological, seismic, and seismic engineering information and evaluate it with respect to its significance to Diablo Canyon, and<sup>32</sup>
- (3) Continue to operate a strong-motion accelerometer array and coastal seismic network.<sup>33</sup>

Table 3 compares the Diablo Canyon seismic design basis with the LTSP. As the table indicates, the LTSP 84% deterministic Spectrum was a margin analysis for the Hosgri Event and was not used for SSC seismic qualification or as part of the plant design basis.

#### **Recommended Regulatory Disposition**

The licensee has not evaluated the affect of the new seismic information on the operability of SSC.

Part 50, Appendix B, Quality Assurance Criteria for Nuclear Power Plants and Fuel Reprocessing Plants, Criterion XVI, "Corrective Action," required PG&E to establish measures to assure that conditions adverse to quality, such as nonconformances, are promptly identified and corrected. On September 14, 2010, the inspectors identified that PG&E did not promptly identify or correct a nonconforming condition. The inspectors identified that the predicted Shoreline Fault ground motion was outside of the bounds of the FSARU safety analysis, this was a nonconforming condition. This is an ongoing violation.

Part 50, Appendix B, Criterion V, "Instructions, Procedures, and Drawings," required PG&E to perform activities affecting quality accomplished in accordance with these instructions and procedures. Quality related plant procedure OM7.ID12, "Operability Determination," required plant personnel to evaluate the affect of unanalyzed conditions on the operability of plant SSC. On October 4, 2010, the inspectors identified that PG&E did not evaluate the affect of an unanalyzed condition on the operability of plant SSC in accordance with Procedure OM7.ID12. The inspectors identified that the Shoreline Fault ground motion was outside of the bounds of the FSARU safety analysis. As a result, the licensee has not established reasonable assurance that seismically qualified SSC are capable of performing the specified safety functions following an SSE. This is an ongoing violation.

The failure of plant personnel to follow the requirements of Procedure OM7.ID12 to evaluate the operability of SSC following discovery of the unanalyzed condition was a performance deficiency. The finding is more than minor because the performance deficiency could be reasonably viewed as a precursor to a significant event. Also, the performance deficiency is similar to minor questions 3.k & 3.j (MC 0612, App E Examples of Minor Issues) because the condition resulted in reasonable doubt on the operability of a system or component. Based on Attachment 0609.04, Phase 1 - Initial Screening and Characterization of Findings, the inspectors concluded that finding should be evaluated with a Phase 3 SDP because the finding was a design or qualification deficiency and the inspector was not able to confirm that the finding did not result in loss of operability or functionality (Use the IPEEE or other existing plant-specific analyses to identify core damage scenarios of concern and provide this input for Phase 3 analysis.)

10 CFR Part 50.9, "Completeness and accuracy of information," required that information provided by PG&E to the Commission or information required by the Commission's regulations be maintained by the applicant or the licensee shall be complete and accurate in all material respects.

The inspectors identified four examples of the failure of PG&E to provide or maintain complete and accurate information related to the Shoreline Fault and the plant current design and licensing bases:

- On November 14, 2008; April 16, 2009; and December 15, 2009; PG&E entered into the corrective action program (as Notification 50086062), required by Commission's regulations, that the Shoreline Fault was within the plant design and licensing basis because the ground movement spectra was bound by the LTSP analysis. Contrary to the above, the LTSP was not part of the plant design and licensing basis. FSARU Section 3.7.1, "Seismic Input," stated:

*"The LTSP contains extensive databases and analyses that update the basic geologic and seismic information in this FSAR Update. However, the LTSP material does not alter the design bases for DCP. In SSER 34, the NRC states, "The Staff notes that the seismic qualification basis for Diablo Canyon will continue to be the original design basis plus the Hosgri evaluation basis, along with associated analytical methods, initial conditions, etc."*

- On November 21, 2008, PG&E stated in NRC Event Number 44675, "Offsite Notification and Media Briefing due to Potential Discovery of Off Shore Fault near Plant," that discovery of a previously unknown zone of seismicity located offshore of the Diablo Canyon Power Plant, and that the potential fault is expected to be bound by the existing seismic design bases for DCP. Contrary to the above, the Shoreline Fault was not expected to be bound by the existing seismic design bases for DCP.
- On December 16, 2010, PG&E placed in Notification 50086062, Task 30, that the LTSP was the NRC accepted method for evaluating new seismic information. Contrary to the above, the LTSP was not NRC approved method for evaluation new seismic information.
- On December 16, 2010, PG&E placed in Notification 50086062, Task 30, that SSER 7 stated that the NRC considered the HE the safe shutdown earthquake for the site as defined in Part 100, Appendix A. Contrary to the above, the HE was not the SSE for the site as defined in Part 100, Appendix A. While SSER 7 included this statement, the NRC agreed to the PG&E request to maintain the double design earthquake as the safe shutdown earthquake prior to plant licensing. FSARU 3.7.6.1, Post-Hosgri Shutdown Requirements and Assumed Conditions, stated: "This is consistent with the DCP design basis stated in FSAR Section 3.7.1.1 that the DDE is the SSE for DCP, and that the guidelines presented in RG 1.29 apply to the DDE."

The NRC used the incomplete and/or inaccurate information in the following documents with the conclusion that the Shoreline Fault was bound by the current design and licensing bases:

- Transmittal letter from NRR to PG&E for the April 08, 2009 NRC Research Information Letter 09-001 (Preliminary Deterministic Analysis of Seismic Hazard at Diablo Canyon NPP From Newly Identified "Shoreline Fault")
- Diablo Canyon Power Plant - NRC Integrated Inspection Reports 05000275/2009005 AND 05000323/2009005 February 3, 2010 (ML100341199)
- Diablo Canyon Power Plant - NRC Integrated Inspection Reports 05000275/2009002 AND 05000323/2009002, May 5, 2009 (ML091250142)

The NRC Enforcement Policy, September 30, 2010, stated:

*Severity Level III* violations involve, for example: Inaccurate or incomplete information is provided or maintained. If this information had been completely and accurately provided or maintained, it would likely have caused the NRC to reconsider a regulatory position or undertake a substantial further inquiry;

*Severity Level IV* violations involve, for example: A licensee fails to make a required report which, had it been submitted, would have resulted in, for instance, increasing the inspection scope of the next regularly scheduled inspection.

#### Sequence of Events

November 14, 2008: Pacific Gas and Electric entered into the corrective action program<sup>34</sup> identification of a new line of earthquake epicenters located about 1 km from the plant. PG&E documented that this line of epicenters may represent an active earthquake fault that had not been previously evaluated. The Plant operating authority reviewed the new information on November 15 and concluded that that condition was within the plant design and licensing basis (not a nonconforming condition) because the ground movement spectra that could be produced by the new line of epicenters was bound by the LTSP analysis.<sup>35</sup>

November 21, 2008: Pacific Gas and Electric notified the NRC<sup>36</sup> of discovery of a previously unknown "zone of seismicity" located offshore of the Diablo Canyon Power Plant. In the Notification Report the licensee stated that "Initial assessment indicates that the ground motion from this potential fault is expected to be bounded by the existing seismic design bases for DCP.".

January 15, 2009: Plant operations again concluded that the Shoreline Fault was not an entry condition for the station operability procedure because the expected effects of the potential earthquake are bounded by the Hosgri analysis.<sup>37</sup> This entry was subsequently corrected to change "Hosgri analysis" to the "LTSP."

April 8, 2009: The NRC issued Research Information Letter 09-001, "Preliminary Deterministic Analysis of Seismic Hazard at Diablo Canyon NPP From Newly Identified 'Shoreline Fault'" to the public.<sup>38</sup> The Research Information Letter included a confirmatory analysis that concluded potential ground motion from the Shoreline fault was bound by the LTSP spectrum. The Research Information Letter did not draw any conclusions related to the Shoreline fault ground motion being within Diablo Canyon CLB. However, the NRR transmittal letter included the following statements:

*"PG&E informed the NRC staff that it had performed an initial evaluation of the potential ground motion levels at the DCP from the hypothesized fault which concluded that these motions would be bounded by the ground motion levels previously determined for the current licensing basis."*

*"Based on the NRC staff review of the preliminary geophysical data provided by PG&E in preparation for the call and the licensee's preliminary analysis provided during the conference call, the NRC staff concluded that the current licensing basis is bounding and continues to support safe operation of the DCP. "*

*"Therefore, based on the currently available information, the NRC staff concludes that the design and*

*licensing basis evaluations of the DCPD structures, systems, and components are not expected to be adversely affected and the current licensing basis remains valid and supports continued operability of the DCPD site."*

April 16, 2009: PG&E concluded that the Shoreline Fault did not have an adverse impact on the seismic qualification of ISFSI road and transporter seismic stability analysis based on the April 8, 2009 RIL.<sup>39</sup>

May 5, 2009: Region IV issued a Diablo Canyon inspection report stating that the licensee concluded that the postulated spectrum was bounded by the ground motion previously analyzed as part of the plant seismic design and licensing basis.<sup>40</sup>

December 15, 2009: PG&E concluded that the Shoreline Fault was only 300 meters from the plant inlet (600 meters from the power block). PG&E again concluded that a nonconforming condition did not exist because the results were bounded by the LTSP.<sup>41</sup>

January 7, 2010: PG&E licensing personnel raised a concern that preliminary Shoreline Fault response spectrum exceeds the Hosgri Event in the 15 to 20 Hz frequency range. PG&E stated that the Hosgri spectrum plot was included for information only. The purpose of the plot was to demonstrate that the Shoreline was bounded by the LTSP spectrum.<sup>42</sup> PG&E stated that the fact that the Shoreline was outside of the Hosgri qualification basis did not have any implications with respect to the seismic design or analysis of the plant.

January 2010: Pacific Gas and Electric submitted to the NRC "Progress Report: Shoreline Fault Zone, Central Coastal California" and "Confirmatory Analysis of Evaluation of Secondary Fault Rupture Hazard from the Shoreline Fault Zone" (ADAMS ML100190142). In these reports the licensee concluded that the fault was closer to the plant than originally estimated about 300 meters from the intake and 600 meters from the power block. The licensee also determined that secondary ground faulting was very unlikely based on a probabilistic analysis.

February 3, 2010: Region IV issued a Diablo Canyon inspection report stating,<sup>43</sup>

*"On December 15, 2009, Pacific Gas and Electric provided the inspectors a summary of shoreline fault characterization activities conducted over the past year. The licensee concluded that the postulated ground movement spectrum was bounded by the current plant seismic design and licensing bases."*

September 9, 2010: PG&E presented the preliminary results of the deterministic and probabilistic Shoreline Fault evaluations at the NRC Seismic Workshop in San Luis Obispo, Ca. PG&E stated that they compared the Shoreline Fault against the LTSP rather than the current design and licensing basis.

September 14, 2010: The resident inspectors identified that ground motion from the Shoreline Fault was outside of the plant CLB.<sup>44</sup>

September 28, 2010: The resident inspectors identified and communicated to PG&E that the Shoreline Fault was a condition outside the bounds of the FSARU seismic safety analysis and was an entry condition in the station operability evaluation procedure. PG&E did not take any corrective actions.

October 4, 2010: The resident inspectors recommended an unresolved item be included in the third quarter DC RI inspection report to document that an earthquake produced by the Shoreline fault was outside the plant seismic design basis. Region IV disapproved the resident inspectors's recommendation.

October 5, 2010: The resident inspectors briefed the NRR PM (Alan Wang) and Chief (Mike Markey) on the Shoreline fault findings.

October 10, 2010: PG&E reviewed the Shoreline Fault for operability concerns prior to releasing Unit 1 for Mode 4 operations. PG&E again concluded that a nonconforming condition did not exist because predicted ground

motions were within the LTSP spectrum.<sup>45</sup> As a result, the licensee did not enter the plant operability determination procedure.

October 14, 2010: The resident inspectors briefed the Region IV RA (Collins) on the Shoreline Fault findings.

October 19, 2010: The resident inspectors met with the PG&E Engineering Director and discussed operability concerns. The Engineering Director stated that the plant docket was incomplete because it did not include the NRC agreement with PG&E to use the LTSP (HE margin evaluation) as a basis for evaluation of new seismic information.

November 30, 2010: The resident inspectors briefed the DRP Division Director on the Shoreline Fault findings.

December 2, 2010: The DRP Deputy Division Director (Pruett) requested PG&E (Ken Peters) enter into the corrective action program the failure to evaluate the affect of the Shoreline Fault on SSC as required by station procedures. The licensee did not enter the condition into the station corrective action program.

December 16, 2010: In response to the DRP Deputy Division Director December 2 call, PG&E updated the condition report to include a justification for not evaluating the operability of Technical Specification required SSC following identification of the Shoreline Fault greater than the FSARU safety analysis:<sup>46</sup>

- In the April 8, 2009 letter NRR stated: *"Therefore, based on the currently available information, the NRC staff concludes that the design and licensing basis evaluations of the DCPD structures, systems, and components are not expected to be adversely affected and the current licensing basis remains valid and supports continued operability of the DCPD site."*
- Statement in NRC SSER 7, that the NRC considered the HE the SSE for the site as defined in Part 100, Appendix A.
- The Shoreline Fault is within the plant CLB because the LTSP ground motion spectra was approved by the NRC (1991 SSER 34)
- The CLB for the evaluation of new seismic information was to use the LTSP per a commitment PG&E made during a 1991 meeting with the NRC.

December 31, 2010: PG&E completed an estimate of the deterministic ground motion for the Shoreline Fault.<sup>47</sup> PG&E documented that because the results (deterministic and probabilistic) were within the LTSP adequate seismic margin exists and new information is within the CLB for the facility. PG&E again concluded that a nonconforming condition did not exist (because ground motions were within the LTSP/HE spectrum).

January 2011: PG&E issued "Report on the Analysis of the Shoreline Fault Zone, Central Coast California to the USNRC." The report describes an updated evaluation of three earthquake faults (Los Osos, San Luis Bay, and Shoreline) that would produce ground motion greater than assumed in the FSARU SSE safety analysis.<sup>48</sup>

#### Endnotes

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<sup>1</sup> Report on the Analysis of the Shoreline Fault Zone, Central Coast California to the USNRC, PG&E, January 2011, Figure 6-19, page 6-51

- <sup>2</sup> FSARU Table 3.7-1, Containment And Auxiliary Building Criteria Comparison
- <sup>3</sup> Diablo Canyon Intergraded Inspection Report, NCV 05000323/2009005-04, "Less than Adequate Replacement Reactor Head Modification Design Control"
- <sup>4</sup> FSARU Section 3.11, Environmental Design of Mechanical and Electrical Equipment
- <sup>5</sup> Diablo Canyon Subliminal Safety Evaluation Report 16, Section 1, Introduction and Discussion
- <sup>6</sup> Regulatory Guide 1.29, Seismic Design Classification
- <sup>7</sup> Report on the Analysis of the Shoreline Fault Zone, Central Coast California to the USNRC, PG&E, January 2011
- <sup>8</sup> From Figure 6-19, Report on the Analysis of the Shoreline Fault Zone, Central Coast California to the USNRC, PG&E, January 2011
- <sup>9</sup> Per Norm Abramson, NRC PGE Meeting, January 19, 2011.
- <sup>10</sup> FSARU Section 3.2.1, Seismic Classification
- <sup>11</sup> SSER 7, Section 2.5.2, Seismology, page 2-4
- <sup>12</sup> FSARU Section 3.7.1.2, Design Response Spectra Derivation
- <sup>13</sup> Diablo Canyon FSARU, Section, Diablo Canyon FSARU, Section 3.7.1.3 Critical Damping Values, Revision 19
- <sup>14</sup> Regulatory Guide 1.60, Design Response Spectra for Seismic Design of Nuclear Power Plants. Revision 1
- <sup>15</sup> UFSAR Table 5.2-6, Load Combinations And Stress Criteria For Westinghouse Primary Equipment, Revision 19
- <sup>16</sup> FSARU Section 5.2.1.5.4, Faulted Conditions
- <sup>17</sup> FSARU Section 3.7.6.1, Post-Hosgri Shutdown Requirements and Assumed Conditions
- <sup>18</sup> Areva Calculation 6 CS 20327, Revision A, Analyses of the Impact of Reduced Damping Factor on the results of the design Report
- <sup>19</sup> Areva Replacement reactor head, Calculation 6 CS 20327, Appendix 2, revision A, "Primary Stress Evaluations, Design Conditions DE 3%, DDE 4% + LOCA, HE 4% + Displacement
- <sup>20</sup> Areva CRDM Load Reconciliation, Calculation 9000008579, Revision 3 (page 77)
- <sup>21</sup> Diablo Canyon NRC Intergraded Inspection Report, NCV 05000323/2009005-04, "Less than Adequate Replacement Reactor Head Modification Design Control"
- <sup>22</sup> Areva Calculation 51-9125626-000, Evaluation of IHA Reduced Damping
- <sup>23</sup> FSARU Section 5.2.1.15.3, Reactor Coolant Pump Evaluation
- <sup>24</sup> FSARU Section, 5.2.1.15.4, Reactor Vessel Evaluation
- <sup>25</sup> FSARU Section 5.2.1.15.9, Pressurizer Evaluation
- <sup>26</sup> FSARU Section 3.7.6.1, Post-Hosgri Shutdown Requirements and Assumed Conditions
- <sup>27</sup> FSARU Section 5.2.1.5.4, Faulted Conditions
- <sup>28</sup> Design Criteria Memorandum C-28, "Criteria for Maximum Building Displacement for Hosgri, design, and Double Design Earthquakes or LOCA," Revision 21A (page 8)
- <sup>29</sup> PG&E Long Term Seismic Program Final Report, DCL-88-192, July 1988, Section 4 & Pages 7.1 – 7.3 1
- <sup>30</sup> FSARU Section 3.7.1, Seismic Input
- <sup>31</sup> PG&E Letter to NRC, DSCL 91-178, LTSP Future Plant Modifications, July 16, 1991
- <sup>32</sup> SSER 34, Section 2.5.2.4, Seismology Conclusions, page 2-49
- <sup>33</sup> SSER 34, S Section 2.5.2.4eismology Conclusions, page 2-49
- <sup>34</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," November 14, 2008
- <sup>35</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," November 14, 2008
- <sup>36</sup> Event Number 44675, Offsite Notification and Media Briefing due to Potential Discovery of Off Shore Fault near Plant, November 21, 2008
- <sup>37</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," January 15, 2010
- <sup>38</sup> Diablo Canyon Power Plant, Unit Nos. 1 and 2 – NRC Preliminary Review of Potential Shoreline Fault, April 8, 2009
- <sup>39</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," Task 10, April 15, 2009.
- <sup>40</sup> Diablo Canyon Power Plant - NRC Integrated Inspection Report 05000275/2009002 AND 05000323/2009002, May 5, 2009 (ML091250142)
- <sup>41</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," November 14, 2008
- <sup>42</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," Task 11, January 7, 2010



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<sup>43</sup> Diablo Canyon Power Plant - NRC Integrated Inspection Report 05000275/2009005 AND 05000323/2009005  
February 3, 2010 ML# 100341199

<sup>44</sup> Notification 50341463, NRC SRI Question on the Shoreline Fault Study, September 14, 2010

<sup>45</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," Task 24, October 10, 2010

<sup>46</sup> Notification 50086062, "LTCA-Ident of Seis Lineament Offsiter," Task 30, December 16, 2010

<sup>47</sup> Notification 50368351, Shoreline Fault Zone Study Report Update, December 31, 2010

<sup>48</sup> Report on the Analysis of the Shoreline Fault Zone, Central Coast California to the USNRC, Figure 6-19

RE Extension Request for DPO-2013-002.txt

From: ExtensionRequest, EDO  
Sent: Tuesday, December 03, 2013 12:12 PM  
To: Sewell, Margaret  
Cc: Khanna, Meena; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
Subject: RE: Extension Request for DPO-2013-002

Good Afternoon,

OEDO has reviewed and approved your extension request. The new due date is 01/31/14.

Thanks,  
Denise

From: Sewell, Margaret  
Sent: Wednesday, November 27, 2013 1:05 PM  
To: ExtensionRequest, EDO  
Cc: Khanna, Meena; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
Subject: Extension Request for DPO-2013-002  
Importance: High

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from November 29, 2013 to January 31, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by several scheduling issues including leave commitments, the Government Shutdown, and the complex nature of the issue.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issue is critical to the success of the process. I have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let me or Renée Pedersen know if you have any questions. Thank you for your consideration of this request and we look forward to hearing from you.

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045

RE Extension Request for DPO-2013-002.txt

Renée Pedersen  
Office of Enforcement/Concerns Resolution Branch  
Sr. Differing Views Program Manager  
301-415-2742

Eric's DPO Extension request.txt

From: Leeds, Eric  
Sent: Wednesday, January 29, 2014 1:33 PM  
To: Sewell, Margaret  
Cc: Pedersen, Renee; Wertz, Trent; Case, Michael; Dorman, Dan; Uhle, Jennifer  
Subject: DPO Extension request

Marge (and/or Renee),

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension for DPO-2013-002.

In particular, please revise the current due date from January 31, 2014 to March 28, 2014..

The schedule has been impacted by several issues including the development of information from the licensee (which has been delayed due to the holidays and an illness), addition of a peer review of the information, and the complex nature of the issue.

Thanks!

Eric

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

OEDO Extension Request Approval for DPO-2013-002.txt

From: ExtensionRequest, EDO  
Sent: Thursday, January 30, 2014 4:59 PM  
To: Sewell, Margaret; ExtensionRequest, EDO  
Cc: Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Dorman, Dan; Uhle, Jennifer  
Subject: RE: Extension Request for DPO-2013-002

OEDO has reviewed and approved the subject extension. The new due date is 03/28/14.

Thanks,  
Denise

From: Sewell, Margaret  
Sent: Wednesday, January 29, 2014 2:28 PM  
To: ExtensionRequest, EDO  
Cc: Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Dorman, Dan; Uhle, Jennifer  
Subject: Extension Request for DPO-2013-002

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from January 31, 2014 to March 28, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by several issues including the development of information from the licensee (which has been delayed due to the holidays and an illness), addition of a peer review of the information, and the complex nature of the issue.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issue is critical to the success of the process. I have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let me or Renée Pedersen know if you have any questions. Thank you for your consideration of this request and we look forward to hearing from you.

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045

OEDO Extension Request Approval for DPO-2013-002.txt  
margaret.sewell@nrc.gov

Extension Request EDO Approval-4-30-14.txt

From: Brock, Kathryn  
Sent: Friday, March 28, 2014 11:14 AM  
To: Sewell, Margaret  
Cc: Foster, Jack; Jaegers, Cathy  
Subject: RE: Extension Request for DPO-2013-002

Approved.

Cathy will follow up and ensure it is in STARS. For the next time please work with Jack to be sure we get it in STARS.

Thanks.

From: Sewell, Margaret  
Sent: Friday, March 28, 2014 10:38 AM  
To: Brock, Kathryn  
Cc: Foster, Jack  
Subject: FW: Extension Request for DPO-2013-002

Kathryn,

I don't think I got approval for this extension request yet. Is it possible for you to approve this one as well, so we don't hold it up?

Thanks!  
Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
margaret.sewell@nrc.gov

From: Sewell, Margaret  
Sent: Tuesday, March 25, 2014 4:24 PM  
To: ExtensionRequest, EDO  
Cc: Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Case, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
Subject: Extension Request for DPO-2013-002

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from March 28, 2014 to April 30, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by the complex nature of the issue and the need to gather information from the licensee.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to

Extension Request EDO Approval-4-30-14.txt

fully  
consider the issue is critical to the success of the process. I have reviewed the  
extension  
request and think that it is reasonable and consistent with the goals of the DPO  
Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let me or Renée Pedersen know if you have any questions. Thank you for your  
consideration of this request and we look forward to hearing from you.

Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
margaret.sewell@nrc.gov



**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Wednesday, April 09, 2014 2:41 PM  
**To:** Sewell, Margaret  
**Cc:** Pedersen, Renee  
**Subject:** QUESTION: DPO-2013-002 - Receipt of the OD or RA Decision

Ms. Sewell,

I received the completed Panel Report for DOP 2013-002 last week. I'm I correct in my assumption that I should also be receiving a memo describing the Office Directors decision in the near future?

If so, would I have 21 calendar days of receiving this memo to file an appeal?

Thank you,  
Michael

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**From:** Sewell, Margaret  
**Sent:** Friday, January 31, 2014 9:32 AM  
**To:** Leeds, Eric  
**Cc:** Brock, Kathryn; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Case, Michael; Peck, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
**Subject:** Extension Request for DPO-2013-003

Eric,

OEDO has approved the subject extension request (see attached email). Based on OEDO's approval, the new due date is 3/28/2014. Attached is the updated Milestones & Timeliness Goals for DPO-2013-002.

If you have any questions, please feel free to contact Renée or me.

Thank you.  
Marge

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Friday, April 25, 2014 6:19 AM  
**To:** Pedersen, Renee  
**Cc:** Case, Michael  
**Subject:** RES: DPO 2013-002

Ms. Pedersen,

Following up your phone message - I received an electronic copy of the DPO Panel Report on April 4<sup>th</sup>.

I provided written comments related to the report to Mr. Case on April 9<sup>th</sup>.

I had a phone conversation with Mr. Leeds on April 21<sup>st</sup> to discuss the DPO issues. Mr. Leeds indicated that he may want to have a follow up call prior to making a decision on the issue.

Please let me know if I can provide any additional information related to DPO 2013-002.

Thank you,  
Michael Peck, Ph.D.  
Senior Reader Technology Instructor  
TTC, 432-855-6515

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Friday, May 30, 2014 8:50 AM  
**To:** DPOPM Resource  
**Cc:** Pedersen, Renee; Solorio, Dave; Hilton, Nick; Sewell, Margaret  
**Subject:** QUESTION: DPO-2013-00 - Extension Requested for Appeal Opportunity

Ms. Pedersen,

I received Mr. Leeds' DPO 2013-002 decision memo this morning. I understand that MD 10.159 provides 21 calendar days for me to appeal the decision. May I have an extension to the appeal deadline until June 30, 2014?

I request the additional time to comprehensively address the highly complex issues involved in the DPO Panel Report and to compensate for my unavailability during the first two weeks in June due to official travel.

Thank you,  
Michael

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**From:** DPOPM Resource  
**Sent:** Thursday, May 29, 2014 5:56 PM  
**To:** Peck, Michael  
**Cc:** Pedersen, Renee; Solorio, Dave; Hilton, Nick; Sewell, Margaret  
**Subject:** DPO-2013-002 - Diablo Canyon Seismic Issues - Opportunity to Appeal

Michael,

By now you should have received the DPO Decision dated May 29, 2014. In accordance with the guidance in MD 10.159, "The NRC Differing Professional Opinions Program," you have 21 calendar days from the date you received the DPO Decision to submit an appeal if you choose.

If you have questions about the appeal process or any other DPO-related questions or concerns, please feel free to contact us.

If you do not send an appeal by June 19, 2014, we will assume that you do not want to submit an appeal. At this point, the DPO process will be considered complete. When the DPO process is complete, we will contact you about whether you would like to request that the DPO Case File be made public or remain non-public. The DPO Case File serves as a valuable KM tool. The DPO Case File will be posted on the internal Web site and the ADAMS accession number (if public) will be included in the summary of the case that is included in the Commission's Weekly Information Report (e.g., <http://www.internal.nrc.gov/OE/dpo/dpo-2012-003.html>).

As a reminder, we are still in a predecisional process and you should not release or discuss documents until the process is complete and records are reviewed in accordance with procedures for discretionary release.

Thank you for exercising your responsibility as an NRC employee and ensuring that agency decision-makers have all the information they need to make well-informed decisions that help us fulfill our regulatory mission. We understand that the DPO process can be an emotional journey and we appreciate your professionalism during the process.

Please feel free to call Renée Pedersen or Marge Sewell if you have any questions.

Renée Pedersen

OE/CRB  
Senior Differing Views Program Manager  
301-415-2742

Marge Sewell  
OE/CRB  
Safety Culture Specialist  
301-415-8045

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Monday, September 30, 2013 11:52 AM  
**To:** Case, Michael  
**Cc:** Bernhard, Rudolph; Hill, Brittain; Pedersen, Renee  
**Subject:** DPO-2013-002 - Potential Precedent at Watts Bar  
**Attachments:** SEQUOYAH 2013-09.pdf; Watts Bar 2013-09.pdf; Watts Bar 2012-09.pdf; SEQUOYAH 2013-09.pdf

Attachments are publicly available as ML13071A253, ML13155A572, and ML13071A289.

Mr. Case,

In July 2009, TVA personnel concluded that a dam spillway coefficient previously used in the Watts Barr GDC 2 maximum flooding analysis was inconsistent with a more recent model. Correction of the coefficient resulted in a higher maximum flood that described in the original design basis. The NRC subsequently issued

- A Severity Level III violation for failing to report an unanalyzed condition related to external flooding
- A **Yellow** Finding following the failure to maintain an adequate abnormal condition procedure to implement the flood mitigation strategy
- A White Finding following inadequate abnormal condition procedure for flood mitigation strategy

These Watts Barr violations have similarities to the issues raised in DPO-2013-002. Similar issues were also disposition at Sequoyah. I have attached electronic copies of the inspection reports and final significance determination for these issues for your info.

Thank you,  
msp

**Pedersen, Renee**

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**From:** Peck, Michael  
**Sent:** Thursday, October 30, 2014 9:37 AM  
**To:** Satorius, Mark  
**Cc:** Pedersen, Renee  
**Subject:** RES: Follow Up From Diablo Canyon Seismic DPO Discussion

Mr. Satorius,

Thank you for recognizing my contribution to the agency's Differing Professional Opinions (DPO) Program. I also appreciated the consolatory language used in your reply to my appeal and the opportunity to discuss the Diablo Canyon DPO issues with you in person.

During our meeting this past Friday and in late July, I understood you to say that the agency will focus forward rather than expending resources on past issues that have been corrected. After considering your feedback, I wanted to ensure that you understood that I view the issues identified in the DPO and Appeal as ongoing violations of NRC Rules and Diablo Canyon license requirements. I believe these uncorrected violations do have an impact on plant safety.

During 2013, Pacific Gas and Electric (PG&E) made changes to the Diablo Canyon FSARU. These changes were sufficient to lead the DPO Panel to conclude that the Hosgri Event was the/a facility safe shutdown earthquake for the facility. Since these changes would require an amendment to the Operating License, and no amendment was approved by the agency, PG&E's action represents an ongoing violation of 10 CFR 50.59 and should be promptly addressed in accordance with the NRC Enforcement Policy.

I realize enforcing the Diablo Canyon seismic design basis would result agency challenges. The most obvious corrective action would include agency approval of the Hosgri as the facility safe shutdown earthquake. However, this proposed action was previously considered and rejected by agency technical staff. Without a safe shutdown earthquake methodology that is both acceptable to the staff and can accommodate the new higher seismic loading results in ongoing violation of NRC 10 CFR 50, Appendix B, quality assurance requirements and should be promptly addressed in accordance with the NRC Enforcement Policy.

PG&E's failure to adequately demonstrate operability of important to safety SSCs also remains as an ongoing issue. ASME, Section III, Code acceptance limits are exceeded when the new seismic loads are summed with the required load combinations using the NRC approved safe shutdown earthquake methodology (considering the new maximum capable ground motion). The NRC requires that licensee satisfy Code acceptance limits for operability of reactor coolant pressure boundary components. PG&E's failure to demonstrate that Code requirements were met was not addressed in either the DPO Panel Report or your DPO Appeal response letter. The failure to meet Code acceptance limits represents an ongoing violation of 10 CFR 50.55a and the facility Technical Specifications and should be promptly addressed in accordance with the NRC Enforcement Policy.

I appreciated the summary of the Diablo Canyon seismic licensing bases included in your September 9, 2014 memorandum. This summary acknowledged the original design bases as presented in the Preliminary Safety Analysis Report, NRC review of the Hosgri Evaluation provided in Supplemental Safety Evaluation Report 7, a description of the NRC review of Long Term Seismic Program provided in Supplemental Safety Evaluation Report 34, and requested actions associated with Recommendation 2.1 from the Near-Term Task Force Review of the Fukushima Accident. While this information provides insight into the Diablo Canyon seismic licensing bases and may be used to support future NRC licensing actions, none of this information may be used by the licensee as a bases to change the facility safe shutdown earthquake methodology without prior NRC approval. 10 CFR 50.59 and agency endorsed guidance established the threshold for facility changes

that require an amendment to the Operating License. This threshold was based on the methodology described in the FSAR for meeting regulatory driven design bases requirements, such as General Design Criteria (GDC) 2 for protection against earthquakes. Prior to the 2013 changes, the Diablo Canyon FSARU clearly stated that the GDC 2 facility safe shutdown earthquake requirement was met by the Double Design Earthquake safety analysis. The FSARU went on to explicitly state that the Hosgri Evaluation methodology did not satisfy NRC GDC 2 design bases requirements for the facility safe shutdown earthquake.

I would like to thank you again for your time and attention to the Diablo Canyon issues raised in DPO 2013-02. Please feel free to contact me if I can provide any additional information regarding ongoing compliance issues at Diablo Canyon.

Thank you,  
Michael Peck, Ph.D.  
Senior Reactor Technology Instructor  
TTC, 423-855-6515

RE Diablo Canyon Ask Management.txt

From: Scott, Michael  
Sent: Wednesday, November 12, 2014 11:11 AM  
To: Pedersen, Renee  
Cc: Burnell, Scott; Markley, Michael; Scott, Michael; Oesterle, Eric; Screnci, Diane; Sheehan, Neil; Solorio, Dave; Sewell, Margaret; Sosa, Belkys; Holahan, Patricia  
Subject: RE: Diablo Canyon Ask Management

Got it - thanks for your help.

Sent via My Workspace for iOS

On Wednesday, November 12, 2014 at 10:56:42 AM, "Pedersen, Renee" <Renee.Pedersen@nrc.gov> wrote:  
Thanks for sharing this with OE. We support the brief response from Scott, including that it is consistent with our agency guidance.

"Consistent with NRC guidance, the EDO's response to the DPO appeal is the final resolution to this matter."

We would appreciate it if OE could be copied on any responses related to the DPO. (DPOPM.Resource@nrc.gov)

Renée Pedersen  
Sr. Differing Views Program Manager  
Office of Enforcement  
(301) 415-2742

From: Burnell, Scott  
Sent: Wednesday, November 12, 2014 8:22 AM  
To: Markley, Michael; Scott, Michael; Oesterle, Eric; Screnci, Diane; Sheehan, Neil  
Cc: Pedersen, Renee  
Subject: RE: Re: Diablo Canyon Ask Management

This should particularly go through the RI OPA folks, and I'd offer the answer is "The EDO's response to the DPO is the final resolution to this matter."

From: Markley, Michael  
Sent: Wednesday, November 12, 2014 8:03 AM  
To: Scott, Michael; Oesterle, Eric  
Cc: Burnell, Scott; Pedersen, Renee  
Subject: RE: Re: Diablo Canyon Ask Management

Mike

Again, I think you need to go through OE and OPA. My preference is not to respond.

Mike

From: Scott, Michael  
Sent: Monday, November 10, 2014 6:14 PM  
To: Markley, Michael; Oesterle, Eric  
Subject: Re: Diablo Canyon Ask Management

Mike and Eric:

Thanks for the input you provided me. Hopefully the below would seem reasonable. If you have any concerns please let me know. If agreed by senior management here, this  
Page 1

B/20



RE Diablo Canyon Ask Management.txt

would be e-mail blasted to the Region 1 staff.

Q: On September 19, The Santa Barbara Independent ran an article, which was also put on the R1 website, about the former Diablo Canyon SRI who had a concern about how Diablo Canyon's new seismic information was handled and did not feel that is DPO about this concern was adequately addressed. Does the NRC plan to do any thing additional to address his concern in light of the recent article? If so, please inform us of the resolution to this when it is concluded.

Proposed Response:

The following is quoted from the Commission Weekly Information Report dated September 19, 2014: "On September 9, 2014, the EDO issued a decision on the appeal of DPO 2013-002, concerning seismic issues at the Diablo Canyon Nuclear Power Plant (DCNPP). The EDO's decision on the appeal supported both the DPO panel's independent technical conclusions and subsequent Office of Nuclear Reactor Regulation Director's decision that there was not a significant or immediate concern with seismic safety at DCP, and that the licensee and staff had followed appropriate processes for technical specification operability of plant equipment and Title 10 Code of Federal Regulations 50.59 evaluations with a reasonable technical and safety rationale. The EDO noted that the DPO raised awareness of the complexity of the DCNPP seismic licensing basis, but also illustrated the need for the agency to ensure there are clear guidelines for staff and licensees regarding how changes in natural hazards should be evaluated for all licensees. The public records for this DPO are available in the DPO case file package in the Agencywide Document Access and Management System, Accession No. ML14252A743."

According to the cognizant NRR licensing staff, no specific additional actions are planned in response to the referenced article. There has been substantial press coverage of the DPO, and numerous correspondence from stakeholders, including members of Congress and the public. The staff is handling inquiries in accordance with established processes.

**From:** Oesterle, Eric  
**To:** Markley, Michael; Wilson, George  
**Subject:** FW: ADDITIONAL INFO: In federal court filing, PG&E and NRC accused of Diablo quake safety coverup  
**Date:** Tuesday, October 28, 2014 10:36:03 AM

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Fyi...

**From:** Alexander, Ryan  
**Sent:** Tuesday, October 28, 2014 10:26 AM  
**To:** Hipschman, Thomas; Reynoso, John; Walker, Wayne; Oesterle, Eric; Pruett, Troy; Kozal, Jason  
**Cc:** OKeefe, Neil; Uselding, Lara  
**Subject:** ADDITIONAL INFO: In federal court filing, PG&E and NRC accused of Diablo quake safety coverup

All:

Based on Lara's e-mail, I went to the FOE website and found their press release and link to the filing they indicated was submitted to the Court of Appeals this morning.

FOE Press Release: <http://www.foe.org/news/news-releases/2014-10-in-federal-court-filing-pge-and-nuclear-regulator-said-to-collude-in-secret-diablo-canyon-decision>

FOE Filing (as referenced in the Press Release):  
[http://libcloud.s3.amazonaws.com/93/f4/7/4937/14-10-28\\_FoE\\_Petition\\_FSAR.pdf](http://libcloud.s3.amazonaws.com/93/f4/7/4937/14-10-28_FoE_Petition_FSAR.pdf)

In my quick read of the filing, it notes the following:

"[The Petitioner] hereby petitions the Court for review of the final order of the United States Nuclear Regulatory Commission ("NRC") approving Revision 21 to the Final Safety Analysis Report as Updated (FSARU) for Diablo Canyon Units 1 & 2 without the required license amendment proceeding, in violation of 42 U.S.C. § 2239. The NRC acted arbitrarily, abused its discretion, and violated the Atomic Energy Act, the Administrative Procedure Act, the Commission's policies and regulations, and other applicable laws and regulations in approving Revision 21."

As such, the filing appears to be directly based on the sections of the FSAR that were released as part of the PDR request and based on the release of information associated with the DPO.

-- Ryan

**From:** Uselding, Lara  
**Sent:** Tuesday, October 28, 2014 9:07 AM  
**To:** Dapas, Marc; Pruett, Troy; Kozal, Jason; OKeefe, Neil; Walker, Wayne; Alexander, Ryan; Sebrosky, Joseph; Oesterle, Eric; Markley, Michael; Burnell, Scott  
**Subject:** Fw: In federal court filing, PG&E and NRC accused of Diablo quake safety coverup

Lara Uselding  
NRC Region 4 Public Affairs  
817-200-1519

B/21

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**From:** Bowers, Anthony  
**Sent:** Tuesday, December 02, 2014 7:41 AM  
**To:** Johnson, Michael; Satorius, Mark  
**Subject:** FW: Discussion with Chairman

Mike/Mark,

See below questions from the Chairman to staff. The Chairman is requesting a meeting this morning or early afternoon to discuss in preparation for the tomorrow's hearing. The Chairman requested to meet specifically with Cliff Munson (NRO) and Jon Ake (Research).

Tony

**From:** Gilles, Nanette  
**Sent:** Monday, December 01, 2014 4:37 PM  
**To:** Munson, Clifford; Ake, Jon  
**Cc:** Bowers, Anthony  
**Subject:** Discussion with Chairman

Cliff & Jon,

I understand a time is being finalized for you to talk to the Chairman tomorrow about the latest on Diablo Canyon seismic issues so that she is up to date in preparation for Wednesday's EPW hearing. I wanted to make you aware of a couple of specific topics she is interested in hearing about.

1. How does the Hosgri EQ fit into the licensing basis for the plant? Apparently, Michael Peck has made statements to the effect that the staff assumed that Hosgri was the SSE, but it's not.
2. Can you explain Michael Peck's statements regarding the smaller Hosgri EQ producing more forces on mechanical equipment than the larger Hosgri EQ due to the methodologies use? (Sorry if this is cryptic, but you're getting it third hand.)
3. With regard to the recent PG&E report commissioned by the State, she wants to understand what it had to say with regard to the San Luis Bay and Los Osos faults.

Nan

Nanette V. Gilles  
Policy Advisor for Reactors  
Office of Chairman Macfarlane  
U.S. Nuclear Regulatory Commission  
301-415-1830

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**From:** Satorius, Mark  
**Sent:** Wednesday, October 22, 2014 4:41 PM  
**To:** Pedersen, Renee  
**Cc:** Kreuter, Jane  
**Subject:** Re: Certificates of Appreciation for Diablo Canyon DPO

Yes. Agree we need to make it happen. I saw mike in the OWFN lobby and we greeted and shook hands. Jane can help w/ timing and the cakendar.

Mark Satorius

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**From:** Pedersen, Renee  
**Sent:** Wednesday, October 22, 2014 04:33 PM  
**To:** Satorius, Mark  
**Cc:** Kreuter, Jane  
**Subject:** Certificates of Appreciation for Diablo Canyon DPO

Hi Mark,

I know you're probably busy, but I wanted to let you know that Michael Peck came to see me this afternoon (I'd never met him before). He is teaching a class tomorrow and ½ day on Friday. If you could squeeze in a few minutes, this would be a great opportunity to give him a Certificate of Appreciation. If the schedule doesn't work, we can figure something else out.

Just let me know.

Renée

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**From:** Satorius, Mark  
**Sent:** Friday, October 31, 2014 4:12 PM  
**To:** Peck, Michael  
**Cc:** Pedersen, Renee  
**Subject:** Re: Follow Up From Diablo Canyon Seismic DPO Discussion

Thanks Michael. I was glad that we were able to talk last week. Thanks again for using the DPO process and further adding value by identifying several areas that the agency needs to focus on and improve.  
Mark Satorius

**From:** Peck, Michael  
**Sent:** Thursday, October 30, 2014 09:37 AM  
**To:** Satorius, Mark  
**Cc:** Pedersen, Renee  
**Subject:** RES: Follow Up From Diablo Canyon Seismic DPO Discussion

Mr. Satorius,

Thank you for recognizing my contribution to the agency's Differing Professional Opinions (DPO) Program. I also appreciated the consolatory language used in your reply to my appeal and the opportunity to discuss the Diablo Canyon DPO issues with you in person.

During our meeting this past Friday and in late July, I understood you to say that the agency will focus forward rather than expending resources on past issues that have been corrected. After considering your feedback, I wanted to ensure that you understood that I view the issues identified in the DPO and Appeal as ongoing violations of NRC Rules and Diablo Canyon license requirements. I believe these uncorrected violations do have an impact on plant safety.

During 2013, Pacific Gas and Electric (PG&E) made changes to the Diablo Canyon FSARU. These changes were sufficient to lead the DPO Panel to conclude that the Hosgri Event was the/a facility safe shutdown earthquake for the facility. Since these changes would require an amendment to the Operating License, and no amendment was approved by the agency, PG&E's action represents an ongoing violation of 10 CFR 50.59 and should be promptly addressed in accordance with the NRC Enforcement Policy.

I realize enforcing the Diablo Canyon seismic design basis would result agency challenges. The most obvious corrective action would include agency approval of the Hosgri as the facility safe shutdown earthquake. However, this proposed action was previously considered and rejected by agency technical staff. Without a safe shutdown earthquake methodology that is both acceptable to the staff and can accommodate the new higher seismic loading results in ongoing violation of NRC 10 CFR 50, Appendix B, quality assurance requirements and should be promptly addressed in accordance with the NRC Enforcement Policy.

PG&E's failure to adequately demonstrate operability of important to safety SSCs also remains as an ongoing issue. ASME, Section III, Code acceptance limits are exceeded when the new seismic loads are summed with the required load combinations using the NRC approved safe shutdown earthquake methodology (considering the new maximum capable ground motion). The NRC requires that licensee satisfy Code acceptance limits for operability of reactor coolant pressure boundary components. PG&E's failure to demonstrate that Code requirements were met was not addressed in either the DPO Panel Report or your DPO Appeal response letter. The failure to meet Code acceptance limits represents an ongoing violation of 10 CFR 50.55a and the

facility Technical Specifications and should be promptly addressed in accordance with the NRC Enforcement Policy.

I appreciated the summary of the Diablo Canyon seismic licensing bases included in your September 9, 2014 memorandum. This summary acknowledged the original design bases as presented in the Preliminary Safety Analysis Report, NRC review of the Hosgri Evaluation provided in Supplemental Safety Evaluation Report 7, a description of the NRC review of Long Term Seismic Program provided in Supplemental Safety Evaluation Report 34, and requested actions associated with Recommendation 2.1 from the Near-Term Task Force Review of the Fukushima Accident. While this information provides insight into the Diablo Canyon seismic licensing bases and may be used to support future NRC licensing actions, none of this information may be used by the licensee as a bases to change the facility safe shutdown earthquake methodology without prior NRC approval. 10 CFR 50.59 and agency endorsed guidance established the threshold for facility changes that require an amendment to the Operating License. This threshold was based on the methodology described in the FSAR for meeting regulatory driven design bases requirements, such as General Design Criteria (GDC) 2 for protection against earthquakes. Prior to the 2013 changes, the Diablo Canyon FSARU clearly stated that the GDC 2 facility safe shutdown earthquake requirement was met by the Double Design Earthquake safety analysis. The FSARU when on to explicitly state that the Hosgri Evaluation methodology did not satisfy NRC GDC 2 design bases requirements for the facility safe shutdown earthquake.

I would like to thank you again for your time and attention to the Diablo Canyon issues raised in DPO 2013-02. Please feel free to contact me if I can provide any additional information regarding ongoing compliance issues at Diablo Canyon.

Thank you,  
Michael Peck, Ph.D.  
Senior Reactor Technology Instructor  
TTC, 423-855-6515

**Peck, Michael**

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**From:** Pruett, Troy  
**Sent:** Tuesday, October 29, 2013 1:39 PM  
**To:** Peck, Michael  
**Subject:** RE: Information Request

I personally cannot speak to that. I believe DRS was evaluating how other sections in the FSAR were treated. The FSAR revision is in ADAMS as a non-public document. The ML number is ML13280A392. I meant to include the ML number in the initial email. My apologies.

troy

**From:** Peck, Michael  
**Sent:** Tuesday, October 29, 2013 12:35 PM  
**To:** Pruett, Troy  
**Subject:** RE: Information Request

This change should also had a major effect on FSARU Sections 3.7 & 5.2 and minor effect on Sections 3.8, 3.9, & 3.10.

Do you know if PG&E also changed these FSARU Sections?

msh

**From:** Pruett, Troy  
**Sent:** Tuesday, October 29, 2013 1:28 PM  
**To:** Peck, Michael  
**Subject:** RE: Information Request

I'm not so sure. I haven't read the material in detail as of yet. I did flip through the stack to see what was included. I thought I saw a screening sheet in the material and an explanation of the changes at the very end. I'll reserve judgment until I have time to study the material.

troy

**From:** Peck, Michael  
**Sent:** Tuesday, October 29, 2013 12:09 PM  
**To:** Pruett, Troy  
**Subject:** RE: Information Request

Looks like to me that PG&E concluded all the changes were "editorial" in nature and did not need to be screen against 50.59.

msh

**From:** Pruett, Troy  
**Sent:** Tuesday, October 29, 2013 12:40 PM  
**To:** Peck, Michael  
**Subject:** Information Request

Michael,

Hope you are doing well in TN. I've always enjoyed Eastern TN and the mountains around Chattanooga.

As a courtesy to you, I have attached two PDF files associated with the FSAR update at Diablo. I believe this is the material that is the subject of your inquiry.

Take care - Troy



## **Peck, Michael**

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**From:** Peck, Michael  
**Sent:** Thursday, October 24, 2013 12:27 PM  
**To:** OKeefe, Neil  
**Cc:** Kennedy, Kriss; Pruett, Troy; Walker, Wayne; George, Gerond  
**Subject:** RES: REQUEST: Diablo Canyon 50.59 for Shoreline Fault

Neil,

The DPO was written based on the NRC's conclusion presented in the RIL – Instructing the licensee to update the FSARU in accordance with 50.71(e). Given my knowledge of the Diablo Canyon FSARU and NEI 96-07, I concluded that the addition of the Shoreline fault as a "lesser case of the HE" would require an amendment to the Operating License. I would have expected that the PG&E 50.59 process to come to similar conclusion. Now that PG&E has completed the screen and/or evaluation, they may have included a prospective that I didn't consider when drafting the DPO. If the licensee found a way to correctly follow 50.59/NEI 96-07 when updating the FSARU, then my issue pretty much goes away. Also, I would think that if the supporting 50.59 screen/evaluation was bad, then the Region would want to get in front of the issue, given that a DPO is pending and the issue involves Diablo Canyon seismic qualification.

I wouldn't think that the DPO Panel would request the licensee's screen/evaluation, since the evaluation was not part of the issue I raised.

I haven't requested any information from either the licensee nor the Diablo Canyon residents. That's why I sent the e-mail to you. Since you are no longer the Diablo BC, then please pass my request on to the appropriate Region IV manager for their consideration.

Thank you,  
Michael

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**From:** OKeefe, Neil  
**Sent:** Thursday, October 24, 2013 11:44 AM  
**To:** Peck, Michael  
**Cc:** Kennedy, Kriss; Pruett, Troy; Walker, Wayne  
**Subject:** Re: REQUEST: Diablo Canyon 50.59 for Shoreline Fault

Michael,

I don't have the documents you requested. I am no longer the BC for Diablo, so I don't have access, either.

Since your current position does not entitle you to request them directly, I recommend that you let the DPO panel do the, as you have already put the issue into the DPO process.

Fyi - the DPO panel has not yet interviewed any RIV folks that I know of.

Neil

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**From:** Peck, Michael  
**To:** OKeefe, Neil  
**Cc:** George, Gerond  
**Sent:** Thu Oct 24 07:04:50 2013  
**Subject:** REQUEST: Diablo Canyon 50.59 for Shoreline Fault

Neil,

In the DPO, I made the assertion that addition of the Shoreline Serrano (as a less case of the HE) in the FSARU would require a license amendment under 50.59. During our telephone call I understood that PG&E had completed this FSARU update under 50.71(e). Please forward a copy of the supporting PG&E 50.59 screen and/or evaluation. The PG&E 50.59 screen and/or evaluation may include an aspect of the 50.59 (NEI 96-07) process that I had not previously considered. If the licensee's evaluation was consistent with 50.59, then this evaluation may provide a path to resolve my DPO issue. It would follow that if this FSARU update could be made under 50.59, then the DPO operability concern would also go away. This would only leave the disposition of the Los Osos and San Luis Bay faults as the remaining DPO issue.

Also, Gerond as the Region IV 50.59 subject matter expert, may be able to provide additional insight into the adequacy of the PG&E 50.59 screen and/or evaluation.

Thank you,  
Michael  
423-885-6515

## **Peck, Michael**

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**From:** Satorius, Mark  
**Sent:** Friday, October 31, 2014 4:12 PM  
**To:** Peck, Michael  
**Cc:** Pedersen, Renee  
**Subject:** Re: RES: Follow Up From Diablo Canyon Seismic DPO Discussion

Thanks Michael. I was glad that we were able to talk last week. Thanks again for using the DPO process and further adding value by identifying several areas that the agency needs to focus on and improve.

Mark Satorius

**From:** Peck, Michael  
**Sent:** Thursday, October 30, 2014 09:37 AM  
**To:** Satorius, Mark  
**Cc:** Pedersen, Renee  
**Subject:** RES: Follow Up From Diablo Canyon Seismic DPO Discussion

Mr. Satorius,

Thank you for recognizing my contribution to the agency's Differing Professional Opinions (DPO) Program. I also appreciated the consolatory language used in your reply to my appeal and the opportunity to discuss the Diablo Canyon DPO issues with you in person.

During our meeting this past Friday and in late July, I understood you to say that the agency will focus forward rather than expending resources on past issues that have been corrected. After considering your feedback, I wanted to ensure that you understood that I view the issues identified in the DPO and Appeal as ongoing violations of NRC Rules and Diablo Canyon license requirements. I believe these uncorrected violations do have an impact on plant safety.

During 2013, Pacific Gas and Electric (PG&E) made changes to the Diablo Canyon FSARU. These changes were sufficient to lead the DPO Panel to conclude that the Hosgri Event was the/a facility safe shutdown earthquake for the facility. Since these changes would require an amendment to the Operating License, and no amendment was approved by the agency, PG&E's action represents an ongoing violation of 10 CFR 50.59 and should be promptly addressed in accordance with the NRC Enforcement Policy.

I realize enforcing the Diablo Canyon seismic design basis would result agency challenges. The most obvious corrective action would include agency approval of the Hosgri as the facility safe shutdown earthquake. However, this proposed action was previously considered and rejected by agency technical staff. Without a safe shutdown earthquake methodology that is both acceptable to the staff and can accommodate the new higher seismic loading results in ongoing violation of NRC 10 CFR 50, Appendix B, quality assurance requirements and should be promptly addressed in accordance with the NRC Enforcement Policy.

PG&E's failure to adequately demonstrate operability of important to safety SSCs also remains as an ongoing issue. ASME, Section III, Code acceptance limits are exceeded when the new seismic loads are summed with the required load combinations using the NRC approved safe shutdown earthquake methodology (considering the new maximum capable ground motion). The NRC requires that licensee satisfy Code acceptance limits for operability of reactor coolant pressure boundary components. PG&E's failure to demonstrate that Code requirements were met was not addressed in either the DPO Panel Report or your DPO Appeal response letter. The failure to meet Code acceptance limits represents an ongoing violation of 10 CFR 50.55a and the

facility Technical Specifications and should be promptly addressed in accordance with the NRC Enforcement Policy.

I appreciated the summary of the Diablo Canyon seismic licensing bases included in your September 9, 2014 memorandum. This summary acknowledged the original design bases as presented in the Preliminary Safety Analysis Report, NRC review of the Hosgri Evaluation provided in Supplemental Safety Evaluation Report 7, a description of the NRC review of Long Term Seismic Program provided in Supplemental Safety Evaluation Report 34, and requested actions associated with Recommendation 2.1 from the Near-Term Task Force Review of the Fukushima Accident. While this information provides insight into the Diablo Canyon seismic licensing bases and may be used to support future NRC licensing actions, none of this information may be used by the licensee as a bases to change the facility safe shutdown earthquake methodology without prior NRC approval. 10 CFR 50.59 and agency endorsed guidance established the threshold for facility changes that require an amendment to the Operating License. This threshold was based on the methodology described in the FSAR for meeting regulatory driven design bases requirements, such as General Design Criteria (GDC) 2 for protection against earthquakes. Prior to the 2013 changes, the Diablo Canyon FSARU clearly stated that the GDC 2 facility safe shutdown earthquake requirement was meet by the Double Design Earthquake safety analysis. The FSARU when on to explicitly state that the Hosgri Evaluation methodology did not satisfy NRC GDC 2 design bases requirements for the facility safe shutdown earthquake.

I would like to thank you again for your time and attention to the Diablo Canyon issues raised in DPO 2013-02. Please feel free to contact me if I can provide any additional information regarding ongoing compliance issues at Diablo Canyon.

Thank you,  
Michael Peck, Ph.D.  
Senior Reactor Technology Instructor  
TTC, 423-855-6515

**Peck, Michael**

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**From:** Peck, Michael  
**Sent:** Wednesday, May 28, 2014 1:52 PM  
**To:** Leeds, Eric  
**Cc:** Case, Michael; Wertz, Trent; Thomas, Brian  
**Subject:** ACTION REQUESTED: Disapprove DPO 2013-02 Panel Findings

Mr. Leeds,

Please take action to disapprove Differing Professional Opinion (DPO) Panel Report on Diablo Canyon Seismic Issues (DPO-2013-002, completed April 2014).

1. The Panel's conclusions appeared to be built on assumptions divergent from the current licensing bases (CLB) described in the Diablo Canyon Final Safety Analysis Report Update (FSARU). Resolution of the 10 CFR 50.71(e) and 10 CFR 50.59 DPO issues required a clear understanding of the facility as described in the FSARU. The Panel Report did not include an adequate the bases for the deviation from the CLB.
2. The Report did not provide sufficient detail to support the Panel's conclusion that the licensee's actions were consistent with agency statutory requirements. The DPO address specific examples of the agency's failure to enforce certain regulatory and statutory requirements. The Report responded to these specific examples with general statements that regulatory requirements were satisfied.

#### **Incorrect Assumption Related To the Diablo Canyon Current Licensing Bases Requirements**

The Panel Report stated:

*"The plant meets NRC's seismic safety requirements through the DE (0.2 g) and DDE (0.4 g) and the Hosgri evaluation (0.75 g)"*

*The seismic design basis for Diablo Canyon is both the Double Design Earthquake and Hosgri Evolution"*

The Panel used these statements to create a new "hybrid" ground motion relationship to represent the boundary of the seismic design basis. Functionally, the Panel compared the new seismic ground motions against the higher of either double design earthquake/safe shutdown earthquake (DDE/SSE) or Hosgri Evaluation (HE) as a function of frequency. The Panel used this comparison to conclude that all of the new ground motions were within the bounds of the exiting seismic design bases.

These statements were inconsistent with both the CLB and original licensing bases. As discussed in the DPO, General Design Criteria (GDC) 2 established the regulatory requirement for the seismic design basis. The Diablo Canyon CLB stated that DDE (SSE), with accompany safety analyses, established this design basis requirement. Consistent with 10 CFR 100, Appendix A, the SSE considered all faults 200 miles of the site. The CLB stated that a large earthquake the Hosgri fault was excluded from the GDC 2 design basis.

In contrast, the CLB stated that the HE was created to address a question raised during original plant licensing. Specifically, licensee was asked to evaluate affect that a 7.5 M earthquake on the Hosgri fault would have the ability to safety shutdown the plant. As stated in the CLB, the HE was not tied to implementing design bases requirements. The HE may be considered a "beyond design based event" because the CLB excluded 7.5 M Hosgri earthquake from the GDC 2 design bases and supporting FSARU seismic safety analysis (the DPO included a detailed discussion why the HE was not included in the design basis). The CLB included a commitment to maintain certain structures, systems, and components (SSCs) seismically qualified to the stress predicted by HE. However, the CLB also explicitly stated that the initial conditions, assumed

loading cases, and the set of SSCs qualified to the HE were different than those required for the GDC 2 design basis.

Understanding how the CLB treats these analyses was critical to answering the issues raised in the DPO. The Panel's comparison of the new ground motions to HE or the "hybrid ground motion curve" only showed that these ground motions were less than those used in the "beyond design basis" HE. This comparison failed to provide meaningful information relative to the new seismic information and the GDC 2 design basis.

### **Panel Report Failed To Address the Specific Regulatory and Statutory Requirements Cited in the Differing Professional Opinion**

The DPO identified the regulatory framework and specific statutory requirements that agency failed to enforce. Many of these requirements were related to *the facility as described in the Final Safety Analysis Report Update (FSARU)*. The Panel Report did not include adequate detail for the reader to conclude that these requirements were satisfied.

The Panel Report stated that "...an FSARU change was likely not required at all, let alone, something that required a license amendment."

Title 10 CFR 50.71(e) required the FSARU to be updated:

*"...FSAR originally submitted as part of the application for the operating license, to assure that the information included in the FSAR contains the latest material developed."*

*"The updated dated FSAR shall be revised to include the effects of all changes made in the facility or procedures as described in the FSAR; all safety evaluations performed by the licensee.. and all analysis of new safety issues performed..."*

Title 10 CFR 50.34(b) required the FSAR to include safety analysis demonstrating that the GDC 2 design basis was satisfied:

*"The FSAR shall include information that described the facility, presented the design bases and limits on its operation, and presents the safety analyses of the SSCs and of the facility as a whole."*

The Diablo Canyon license application included a safety analysis that demonstrated the GDC 2 design basis was satisfied. This analysis included an evaluation of all earthquake faults within 200 miles of the site (with exception of the Hosgri fault). From this evaluation, this safety analysis developed a ground motion. The licensee used this ground motion as the *design bases controlling parameter* to determine the amount of seismic stress plant SSCs would be exposed following the SSE. The FSARU safety analysis continued with a description demonstrated that the functional requires of the SSE were met (see 10 CFR 100, App A, III(c) and 10 CFR 50.34(a)(3))

The licensee developed new seismic information concluding that the existing *design bases controlling parameter* (ground motion) described in the FSARU safety analysis could be exceeded. The FSARU was required to be updated because the new information challenged the existing safety analysis conclusion that the GDC 2 design basis was met. The new information raised the question if any SSE seismically qualified SSCs would failed at the higher ground motions, within the context of the existing safety analysis.

The HE was unaffected by the new information for two independent reasons:

1. The CLB (FSARU) stated that HE only applied to an earthquake on the Hosgri fault, and the new information was not related to the Hosgri fault, and
2. The HE was not used to establish the plant seismic design basis. The HE safety evaluation was not included in the FSARU. A 10 CFR 50.34 safety evaluation was not required to be included in the FSARU because the HE was not used to demonstrate that design bases requirement (GDC) was met.

## Applicability of 10 CFR 50, Appendix B

*Criterion III, Design Control, required that "applicable regulatory requirements and the design basis (50.2) and as specified in the license application, for those SSCs to which this appendix applies are correctly translated into specifications, drawings, procedures, and instructions."*

*Criterion XVI, Corrective Actions, required that conditions adverse to quality, such as failures,...nonconformance's, are promptly identified and corrected."*

The new information resulted in the design basis (as specified in the license application for GDC 2) was no longer correctly translated in the specifications, drawings, procedures, and instructions. The new seismic information rendered the FSARU SSE safety analysis non-conforming with GDC 2. As described in NEI 98-03 (Section 5), 50.71(e) ensures that the fidelity is maintained between new information, the FSARU safety analysis and the GDC functional requirements.

### FSARU Change Required a License Amendment

The Panel Report did not address the specific DPO issues related to the failure of the licensee to obtain an amendment to the license supporting the required 10 CFR 50.71(e) changes to the FSARU safety analysis. As an alternative, the Panel addressed the actual changes the licensee made to the FSARU, Revision 21. The Report stated: "Consequently, there was insufficient basis to conclude that a license amendment was required to address the 2011 Shoreline report, and the NRC staff's recommendation for an FSAR updated was reasonable."

Title 10 CFR 50.59 stated:

*"A licensee shall obtain a license amendment pursuant to 50.90 prior to implementing a change, test or experiment if the change test or, experiment would:"*

*" - Results in more than a minimal increase in the likelihood of occurrence of a malfunction of a SSC important to safety,"*

*" - Results in a departure from a method of evaluation described in the FSAR used in establishing the design bases or in the safety analysis"*

The new seismic information directly affected the FSARU safety analysis demonstrating that the GDC 2 design basis was satisfied. The licensee considered two cases:

For the first case, the licensee may update the existing FSARU safety analysis with the higher ground motions. This update would result in the analyzed seismic stress to exceed ASME Code acceptance limits for reactor coolant system pressure boundary, major structures (reactor containment and auxiliary building), and established important to safety component qualification limits. NEI 96-07 (Section 4.3.2) stated that a change to *the facility as described in the FSARU that results in exceeding limits for seismic qualification* required prior NRC approval because of the increased likelihood of a malfunction of SSCs important to safety (during an earthquake).

For the second case, the licensee may use a different analytical method to demonstrate that the GDC 2 design basis was still satisfied given the increased ground motions. The licensee determined that HE methodology could be applied to the new ground motions without exceeding plant SSC seismic qualification limits. This action required prior NRC approval because the new or proposed method (the HE) yielded results that were non-conservative when compared to the FSARU method (NEI 96-07; Section 4.3.8). As required by 10 CFR 50.59, the licensee requested NRC approval to use the HE method (License Amendment Request, LAR 2011-05) to demonstrate that the design basis was satisfied at the higher ground motions. The NRC subsequently concluded that the HE method was not appropriate for the SSE design basis and requested that the licensee withdrawn the LAR.

Similarly, the licensee's action to revise the FSARU to include the Shoreline (and presumably the San Luis Bay and Los Osos) fault(s) as lesser case(s) of the HE also required prior NRC approval in the form of a license amendment. These faults are physically located within 200 miles of the site and are not associated with the Hosgri fault. As defined in the CLB (FSARU Section 2.5), deterministic ground motions that may produce by these faults are within the scope of the GDC 2 SSE safety analysis. To apply the HE methodology to these ground motions was change to *the facility as described in the FSARU*. The end result was to excluded the Shoreline, San Luis Bay, and Los Osos faults from the GDC 2 design basis requirements. This action also required prior NRC approval because the new or proposed method (the HE method) yielded results that were non-conservative when compared to the FSARU method (NEI 96-07, Section 4.3.8).

### Technical Speciation Operability

The Panel Report stated:

*"For situations without specific technical specification testing requirements, evaluations can be performed by the licensee to determine if the equipment can still perform its design function using appropriate evaluation methods. There is not a regulation that requires the methods used in the original design calculations must be used in these evaluations. Many times, engineering evaluation methods have changed since the original Construction Permit application was made. This is particularly true for seismic hazards. Modern methods are frequently used to show the equipment can still perform its function. Typical equipment installed at the facility had margin above the minimums that the design basis calculations required."*

The Panel concluded that NRC operability guidance (IMC 0326) allowed the licensee to use an alternative method for demonstrating that the SSC specified safety functions could still be met at the higher ground motions. The Panel Report stated the use of HE or the Long Term Seismic Program (LTSP) "is attractive because the methods used in the LTSP are improved over those of initial licensing."

The Panel Report did not address the specific issues raised in the DPO related to the licensee's use of these "alternative methods."

The DPO stated that licensee's use of the HE (or the LTSP) was inappropriate for operability because these methods over-predicted SSC performance when compared to the GDC 2 CLB analysis methods. The purpose of alternative methods (IMC 0326, Appendix C-04) was to provide latitude for complex operability evaluations. NRC operability criteria restricts use of alternative methods that result in creating greater margin than the design basis method. For the new seismic information, the licensee had already established that SSC acceptance limits were exceeded using the GDC 2 design basis method. At this point, the licensee should have declared these technical specification SSCs inoperable.

The licensee's alternative method (HE or LTSP) would always over-predict SSC performance when compared to the FSARU design base method (at a given ground motion). NRC operability criteria does not provided use of "alternate design bases" or alternate safety analysis when an evaluating non-conforming conditions. The licensee is not permitted to "shop" for a new method for the purpose of gaining margin over the existing design basis methodology. For example, if a licensee identified a reactor coolant flow anomaly that resulted in the exceeding the post LOCA calculated peak clad temperature limit (2,200 F), the NRC would not accept the "results of the realistic LOCA analysis" as a bases for operability. The realistic method would always over-predict the capability of plant SSCs over design basis case. The same is true with the new seismic information. The HE will always yield less stress when compared to the GDC design basis method. As a result, the licensee's use of HE for operability was inappropriate.

The DPO identified that the new ground motions resulted in the ASME Code limits to be exceeded. The Panel Report stated:

*"The FSARU identifies both the DDE and the Hosgri as faulted conditions for use in the seismic stress levels for appropriate component and piping and demonstrates how it meets the appropriate ASME*



*acceptance criteria. The use of both the DDE and the Hosgri in the evaluation is consistent with Panel's conclusion that both these limits are, at times, applicable as the limiting load."*

However, the Panel did not address the specific ASME Code requirements. The CLB, the Code, and 10 CFR 50.55a required the licensee to demonstrate that combined accident and SSE seismic loading be maintained below acceptance limits. Calculating HE loading does not satisfy this requirement. The CLB clearly established the DDE as the SSE. The HE was not the SSE. The Code did not include provision to substitute the HE for the SSE. Also, at a given ground motion, the resulting Code stresses will always be less using the HE method when compared to the SSE design base case.

As described in the DPO, Code limits are exceeded when applying the new ground motions (*design bases controlling perimeter*) to the existing SSE Code calculations. Contrary to the Panel Report, IMC 0326, Appendix C.11, stated that a responsible expectation of operability cannot exist when Code requirements are not satisfied:

*"ASME Class 1 components do not meet ASME Code or construction code acceptance standards, the requirements of an NRC endorsed ASME Code Case, or an NRC approved alternative, then an immediate operability determination cannot conclude a reasonable expectation of operability exists and the components are inoperable. Satisfaction of Code acceptance standards is the minimum necessary for operability of Class 1 pressure boundary components because of the importance of the safety function being performed."*

The CLB stated that licensee demonstrated that Code limits were met for HE case. However, neither the Code nor 10 CFR 50.55a required the licensee to perform these calculations. These calculations were not tied to meeting design basis (GDC) or 50.34 safety analysis requirements.

## **Summary**

I request you disapprove the DPO 2013-02 Panel Report. The conclusions in the Panel Report were based on incorrect assumptions related to the Diablo Canyon CLB requirements. The panel incorrectly assumed that the HE ground motions combined with the SSE established the seismic design basis. The DPO Panel propagated this error into their analysis of issues raised in the DPO. Also, in several cases, the Report failed to provide sufficient detail to support the Panel's conclusion that specific statutory requirements were met.

I request a meeting with Mr. Case and yourself to discuss the results of the DPO Panel Report and my feedback. I'm confident we can address these issues by referring to the Diablo Canyon CLB (FSARU) and NRC inspection guidance. My goal is to form a consensus with the Panel on the DPO issues.

I plan to follow up this e-mail with a formal request.

Thank you,  
Michael Peck, Ph.D.  
Senior Reactor Technology Instructor  
TTC, 432-855-6515

**Peck, Michael**

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**From:** Peck, Michael  
**Sent:** Wednesday, May 21, 2014 11:30 AM  
**To:** Case, Michael  
**Cc:** Leeds, Eric; Wertz, Trent  
**Subject:** RES: DPO 2013-02

Mike,

Thank you for your comments.

Sure, the licensee stated that the new ground motions were bound by the plant design bases. My understanding was that statement was based on their comparison of new spectrum with the Hosgri. But ground motion alone doesn't establish the boundaries of the design bases. The methods, assumptions, initial conditions, acceptance limits, and most importantly, the safety analysis, are all needed to demonstrate that design bases are satisfied. This is why I believe a discussion focused on Regulatory Guide 1.186, "Guidance and Examples for Identifying 10 CFR 50.2 Design Bases," and NEI 97.04, "Guidance and Examples for Identifying 10 CFR 50.2 Design Bases," would be beneficial.

"New information does not equal new SSE" – I completely agree with you. But let's talk about how PG&E met the Diablo Canyon GDC 2 design basis.

FSARU Section 2.5.2.10 developed the ground accelerations and response spectra from the maximum earthquake potential developed in FSARU Section 2.5.2.9. These response spectra were used as a "design bases controlling parameter" to establish the amount of vibratory motion for the seismic qualification of plant SSCs (FSARU Sections 3.7, 3.8, 3.9, & 3.10) and AMSE Code compliance (FSARU Section 5.2.1.3). These safety analysis work together (as required by 50.34) to demonstrate the seismic "design basis functions" were met at Diablo Canyon. These "design basis functions" were derived from the functional requirements of GDC 2. So, in other words, given the maximum earthquake, the ground under the plant will shake this amount (controlling parameter: pga 0.4 g, FSAR 2.5) resulting in each (RG 1.29) plant SSC to vibrate a given amount. Given this level of vibration (seismic induced stress) and the specific SSCs qualification (either by test or analysis), the safety analysis demonstrated that the required GDC 2 safety functions would be met. This safety analysis explicitly included all earthquake faults within 200 miles of the plant (with the Hosgri fault specifically excluded).

In 2011 PG&E came in and said that they found that an earthquake on three faults (all within 200 miles of the plant and not on the Hosgri fault) were "capable" of generating greater plant shaking (up to 0.7 g pga) than described in the FSARU SSE safety analysis. This new information called into question the "design bases controlling parameter" used in the 50.34 FSARU SSE (GDC 2) safety analysis. At this point, the existing safety analysis became non-compliant with the GDC 2 design basis (see App B, Criterion III). Also, an analyzed condition existed because the new seismic data concluded that a "capable" earthquake could occur resulting in greater seismic stress than bound by the GDC 2 safety analysis.

The SSE didn't change. The SSE remained as described in Part 100, App A: "...that earthquake which is based upon an evaluation of the maximum earthquake potential considering the regional and local geology and seismology and specific characteristics of local subsurface material. It is that earthquake which produces the maximum vibratory ground motion for which certain SSCs (RG 1.29) are designed to remain functional. These SSCs are those necessary to assure:"

- (1) "The integrity of the reactor coolant pressure boundary,
- (2) The capability to shut down the reactor and maintain it in a safe shutdown condition, or

(3) The capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to the guideline exposures of this part."

With new information, the results of the previous "evaluation of the maximum earthquake potential," changed, not the SSE. This new information specifically affected a "design bases controlling parameter" used to demonstrate that the GDC 2 was satisfied.

The new ground motions were within the bounds of the Hosgri Evaluation. But as described in the FSARU, the Hosgri Evaluation was not included in the GDC 2 safety analysis or design bases.

PG&E first evaluated modifying the "design bases controlling parameter" used in the existing safety analysis with the new seismic information. PG&E stated that this resulted in "exceedances." I believe "exceedances" was code for exceeding SSC seismic qualification and ASME Code acceptance limits. This was not surprising. I found that during modification inspections that the existing SSE safety analysis had almost no margin for Code allowable stress limits. Any increase in seismic stress would have likely resulted in "exceedances." Had PG&E been successful, this change could have been performed under 50.59 since the methods demonstrating that GDC 2 was met would not have changed.

PG&E then attempted to redefine the method of evaluation used for the GDC 2 design basis. They submitted LAR 11-05 to establish the Hosgri Evaluation as the new SSE safety analysis. This change required prior NRC approval under 50.59 (see earlier discussion below). After a year, the NRC concluded that the LAR did not meet the agency acceptance criteria to be accepted for review. At the NRC's request, PG&E withdrew the LAR. At this point, Mr. Sebrosky directed PG&E to place the new information in the FSARU "as a lessor case of the Hosgri." This action attached the same GDC 2 exception to the Shoreline (and presumably also to the Los Osos and San Luis Bay faults) as the Hosgri, bypassing the 50.90 process. Functionally, Mr. Sebrosky's action de-facto established the Hosgri the new SSE.

I haven't seen the "licensee analysis that shows that they are inside their design basis for all ten SSCs." I assumed this statement was based on their earlier comparison of SSE and Hosgri ground motions. If PG&E has generated new data, then I would like to review it.

I'm not sure I understand which ten SSCs are listed in the FSARU. FSARU Section 3.2.1, "Seismic Classification," stated that PG&E committed to maintain the seismic qualification of the all the SSCs listed in Safety Guide 29 (RG 1.29). I believe that Safety Guide 29 included almost all technical specification required systems and components and major structures (containment, aux building...). I included a list of the RG 1.29 SSCs in the DPO.

Thank you sir,  
Michael

**From:** Case, Michael  
**Sent:** Wednesday, May 21, 2014 7:15 AM  
**To:** Peck, Michael  
**Cc:** Leeds, Eric; Wertz, Trent  
**Subject:** RE: DPO 2013-02

To simplify, the licensee analysis shows that they are not outside their design basis for all ten or so specific SSCs listed in the FSARU. Therefore no change is "required". New information does not equal new SSE.

**From:** Peck, Michael  
**Sent:** Tuesday, May 20, 2014 2:51 PM  
**To:** Case, Michael  
**Cc:** Leeds, Eric; Wertz, Trent  
**Subject:** RES: DPO 2013-02

Mike,

If I understand correctly, the DPO Panel concluded that it was appropriate for the agency to defer regulatory action because additional information was needed (Fukushima Recommendation 2.1 RFI) before a comparison can be performed between the new ground motion and the plant design bases.

My understanding was that new deterministic ground motion spectrums (submitted on the docket by PG&E) were sufficient to conclude that three local earthquakes are capable of exceeding the facility safety shutdown earthquake (SSE) by as much as 75%. Why is more information needed to determine if the current FSARU SSE safety analysis is non-compliant with GDC 2? In light of these spectrums, isn't the plant currently operating outside the bounds of the NRC approved SSE 50.34 safety analysis?

Your e-mail addressed timeliness: Reconciliation step with the FSARU and the "new information" - We couldn't find anything that indicated it had to be now.

I believe that 10 CFR 50, Appendix B, Criterion XVI, "Corrective Action," requires that conditions adverse to quality, including non-conformances, are promptly identified and corrected. Administrative Letter 98-10 provides guidance on "promptness" for correcting non-conforming conditions that involve licensing actions. The letter stated that licensees are subject to a Criterion XVI violation for delays of a year or more. It's been over three years since PG&E submitted the completed seismic update on the docket.

Enforcement action drives the licensee to resolve the non-conforming condition. Fukushima Recommendation 2.1 will provide seismic hazard and risk insights. However, I don't see how the new GMRS will address the current non-conforming 50.34 safety analysis. As I understand it, Recommendation 2.1 includes agency review to determine if the current licensing basis (CLB) should be modified to accommodate new seismic hazards identified in the reevaluation. At Diablo Canyon, we already know there are new seismic hazards. Again, as I understand it, one of the purposes of Recommendation 2.3 was to provide confidence that the plant can continue to operate safely during interim period while the reevaluation is completed. This confidence was gained by verifying that the facility is operating within the CLB. We already know that Diablo Canyon is operating outside the bounds of CLB.

To the best of my knowledge, PG&E doesn't consider the issues with the GDC 2 safety analysis as a non-conforming condition. As regulators, we enforce the statutory and license requirements. If the agency concludes these requirements are not appropriate, then we also have authority to waive or defer these requirements. For example, the agency included a "Justification for Continued Operation" with GL 2004-02 (GSI 191). As discussed in the DPO, the agency did not invoke these provisions or processes for Diablo Canyon.

Your e-mail you discussed Joe Sebrosky's direction to PG&E to place the new information in the FSARU. The new information was clearly outside of the bounds of the FSARU 50.34 safety evaluation. To consider the Shoreline a lesser case of the Hosgri directly affected the bounding conditions of the SSE as described in the FSARU safety analysis. To exclude the Shoreline from the SSE required an amendment to the Operating License because the method demonstrating GDC 2 design basis was affected. Did Mr. Sebrosky have authority to waive or defer enforcement of 50.71 or Part 50, Appendix B? The end result of Mr. Sebrosky's letter was tacit approval for Diablo Canyon's continued operation in an unanalyzed condition pending our review of the Recommendation 2.1 GRMS. Did the DPO Panel address if this deferment of enforcement was performed consistent with our regulatory framework and statutory requirements?

Once we agree that FSARU differentiates the Hosgri Evaluation from the GDC 2 safety analysis, then we can examine how this relationship applies to operability.

We require licensees to ensure that the 50.55a Code requirements are met for operating power reactors. The Code requires that the accident plus SSE loads be within acceptance limits. As stated in the DPO and FSARU, the Hosgri is not the SSE. If I apply the new seismic loads to the SSE Code calculations, the acceptance limits are clearly exceeded (inoperable). It's not adequate simply state the Code is satisfied

because the new ground motions are less than the Hosgri. The Hosgri Evaluation will always produce a much less conservative result than the SSE Code methods for a given ground motion. To say that SSE Code acceptance limits are met for new ground motions because the Hosgri met the Code would require the Hosgri to be the SSE. An amendment to the facility Operating License is required before the Hosgri can be used to satisfy the SSE Code loading requirements.

As regulators, we write violations: Bad operability evaluation - Licensee failed to adequately demonstrate that ASME Code limits were met for the GDC 2 design basis. The licensee then takes corrective actions. The licensee may present the argument in a relief request that the Hosgri could be considered a surrogate for the SSE. But these actions require NRC approval. The licensee must either demonstrate the Code is met, obtain relief from the NRC, or shutdown the reactors.

The same is true with the seismic qualification of plant SSCs. For a given ground motion, the Hosgri will always predict less seismic stress on facility SSCs than the SSE methods. By definition, this fact makes the Hosgri inappropriate as an alternative method for operability. The Hosgri will always over-predict SSC seismic performance when compared to the GDC 2 design basis method.

The DPO was written because agency decisions makers' responded to Diablo Canyon seismic issues outside of process, and in some cases, de-facto waived regulatory requirements. The DPO stated that the agency didn't enforce 50.71, 50.59, and the plant technical specification. The Panel Report included great insights on seismic response, the potential capability of plant SSCs, and a development of the "hybrid design envelop." These insights can provide valuable prospective to aid the agency in licensing actions. But these insights do not provide justification for the failure to enforce statutory requirements.

I would very much like to reach consensus on the DPO issues. While Diablo Canyon seismic issues are complex, the outstanding DPO issues are not. As inspector, we frequently deal with FSARU, 50.59, and operability issues. We have formal inspection and industry guidance that amplifies these specific requirements and an agency Enforcement Policy that tells us how to disposition violations of these requirements.

Earlier in the DPO process, I recommend breaking the issue down into manageable steps. I used the steps listed below when writing the DPO. I wasn't able to find adequate bases in the Panel Report to suggest that I came to an incorrect conclusion on any of these points:

1. Applicability of 50.71(e) to the new information. If so, what is the threshold for enforcement?
2. How does the new information affect the 50.34 safety analysis (license application) for GDC-2.
3. Applicability of Appendix B (Criterion III & XVI)? If so, what is the threshold for enforcement?
4. Can the Hosgri be substituted for the SSE in 50.55a Code requirements? Is a relief request required? Would the relief request, if submitted, qualify for NRC approval?
5. Given that the Hosgri over-predicts SSC performance, is the evaluation suitable for as an alternative method for operability (IMC 0326).
6. If no, did Region IV fail to enforce plant Technical Specification requirements?

If I answer each question yes, then I work my way to the DPO conclusion. I looked to the DPO Panel to provide insights to flawed logic.

Thank you,  
Michael

**From:** Case, Michael  
**Sent:** Tuesday, May 20, 2014 8:12 AM  
**To:** Peck, Michael  
**Cc:** Leeds, Eric; Wertz, Trent  
**Subject:** RE: QUESTION: DPO 2013-02

Thanks for that Mike. I think the panel agrees in principle with what you are saying (in essence, there needs to be a reconciliation step with the FSARU and the "new information" whether it's the Shoreline or from the Fukushima review. In my mind, it's just a question of when. The DPO asserts it has to be done now. We couldn't find anything that indicated it had to be now.

As a panelist, I was interested in what is the "footprint" to ensure that it will be resolved later. In the licensee sphere, they still retain an open item under the operability assessment to reconcile the FSAR (it's the same open item that caused them to send in the license amendment that they withdrew). On the regulatory side, in the Joe Sebrosky memo that told them to put the discussion of the Shoreline in the FSAR, we indicated that this is a preliminary assessment and that we would do follow up under the Fukushima 2.1 item. So I think there are footprints on both sides of the fence that will help to ensure that the FSAR methods issue is resolved (personally, I don't think a change is necessary).

One last thought. The panel recommended that we put in place some better guidance on what to do with "new information" in the context of Fukushima 2.2. If I had to "solve" it, my first step would involve assessing the information to see if it had "significant implication" per 50.9 or "adverse to quality" per Appendix B. In establishing significance, I would allow the use of current technical credible methods and allow valid comparisons to information such as the LTSP (or Fukushima 2.1 studies) that the staff has reviewed and accepted. If the licensee could demonstrate (as was ultimately the case with the DPO issue) that the info is not significant, I would stop there and stay out of this complicated maze of operability guidance, 50.59, SSEs, and legacy FSAR write-ups. Just my opinion...

Hope you have a good day today!

**From:** Peck, Michael  
**Sent:** Monday, May 19, 2014 10:40 AM  
**To:** Case, Michael  
**Subject:** RES: QUESTION: DPO 2013-02

Mike,

Thank you for the discussion. I believe I understand the approach taken by the Panel. I agree that the Panel's use of the "hybrid design envelop" was technically justified as a predictor of SSC response.

However, I believe this answered a different question than raised in the DPO. As an inspector, I have written many 50.71 and 50.59 violations over the years. In each case I compared the FSARU statements with the Rules and NRC endorsed guidance (NEI 96-07, 97-04, & 98-03). For Diablo Canyon, the FSARU stated that the DDE met the GDC-2 SSE design bases. As an inspector, I knew that new seismic information was outside of the boundary of the FSARU GDC 2 safety analysis and the license application. The DPO provided a detailed bases for concluding 50.71 required PG&E to disposition the new information with regard to the GDC 2 safety analysis (tied back to 50.34 and the license application). From a 50.71 prospective, I don't believe it made any difference that the new information was bound by the Hosgri. 50.71 is tied specifically to the GDCs, which were tied to 50.34, which were tied to the SSE/DDE (remember, the Hosgri safety analysis wasn't even included in the FSARU). The new information (required to be addressed by 50.71) resulted in the 50.34 FSARU safety analysis to be non-conforming with the GDC 2 design basis. DPO stated that Part 50, Appendix B, required that the licensee correct the non-conforming safety analysis the in light of the new information.

The only viable licensee corrective action was to modify the GDC 2 safety analysis to accommodate the higher ground motions. The DPO stated than the required 50.71 actions "screen in" under 50.59 because the "safety analysis demonstrating the GDC 2 design basis was affected" (method of performing or controlling the design bases function or evaluation demonstrating that the intended design functions will be accomplished). Changing the "method of evaluation described in the UFSAR used in establishing the design

bases (GDC 2) or the in safety analysis (license application) required an amendment to the Operating License.

From the DPO Panel report, it appears the Panel started with the assumption that the "hybrid design envelop" satisfied the requires of 50.71 & 50.59. Based on this assumption, the Panel's conclusion seem reasonable. However, reading the Panel report, I didn't understand the bases for this assumption. I'm unable to reach the same conclusion applying of our Rules and endorsed guidance (NEI 96-07, 97-04, & 98-03).

I believe for the Panel's conclusion to be valid, then the basic underlying assumption concerning the applicability of 50.71 & 50.59 also needs to be valid. Since this issue has gained internal and external visibility, I would think resolving this basic question – Beyond a stated assumption, would be a worth wild endeavor.

My recommendation is to jointly compare both approaches/assumptions against the specific requirements of the FSARU, and 50.71 & 50.59, and implementing documents.

Michael

**From:** Case, Michael  
**Sent:** Monday, May 19, 2014 7:53 AM  
**To:** Peck, Michael  
**Subject:** RE: QUESTION: DPO 2013-02

Thanks Mike. I think Eric is getting close to issuing his decision soon. I think the panel believed that the new ground motion (including Los Osos and San Luis Bay) needed to be bounded by the limiting design value from either the DDE analysis or the Hosgri analysis. In general, for most of the spectrum it was the Hosgri, but in the range of 7-11 Hz it was more likely to be the DDE analysis. We agreed with your insight that they needed to follow the FSAR description of how to analyze seismic performance.

So when they did those additional calculations for us, we specifically asked them to show us a single, most limiting curve (DDE or Hosgri) for each of the type of SSCs listed in Section 3.7.1.3 of the FSARU (they used rev 21). That way we weren't discussing things in general, we had the picture of the hybrid design envelope that was FSARU specific. Then they plotted the expected SSC response for each of the new ground motions (Shoreline, San Luis, Los Osos). Brit did some technical work with them to make sure that the seismic parameters being used were equivalent so that it was an apples to apples comparison. When you compare the expected response to the design parameters, we saw that it was less than what the design envelope was (that is true generally, we actually saw some exceedences in the higher frequencies as noted in our writeup)

When the licensee did the "expected SSC response" to the new ground motions, they did use one (technically justified) damping value for the whole spectrum. For example, for "mechanical components", they used a damping value of 3%. That is neither the DDE damping value 2%, nor the HE damping value of 4%. We considered that and believed it to be a reasonable value to use for an "expected SSC response". Generally, for the expected SSC response, we would accept any damping value less than that used in the latest staff position in the RG.

To say it at a very high level, what we saw was that for the new information, the expected shaking the SSCs would see was always less than the shaking level they were design for.

I'm sure this still sounds confusing, but I think we were able to use the best of your insights to get the licensee to show us in somewhat quantitative detail what they had asserted back in your day in a more qualitative way.

Have a good week!

**From:** Peck, Michael  
**Sent:** Friday, May 16, 2014 1:49 PM  
**To:** Case, Michael  
**Cc:** Leeds, Eric  
**Subject:** RES: QUESTION: DPO 2013-02

Thank you.

I am planning to be at the PDC June 6 – 13. I should generally be available to meet during afternoons.

I noticed that Mr. Leeds had requested another extension. I thought that you may be still working through the issues.

As I reflected on your report, I considered that how the Panel addressed the design bases question: DDE + Hosgri vs. DDE or Hosgri. How this question is answered fundamentally affects the path chosen to resolve the DPO issues. It was clear to me that the Panel concluded that new ground motion needed to be bound by either the DDE or Hosgri. Given this assumption, I would have to generally agree with the Panel's conclusions. However, it wasn't clear to me from the report why the Panel made this conclusion.

I presented the case in the DPO and my response to the Panel report that our regulations (50.71(e), 50.59) are tied to "the facility as described in the FSARU." I view that the question, DDE and/or Hosgri, must be answered from the pages of the FSARU and in terms of the requirements of 50.34 safety analysis and GDC-2. This regulatory path lead me to the conclusions presented in the DPO.

I believe a discussion of how the Panel reached the conclusion, DDE or Hosgri, may lead to a consensus on the DPO issues. Specifically, how the Panel applied our agency regulatory framework to the Diablo Canyon FSARU. For example, the specific provisions 50.59 or NEI 96-07 that would allow the new information to be screen out.

Michael

**From:** Case, Michael  
**Sent:** Friday, May 16, 2014 7:38 AM  
**To:** Peck, Michael  
**Subject:** RE: QUESTION: DPO 2013-02

I think I'm basically done (but still have a bagful of papers in the front seat of my car) I have no problems going over your comments.. Any chance you are going to be up here for something? It would be nice to have the discussion that way.

**From:** Peck, Michael  
**Sent:** Thursday, May 15, 2014 3:34 PM  
**To:** Case, Michael  
**Subject:** QUESTION: DPO 2013-02

I hope you are doing well in your new position

Are you done with the DPO? I was wondering if we would have an opportunity to discuss my comments on the Panel's report?

Thank you,  
Michael Peck, Ph.D.  
Senior Reactor Technology Instructor  
TTC, 432-855-6515



**Fuller, Karla**

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**From:** Kennedy, Kriss  
**Sent:** Tuesday, July 23, 2013 9:20 AM  
**To:** Fuller, Karla  
**Subject:** Fw: ACTION REQUESTED: Attached DPO  
**Attachments:** DPO Diablo Canyon Seismic Issues.pdf

The attachment is publicly available as part  
of ML14252A743.

This email is being sent from an NRC Blackberry device.

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**From:** Markley, Michael  
**To:** Kennedy, Kriss; OKeefe, Neil  
**Sent:** Mon Jul 22 13:18:15 2013  
**Subject:** FW: ACTION REQUESTED: Attached DPO

FYI

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**From:** Lund, Louise  
**Sent:** Monday, July 22, 2013 8:18 AM  
**To:** Markley, Michael; Polickoski, James; Sebrosky, Joseph  
**Subject:** FW: ACTION REQUESTED: Attached DPO

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**From:** Evans, Michele  
**Sent:** Friday, July 19, 2013 3:27 PM  
**To:** Lund, Louise  
**Cc:** Monninger, John  
**Subject:** FW: ACTION REQUESTED: Attached DPO

Louise,

I provided a copy to Jennifer and Dan. I have not read it.

Please provide copies to others as you see appropriate. Thanks.

Michele

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**From:** Peck, Michael  
**Sent:** Friday, July 19, 2013 2:42 PM  
**To:** Pedersen, Renee; DifferingViews Resource  
**Cc:** Howell, Art; Evans, Michele; Rutledge, Steven  
**Subject:** ACTION REQUESTED: Attached DPO

Ms. Pedersen,

Please accept and process the attached DPO.

Thank you,  
Michael Peck  
423-855-6515

**Fuller, Karla**

---

**From:** Hasan, Nasreen  
**Sent:** Friday, August 02, 2013 3:01 PM  
**To:** Leeds, Eric  
**Cc:** Bergman, Thomas; Campbell, Andy; Campbell, Vivian; Fuller, Karla; Dorman, Dan; Uhle, Jennifer; Howell, Art; Evans, Michele; Markley, Michael; Wertz, Trent; Weber, Michael; Merzke, Daniel; Peck, Michael; Rutledge, Steven; OKeefe, Neil; Wittick, Brian; Sewell, Margaret; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Johnson, Michael; Mitchell, Reggie  
**Subject:** DPO-2013-002, Memo Forwarding Differing Professional Opinion Involving Diablo Canyon Seismic Issues

August 2, 2013

**MEMORANDUM TO:** Eric J. Leeds, Director  
Office of Nuclear Reactor Regulation

**FROM:** Renée M. Pedersen, Sr. Differing Views Program Manager */RA/*  
Office of Enforcement

Please see the link below.

[View ADAMS P8 Properties ML13213A248](#)

[Open ADAMS P8 Package \(DPO 2013 002, Differing Professional Opinion Involving Diablo Canyon Seismic Issues \)](#)

ADAMS Package: ML13213A248  
Memo: ML13213A249  
DPO Submittal: ML13214A162  
Milestones and Timeliness Goals: ML13213A259

Note: This document is limited to those on distribution only

*Thank you,  
Nasreen Hasan  
Administrative Assistant  
Office of Enforcement  
Location / Mailstop: O-4A15A  
Office #: (301)415-2741  
Fax: (301)415-3431*

## Alexander, Ryan

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**From:** Alexander, Ryan  
**Sent:** Tuesday, October 28, 2014 9:26 AM  
**To:** Hipschman, Thomas; Reynoso, John; Walker, Wayne; Oesterle, Eric; Pruett, Troy; Kozal, Jason  
**Cc:** OKeefe, Neil; Uselding, Lara  
**Subject:** ADDITIONAL INFO: In federal court filing, PG&E and NRC accused of Diablo quake safety coverup

All:

Based on Lara's e-mail, I went to the FOE website and found their press release and link to the filing they indicated was submitted to the Court of Appeals this morning.

FOE Press Release: <http://www.foe.org/news/news-releases/2014-10-in-federal-court-filing-pge-and-nuclear-regulator-said-to-collude-in-secret-diablo-canyon-decision>

FOE Filing (as referenced in the Press Release): [http://libcloud.s3.amazonaws.com/93/f4/7/4937/14-10-28\\_FoE\\_Petition\\_FSAR.pdf](http://libcloud.s3.amazonaws.com/93/f4/7/4937/14-10-28_FoE_Petition_FSAR.pdf)

In my quick read of the filing, it notes the following:

"[The Petitioner] hereby petitions the Court for review of the final order of the United States Nuclear Regulatory Commission ("NRC") approving Revision 21 to the Final Safety Analysis Report as Updated (FSARU) for Diablo Canyon Units 1 & 2 without the required license amendment proceeding, in violation of 42 U.S.C. § 2239. The NRC acted arbitrarily, abused its discretion, and violated the Atomic Energy Act, the Administrative Procedure Act, the Commission's policies and regulations, and other applicable laws and regulations in approving Revision 21."

As such, the filing appears to be directly based on the sections of the FSAR that were released as part of the PDR request and based on the release of information associated with the DPO.

-- Ryan

**From:** Uselding, Lara  
**Sent:** Tuesday, October 28, 2014 9:07 AM  
**To:** Dapas, Marc; Pruett, Troy; Kozal, Jason; OKeefe, Neil; Walker, Wayne; Alexander, Ryan; Sebrosky, Joseph; Oesterle, Eric; Markley, Michael; Burnell, Scott  
**Subject:** Fw: In federal court filing, PG&E and NRC accused of Diablo quake safety coverup

Lara Uselding  
NRC Region 4 Public Affairs  
817-200-1519

**From:** Bill Walker [mailto:bw.deadline@gmail.com]  
**Sent:** Tuesday, October 28, 2014 08:56 AM  
**Subject:** In federal court filing, PG&E and NRC accused of Diablo quake safety coverup

For immediate release: October 28, 2014

**Expert Contacts:**

Damon Moglen, (202) 352-4223, [dmoglen@foe.org](mailto:dmoglen@foe.org)

**Communications Contacts:**

Bill Walker, (510) 759-9911, [bw.deadline@gmail.com](mailto:bw.deadline@gmail.com) (West Coast)

EA Dyson, (202) 222-0730, [edyson@foe.org](mailto:edyson@foe.org) (East Coast)

**In federal court filing, PG&E and nuclear regulator said to collude in secret decision to cover up Diablo Canyon's vulnerability to earthquakes**

**WASHINGTON, D.C.** – Friends of the Earth has petitioned the U.S. Court of Appeals to overturn a secret decision by the Nuclear Regulatory Commission to illegally alter the operating license for the Diablo Canyon nuclear power plant allowing Pacific Gas and Electric to hide the fact that the reactors are vulnerable to earthquakes stronger than it was meant to withstand.

The secret revision of Diablo Canyon's license was revealed in NRC documents rejecting a dissent by the plant's former senior resident inspector. The inspector, Dr. Michael Peck, defied his superiors in saying that Diablo Canyon was operating in violation of its license and should be shut down unless and until new seismic information was addressed.

In a July 2013 formal dissent, which the NRC suppressed for more than a year, Dr. Peck argued that newly discovered faults could produce earthquakes far more destructive than the plant was designed, built and licensed to withstand. Last month, in rejecting the dissent, the NRC revealed that in September 2013 it had changed the way the risk of earthquakes at the plant are assessed – in effect, rewriting history and science to make the threat of more powerful earthquakes go away, without requiring any safety upgrades by PG&E.

The amendment was added in secret, unknown beyond the highest levels of PG&E and the NRC. Today Friends of the Earth petitioned the U.S. Court of Appeals for the D.C. circuit to review the amendment, overturn it and order a public license amendment proceeding as required by federal law.

"PG&E's new seismic study reveals that the earthquake threat at Diablo could be far greater than that for which the reactors were designed. So PG&E and the NRC secretly amended the license to relax the safety requirements," said David Freeman, former head of the Tennessee Valley Authority, Los Angeles Department of Water and Power and the Sacramento Municipal Utility District. "This is not only illegal, it's an outrage."

PG&E has enough trouble on its hands from the San Bruno explosion, where they had also claimed they had put safety first," said Freeman, senior advisor to Friends of the Earth. "This secret action shows they don't put safety first."

Under federal law and NRC regulations, changing the way seismic risk or reactor durability is assessed requires a public license amendment review. Instead, in consultation with PG&E, the NRC inserted a secret revision to the plant's license, which changed both the scientific calculations for assessing earthquake risks and retroactively declaring that the reactors were strong enough to withstand far greater seismic activity.

"At Diablo, it is now clear that these outdated 1960s-era reactors are not built to withstand the earthquake risks that surround the plant," said Damon Moglen of Friends of the Earth. "But instead of making them address these safety issues, the NRC worked with PG&E to change the rules. It's a scandal of the first order, and frankly very scary."

A PG&E report released last month revealed that a newly discovered fault, located just 650 yards from the plant, is twice as long as the utility had maintained since 2011. The report also acknowledged one of Michael Peck's most troubling concerns; that the new fault is connected to two others and together the three are capable of producing much stronger shaking than the plant was designed and licensed to withstand.

In the aftermath of the Fukushima nuclear disaster, a 2011 NRC study indicated that Diablo Canyon is the nuclear power plant in the U.S. most likely to fail in response to an earthquake larger than it was designed to withstand.



Bill Walker  
dba Deadline Now  
Berkeley, CA  
(510) 759-9911

Twitter: @deadlinenow  
Facebook: DeadlineNow  
Skype: deadlinenow  
<http://www.deadlinenow.com>

**From:** Pedersen, Renee  
**To:** Burnell, Scott; Markley, Michael; Scott, Michael; Oesterle, Eric; Screnci, Diane; Sheehan, Neil  
**Cc:** Solorio, Dave; Sewell, Margaret; Sosa, Belkys; Holahan, Patricia  
**Subject:** RE: Re: Diablo Canyon Ask Management  
**Date:** Wednesday, November 12, 2014 10:56:42 AM

---

Thanks for sharing this with OE. We support the brief response from Scott, including that it is consistent with our agency guidance.

"Consistent with NRC guidance, the EDO's response to the DPO appeal is the final resolution to this matter."

We would appreciate it if OE could be copied on any responses related to the DPO.  
([DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov))

Renée Pedersen  
Sr. Differing Views Program Manager  
Office of Enforcement  
(301) 415-2742

**From:** Burnell, Scott  
**Sent:** Wednesday, November 12, 2014 8:22 AM  
**To:** Markley, Michael; Scott, Michael; Oesterle, Eric; Screnci, Diane; Sheehan, Neil  
**Cc:** Pedersen, Renee  
**Subject:** RE: Re: Diablo Canyon Ask Management

This should particularly go through the RI OPA folks, and I'd offer the answer is "The EDO's response to the DPO is the final resolution to this matter."

**From:** Markley, Michael  
**Sent:** Wednesday, November 12, 2014 8:03 AM  
**To:** Scott, Michael; Oesterle, Eric  
**Cc:** Burnell, Scott; Pedersen, Renee  
**Subject:** RE: Re: Diablo Canyon Ask Management

Mike

Again, I think you need to go through OE and OPA. My preference is not to respond.

Mike

**From:** Scott, Michael  
**Sent:** Monday, November 10, 2014 6:14 PM  
**To:** Markley, Michael; Oesterle, Eric  
**Subject:** Re: Diablo Canyon Ask Management

Mike and Eric:

The rest of this email string may be found as document B/36.
--

Thanks for the input you provided me. Hopefully the below would seem reasonable. If you have any concerns please let me know. If agreed by senior management here, this would be e-mail blasted to the Region 1 staff.

Q: On September 19, The Santa Barbara Independent ran an article, which was also put

**From:** Oesterle, Eric  
**To:** Scott, Michael; Markley, Michael  
**Subject:** RE: Re: Diablo Canyon Ask Management  
**Date:** Wednesday, November 12, 2014 9:29:58 AM

---

Understood. Your revised para seems reasonable.  
Eric

**From:** Scott, Michael  
**Sent:** Wednesday, November 12, 2014 9:02 AM  
**To:** Oesterle, Eric; Markley, Michael  
**Subject:** RE: Re: Diablo Canyon Ask Management

Problem is that was a direct quote. Hearing Mike's concern and yours, but being mindful of the need to be responsive to staff, I may go with:

On September 9, 2014, the EDO issued a decision on the appeal of DPO 2013-002, concerning seismic issues at the Diablo Canyon Nuclear Power Plant (DCNPP). The decision is summarized in the Commission Weekly Information Report dated September 19, 2014. We are not aware of any additional actions planned in response to the press article referenced in the question.

I will run this by OPA here as a matter of course.

Thanks again for your help.

Mike

---

**From:** Oesterle, Eric  
**Sent:** Wednesday, November 12, 2014 6:24 AM  
**To:** Scott, Michael; Markley, Michael  
**Subject:** RE: Re: Diablo Canyon Ask Management

Mike,

It generally looks fine to me although I would scratch the text in red only because we've recently had some apparent issues with 50.59's performed for the DCP steam generator and reactor vessel head replacement projects that involve questions about seismic and LOCA load combinations so until that gets ironed out I would just focus on the tech spec and safety aspects.

Eric

---

**From:** Scott, Michael  
**Sent:** Monday, November 10, 2014 6:14 PM  
**To:** Markley, Michael; Oesterle, Eric  
**Subject:** Re: Diablo Canyon Ask Management

Mike and Eric:

The rest of this email string may be found as document B/36.

Thanks for the input you provided me. Hopefully the below would seem reasonable. If you have any concerns please let me know. If agreed by senior management here, this would be e-mail blasted to the Region 1 staff.

**From:** Oesterle, Eric  
**To:** Lupold, Timothy; Ross-Lee, MaryJane; Manoly, Kamal; Li, Yong; Karas, Rebecca; Kock, Andrea  
**Cc:** Sebrosky, Joseph; Alexander, Ryan; Walker, Wayne; Markley, Michael; Wilson, George  
**Subject:** FW: Info: latest version of Diablo Canyon TER  
**Date:** Tuesday, October 21, 2014 12:16:40 PM  
**Attachments:** Diablo Canyon operability evaluation 2014 seismic information technical evaluation.docx  
image001.png  
**Importance:** High

This is the same attachment that is attached to document C/26.

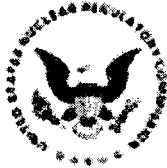
---

To all,

Attached is the draft report which was discussed in the 11AM briefing today. It provides a proposed path forward for addressing the various issues associated with the DCPD operability evaluation. It is a rough draft but it should help with the actions identified in the briefing.

*Eric R. Oesterle*

NRC Project Manager  
Diablo Canyon Power Plant  
Cooper Nuclear Station  
NRR/DORL/LPL4-1  
301-415-1014



**From:** Sebrosky, Joseph  
**Sent:** Tuesday, October 21, 2014 8:10 AM  
**To:** Wilson, George; Oesterle, Eric; Markley, Michael  
**Subject:** Info: latest version of Diablo Canyon TER

To all,

Attached is the latest version of the Diablo Canyon TER. It incorporates comments from Eric and has other minor editorial changes from previous versions. Per direction from George I have stopped work on the effort pending the outcome of the meeting later today.

Thanks,

Joe Sebrosky  
Senior Project Manager  
Japan Lessons-Learned Division  
Office of Nuclear Reactor Regulation  
[joseph.sebrosky@nrc.gov](mailto:joseph.sebrosky@nrc.gov)



301-415-1132

**From:** Burnell, Scott  
**To:** Markley, Michael; Scott, Michael; Oesterle, Eric; Screnci, Diane; Sheehan, Neil  
**Cc:** Pedersen, Renee  
**Subject:** RE: Re: Diablo Canyon Ask Management  
**Date:** Wednesday, November 12, 2014 8:22:08 AM

---

This should particularly go through the RI OPA folks, and I'd offer the answer is "The EDO's response to the DPO is the final resolution to this matter."

**From:** Markley, Michael  
**Sent:** Wednesday, November 12, 2014 8:03 AM  
**To:** Scott, Michael; Oesterle, Eric  
**Cc:** Burnell, Scott; Pedersen, Renee  
**Subject:** RE: Re: Diablo Canyon Ask Management

Mike

Again, I think you need to go through OE and OPA. My preference is not to respond.

Mike

**From:** Scott, Michael  
**Sent:** Monday, November 10, 2014 6:14 PM  
**To:** Markley, Michael; Oesterle, Eric  
**Subject:** Re: Diablo Canyon Ask Management

Mike and Eric:

Thanks for the input you provided me. Hopefully the below would seem reasonable. If you have any concerns please let me know. If agreed by senior management here, this would be e-mail blasted to the Region 1 staff.

Q: On September 19, The Santa Barbara Independent ran an article, which was also put on the R1 website, about the former Diablo Canyon SRI who had a concern about how Diablo Canyon's new seismic information was handled and did not feel that is DPO about this concern was adequately addressed. Does the NRC plan to do any thing additional to address his concern in light of the recent article? If so, please inform us of the resolution to this when it is concluded.

Proposed Response:

The following is quoted from the Commission Weekly Information Report dated September 19, 2014: "On September 9, 2014, the EDO issued a decision on the appeal of DPO 2013-002, concerning seismic issues at the Diablo Canyon Nuclear Power Plant (DCNPP). The EDO's decision on the appeal supported both the DPO panel's independent technical conclusions and subsequent Office of Nuclear Reactor Regulation Director's decision that there was not a significant or immediate concern with seismic safety at DCP, and that the licensee and staff had followed appropriate processes for technical specification operability of plant equipment and Title 10 Code of Federal Regulations 50.59 evaluations with a reasonable technical and safety rationale. The EDO noted that the DPO raised awareness of the complexity of the DCNPP seismic licensing basis, but also illustrated the need for the agency to ensure there are clear guidelines for staff and licensees regarding how changes in natural hazards should be evaluated for all licensees. The public records for

this DPO are available in the DPO case file package in the Agencywide Document Access and Management System, Accession No. ML14252A743."

According to the cognizant NRR licensing staff, no specific additional actions are planned in response to the referenced article. There has been substantial press coverage of the DPO, and numerous correspondence from stakeholders, including members of Congress and the public. The staff is handling inquiries in accordance with established processes.

**From:** Scott, Michael  
**To:** Oesterle, Eric  
**Cc:** Pedersen, Renee; Wilson, George; Markley, Michael; Broaddus, Doug  
**Subject:** RE: New AskManagement Submission  
**Date:** Monday, November 10, 2014 5:48:54 PM

---

Thanks Eric. I assume the information in the Comm Plan you sent can be freely shared with staff. Please confirm.

Mike

-----Original Message-----

**From:** Oesterle, Eric  
**Sent:** Monday, November 10, 2014 8:20 AM  
**To:** Scott, Michael  
**Cc:** Pedersen, Renee; Wilson, George; Markley, Michael; Broaddus, Doug  
**Subject:** RE: New AskManagement Submission

Mike,

We prepared a mini Comm-plan associated with the EDO Decision on the Appeal of the DPO (see attached) and the release of the DPO Case file for public availability. Perhaps the attached will address the question. Like Mike Markley indicated, there is no indication that we will be responding directly to the 9/19 article.

Eric R. Oesterle  
NRC Project Manager  
Diablo Canyon Power Plant  
Cooper Nuclear Station  
NRR/DORL/LPL4-1  
301-415-1014

-----Original Message-----

**From:** Markley, Michael  
**Sent:** Monday, November 10, 2014 8:10 AM  
**To:** Scott, Michael; Broaddus, Doug  
**Cc:** Oesterle, Eric; Pedersen, Renee; Wilson, George  
**Subject:** RE: New AskManagement Submission

Mike,

We had all kinds of stuff going at the time of the DPO Director's Decision and EDO Appeal. The DCPM, Eric Oesterle can provide you with the information subject to our communications plan, but OE owns the DPO process. Rene Pedersen would be the right person to discuss the DPO. I do not believe there is a Sharepoint link.

There were a lot of articles. Some making assertions about how the DPO was handled and timing. We have referred some to the OIG. In DCPM space, September 19 is a long time ago. We are responding to about 10 DCPM Congressional/concerned citizen items right now. I will have the PM, Eric Oesterle take a look, but my guess is we are not responding explicitly to the September 19 article.

Mike

B/37

-----Original Message-----

From: Scott, Michael  
Sent: Friday, November 07, 2014 5:42 PM  
To: Markley, Michael; Broaddus, Doug  
Subject: FW: New AskManagement Submission

Gentlemen:

Can whichever of you has cognizance of Diablo Canyon please help me out? Can you please ask the PM to send me a link to a Sharepoint site or wherever else that we have compiled information on the Diablo Canyon seismic DPO and the Agency's review and response to it? The below question was submitted anonymously by someone on the Region I staff. I would like to answer it with a simple link to wherever the info can be found, if such a link exists.

Thanks in advance for your help.

Michael (Mike) Scott  
Deputy Director  
Division of Reactor Projects  
Region I  
(610) 337-5126

-----Original Message-----

From: r1askmanagement@nrc.gov [<mailto:r1askmanagement@nrc.gov>]  
Sent: Friday, October 31, 2014 7:29 AM  
To: R1ASKMANAGEMENT RESOURCE  
Subject: New AskManagement Submission

On September 19, The Santa Barbara Independent ran an article, which was also put on the R1 website, about the former Diablo Canyon SRI who had a concern about how Diablo Canyon's new seismic information was handled and did not feel that is DPO about this concern was adequately addressed. Does the NRC plan to do anything additional to address his concern in light of the recent article? If so, please inform us of the resolution to this when it is concluded.

From: Cox, Linda  
To: Burkhardt, Janet  
Cc: Markley, Michael  
Subject: RE: STARS OEDO Office Notification (LTR-14-0495-1-NRR)  
Date: Thursday, September 25, 2014 8:29:00 AM

---

When the closeout is sent to RidsNrrMailCenter Resource it gets closed in STARS. NRR works to that end.

Thanks,

-----Original Message-----

From: Burkhardt, Janet  
Sent: Thursday, September 25, 2014 7:52 AM  
To: Chen, Qiao-Lynn; Cox, Linda  
Subject: FW: STARS OEDO Office Notification (LTR-14-0495-1-NRR)  
Importance: High

Can either of you please respond to Mike? I have never heard of STARS and don't know how to advise him.

Jan

\*\*\*\*\*

-----Original Message-----

From: Markley, Michael  
Sent: Thursday, September 25, 2014 7:46 AM  
To: Burkhardt, Janet  
Cc: Orf, Tracy  
Subject: FW: STARS OEDO Office Notification (LTR-14-0495-1-NRR)

Jan,

Do I close a STARS ticket in the same manner as we request extensions for due dates.

Mike

-----Original Message-----

From: Stuchell, Sheldon  
Sent: Wednesday, September 24, 2014 5:59 PM  
To: Dudek, Michael; Markley, Michael  
Cc: Mohseni, Aby; Banic, Merrilee; Mensah, Tanya; Khanna, Meena; Singal, Balwant; Oesterle, Eric; Pedersen, Renee  
Subject: FW: STARS OEDO Office Notification (LTR-14-0495-1-NRR)

Mike & Mike,

I'd like to make sure this issue is closed, and any ticket assigned to NRR is closed. Any correspondence coming to the NRC can be considered as a 2.206 petition, if it meets the requirements of our MD and is determined to be an actual petition. In this case, the submittal does not meet the requirements to be a 2.206 petition, and should be considered general correspondence.

The e-mail chain below can be confusing, and I must point out that no single individual submitted this correspondence. It was not Mr. Peck. Mr. Peck, one of our Sr. Resident Inspector's, did in fact have a DPO about Diabó, but that DPO has been dispositioned. The submitter in this case was "change.org."

Therefore, there is no individual we can respond to.

I highly recommend this be closed with no further action. As noted in the ticket, staff is to respond "as appropriate." In this case, the appropriate response is no response to an organization.

If there are still questions as to how to close the issue, it should be worked out between Mike and Mike. This is not a 2.206 petition and NRR/DPR is not involved.

Hope this helps,  
Sheldon

-----Original Message-----

From: Banic, Merrilee  
Sent: Wednesday, September 24, 2014 1:36 PM  
To: Stuchell, Sheldon  
Cc: Mensah, Tanya

The full version of this email may be found as document C/42.

B/38

**Wertz, Trent**

---

**From:** Pedersen, Renee  
**Sent:** Tuesday, August 20, 2013 1:20 PM  
**To:** Wertz, Trent  
**Cc:** Sewell, Margaret; Solorio, Dave  
**Subject:** ACTION: Status of Establishing DPO Panel  
**Attachments:** QUESTION: DPO-2013-002, Memo Forwarding Differing Professional Opinion Involving Diablo Canyon Seismic Issues ; DPO Panel

Trent,

Can you give me a status of where you are on establishing the DPO Panel? I know you mentioned that Eric was out.

I'll be out the rest of the week, and wanted to make sure I knew where things were so I could get back to the submitter and Neil O'Keefe and give them an update.

Thanks!  
Renée

**Wertz, Trent**

---

**From:** OKeefe, Neil  
**Sent:** Tuesday, August 20, 2013 10:37 AM  
**To:** Pedersen, Renee  
**Subject:** DPO Panel

Renee,

For the Peck DPO, who is on the panel, and when do they plan to meet?

My travel schedule is very busy for the next month, but I really want to be able to support the panel.

Neil



**Wertz, Trent**

---

**From:** Pedersen, Renee  
**Sent:** Wednesday, August 28, 2013 9:10 AM  
**To:** Case, Michael; Wertz, Trent  
**Cc:** Sewell, Margaret; Solorio, Dave  
**Subject:** RE: Diablo Canyon DPO  
**Attachments:** Milestones and Timeliness Goals.docx

Actually, the clock has already started. The timeliness goal for the DPO process is to have a DPO Decision issued 120 days from the date when the DPO was accepted, which is 11/29/2013.

I've attached the Milestones and Timeliness Goals. Each milestone has a timeliness goal—a way of meeting the overall goal. The goal for establishing the DPO Panel is 14 days. In this case, we're past that, in part due to Eric's schedule. This is something to keep in mind if an extension is required. The goal for the DPO Panel is still 70 days—the DPO Panel shouldn't necessarily try and make up the time, nor should Eric when he writes the DPO Decision.

Trent, let me know if you need anything for the memo.

Thanks!  
Renée

**From:** Case, Michael  
**Sent:** Wednesday, August 28, 2013 8:55 AM  
**To:** Wertz, Trent  
**Cc:** Pedersen, Renee  
**Subject:** RE: Diablo Canyon DPO

Great. As long as the clock hasn't started...

**From:** Wertz, Trent  
**Sent:** Wednesday, August 28, 2013 8:31 AM  
**To:** Case, Michael  
**Cc:** Pedersen, Renee  
**Subject:** RE: Diablo Canyon DPO

Still working on the last member. Eric needs to talk to Scott Flanders.

**From:** Case, Michael  
**Sent:** Wednesday, August 28, 2013 8:06 AM  
**To:** Wertz, Trent  
**Cc:** Pedersen, Renee  
**Subject:** Diablo Canyon DPO

Hi Trent. Did we get the memo out yet on the panel or is it still working?

## **Wertz, Trent**

---

**From:** Tracy, Glenn  
**Sent:** Wednesday, August 28, 2013 12:05 PM  
**To:** Leeds, Eric  
**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee; McCree, Victor; Wert, Leonard; Holahan, Gary; Sheron, Brian; West, Steven; Flanders, Scott; Schum, Constance; Tonacci, Mark; Chokshi, Niles  
**Subject:** ~~OOO~~ RESPONSE: DPO Panel Members

~~OOO~~

Eric, I know Scott speaks with you regularly, but I wanted to get back to you regarding our support of your request for Cliff Munson on this panel. Please realize that we will try to minimize the impacts of this request and effort, relative to Cliff's other important ongoing work wrt Fukushima 2.1 and new reactors. There will obviously be some impact. Best always, Glenn

**From:** Leeds, Eric  
**Sent:** Wednesday, August 21, 2013 10:55 AM  
**To:** McCree, Victor; Wert, Leonard; Tracy, Glenn; Holahan, Gary; Sheron, Brian; West, Steven  
**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee  
**Subject:** DPO Panel Members

Folks –

We are putting together a DPO panel to handle seismic licensing issues at Diablo Canyon. The NRR ET is requesting your assistance and support for the following individuals:

Mike Case – as the lead SES. Mike brings licensing and all around deep thinking and common sense to the team.

Cliff Munson – Cliff would bring the technical muscle to the team as a seismic guru.

Rudy Bernhard – Rudy was one of three candidates identified by the DPO submitter.

Please let me/Trent Wertz know as soon as possible if you can support. If you can support, Trent will contact the identified individuals. Thanks for your consideration!

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

~~OOO~~

## **Wertz, Trent**

---

**From:** Pedersen, Renee  
**Sent:** Thursday, August 29, 2013 8:52 AM  
**To:** Leeds, Eric  
**Cc:** Sewell, Margaret; Wertz, Trent; Solorio, Dave  
**Subject:** RE: ACTION: Question on DPO Panel Member  
  
**Importance:** High

Eric,

It isn't written that you have to take them in the order provided, but employees typically list the nominees in the order that they would like them selected. As I said before, as long as you have a rationale for Rudy vs. the other nominees, we're O.K. I want to avoid any appearance that an employee wasn't selected because they are viewed as too outspoken, etc.,

Because panel selection is so critical to success, I took the liberty of running the selection of Mike Case and Cliff Munson by the submitter. (I didn't say anything about the third member because I wanted to check in with you first.) FYI, the submitter is very concerned with the selection of Cliff Munson. Please see the excerpt from his email:

I would like to alert you to a potential conflict with Mr. Munson as a DPO panel member. Mr. Munson is listed as a senior advisor with the Division of Site Safety and Environmental Analysis. Annie Kammerer is shown on the NRC web page as currently assigned to this division. Dr. Kammerer was largely responsible for the prevailing NRC position on the Diablo Canyon seismic issues and was the primary contributor to the NRC response to my non-concurrence. Dr. Kammerer went so far pressing her viewpoint to include making OIG allegations against me related to the Diablo Canyon seismic issues (I subsequently received an OIG clearance letter related to these allegations).

Please consider Mr. Munson's organizational relationship with Dr. Kammerer during panel selection.

In addition, the submitter also noted...

While seismic is in the title of the DPO, this DPO is really not about seismic technical issues. I've made the assumption that all seismic evaluations (included in the FSAR or presented in the NRC Research Information Letters) are correct. This DPO is about how the agency enforces design and licensing bases requirements and verifies operability for non-conforming and unanalyzed conditions. These issues could be applied to any NRC licensing basis requirements (flooding, ECCS acceptance criteria, containment accident response).

I hope this information helps. I want to emphasize that panel selection is your responsibility--it is not a negotiation with the submitter. That having been said, if the submitter doesn't think the panel is credible, we've failed before we've started.

Please let me know if you need any additional assistance from us.

Renée

**From:** Leeds, Eric  
**Sent:** Wednesday, August 28, 2013 6:31 PM  
**To:** Pedersen, Renee  
**Cc:** Sewell, Margaret; Wertz, Trent; Solorio, Dave  
**Subject:** Re: ACTION: Question on DPO Panel Member

I didn't know that I had to take them in the order provided. I thought that any of the three was acceptable to the submitter. Where is it written differently? Is this a crisis? I picked Rudy because of a number of reasons that I found desirable - no prior involvement with the issue, he's an SRA, different region, etc. I need a team as pure as the driven snow on this issue - I'm sure it will eventually receive media attention.

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**From:** Pedersen, Renee  
**To:** Leeds, Eric  
**Cc:** Sewell, Margaret; Wertz, Trent; Solorio, Dave  
**Sent:** Wed Aug 28 12:39:34 2013  
**Subject:** ACTION: Question on DPO Panel Member

Eric,

Sorry I didn't catch this sooner, but is there a reason you are including the submitter's 3<sup>rd</sup> choice (Rudy Bernhard) versus his 1<sup>st</sup> (Gerond George) or 2<sup>nd</sup> (Larry Criscione) choice for the DPO Panel? Normally, we would expect the 1<sup>st</sup> choice, unless there were conflicts. As long as there is a rationale, we're in good shape. We wouldn't want someone to claim that an employee wasn't selected because he or she has a history of being outspoken, etc.,

Renée

---

**From:** Leeds, Eric  
**Sent:** Wednesday, August 21, 2013 10:55 AM  
**To:** McCree, Victor; Wert, Leonard; Tracy, Glenn; Holahan, Gary; Sheron, Brian; West, Steven  
**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee  
**Subject:** DPO Panel Members

Folks –

We are putting together a DPO panel to handle seismic licensing issues at Diablo Canyon. The NRR ET is requesting your assistance and support for the following individuals:

Mike Case – as the lead SES. Mike brings licensing and all around deep thinking and common sense to the team.

Cliff Munson – Cliff would bring the technical muscle to the team as a seismic guru.

Rudy Bernhard – Rudy was one of three candidates identified by the DPO submitter.

Please let me/Trent Wertz know as soon as possible if you can support. If you can support, Trent will contact the identified individuals. Thanks for your consideration!

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

**Wertz, Trent**

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**From:** Leeds, Eric  
**Sent:** Thursday, August 29, 2013 12:31 PM  
**To:** Pedersen, Renee; Flanders, Scott  
**Cc:** Wertz, Trent; Sewell, Margaret; Solorio, Dave; Hilton, Nick; Case, Michael  
**Subject:** RE: ~~OUO~~ RESPONSE: DPO Panel Members

Good thoughts Renee! Scott – please look through this email thread. I continue to make life hard for you and your staff – I apologize. Please see the concerns that Renee has raised and consider whether we should switch to Brett.

Thanks for your patience!

Eric

**From:** Pedersen, Renee  
**Sent:** Thursday, August 29, 2013 10:33 AM  
**To:** Leeds, Eric  
**Cc:** Wertz, Trent; Sewell, Margaret; Solorio, Dave; Hilton, Nick  
**Subject:** RE: ~~OUO~~ RESPONSE: DPO Panel Members  
**Importance:** High

Eric,

In light of the submitters concerns, I would recommend that you consider Brett Hill. In addition, because of the submitters view on the issues (how the agency enforces design and licensing bases requirements and verifies operability for non-conforming and unanalyzed conditions), you could even consider asking for another panel member from OE. Just a thought.

Renée

**From:** Leeds, Eric  
**Sent:** Thursday, August 29, 2013 10:20 AM  
**To:** Pedersen, Renee  
**Cc:** Wertz, Trent  
**Subject:** FW: ~~OUO~~ RESPONSE: DPO Panel Members

Just saw this. Do I need to go back to Scott and tell him we need Brett Hill?

**From:** Flanders, Scott  
**Sent:** Thursday, August 29, 2013 10:07 AM  
**To:** Leeds, Eric; Tracy, Glenn  
**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee; McCree, Victor; Wert, Leonard; Holahan, Gary; Sheron, Brian; West, Steven; Schum, Constance; Tonacci, Mark; Chokshi, Nilesh  
**Subject:** RE: ~~OUO~~ RESPONSE: DPO Panel Members

Eric, I think Cliff is the right person. As Glenn said having Cliff work on the DPO will impact our 2.1 work, but we will work to minimize the impact.

Scott

**From:** Leeds, Eric

**Sent:** Wednesday, August 28, 2013 6:26 PM

**To:** Tracy, Glenn

**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee; McCree, Victor; Wert, Leonard; Holahan, Gary; Sheron, Brian; West, Steven; Flanders, Scott; Schum, Constance; Tonacci, Mark; Chokshi, Niles

**Subject:** Re: ~~OOO~~ RESPONSE: DPO Panel Members

Thanks, glenn. Scott and I discussed and I'm fine if he wants to propose another individual. He's weighing the pros and cons and will get back to me with a good person.

Scott always comes through!

Eric

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**From:** Tracy, Glenn

**To:** Leeds, Eric

**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee; McCree, Victor; Wert, Leonard; Holahan, Gary; Sheron, Brian; West, Steven; Flanders, Scott; Schum, Constance; Tonacci, Mark; Chokshi, Niles

**Sent:** Wed Aug 28 12:04:47 2013

**Subject:** ~~OOO~~ RESPONSE: DPO Panel Members

~~OOO~~

Eric, I know Scott speaks with you regularly, but I wanted to get back to you regarding our support of your request for Cliff Munson on this panel. Please realize that we will try to minimize the impacts of this request and effort, relative to Cliff's other important ongoing work wrt Fukushima 2.1 and new reactors. There will obviously be some impact. Best always, Glenn

---

**From:** Leeds, Eric

**Sent:** Wednesday, August 21, 2013 10:55 AM

**To:** McCree, Victor; Wert, Leonard; Tracy, Glenn; Holahan, Gary; Sheron, Brian; West, Steven

**Cc:** Wertz, Trent; Dorman, Dan; Uhle, Jennifer; Pedersen, Renee

**Subject:** DPO Panel Members

Folks –

We are putting together a DPO panel to handle seismic licensing issues at Diablo Canyon. The NRR ET is requesting your assistance and support for the following individuals:

Mike Case – as the lead SES. Mike brings licensing and all around deep thinking and common sense to the team.

Cliff Munson – Cliff would bring the technical muscle to the team as a seismic guru.

Rudy Bernhard – Rudy was one of three candidates identified by the DPO submitter.

Please let me/Trent Wertz know as soon as possible if you can support. If you can support, Trent will contact the identified individuals. Thanks for your consideration!

Eric J. Leeds

Director, Office of Nuclear Reactor Regulation

U.S. Nuclear Regulatory Commission

301-415-1270

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**Wertz, Trent**

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**From:** Craver, Patti  
**Sent:** Tuesday, September 03, 2013 3:02 PM  
**To:** Peck, Michael; Pedersen, Renee  
**Cc:** Wertz, Trent  
**Subject:** DPO-2013-002

Good Afternoon,

Below is the electronic link for the memorandum appointing members to the Ad Hoc Review Panel for the Differing Professional Opinion (DPO) Involving Seismic Issues at Diablo Canyon.

A paper copy has been mailed to each of the panel members with the DPO and milestones and timeliness goals.

[View ADAMS P8 Properties ML13242A305](#)

[Open ADAMS P8 Document \(DPO-2013-002 - Ad Hoc Review Panel - Differing Professional Opinion Involving Seismic Issues at Diablo Canyon\)](#)

Should you have any questions, please contact Trent Wertz by phone at 415-1568.

Thanks!

Patti Craver  
Management Analyst  
Infrastructure Services Branch  
Program Management, Policy Development  
and Analysis Staff  
Office of Nuclear Reactor Regulation  
(301) 415-1513  
[patti.craver@nrc.gov](mailto:patti.craver@nrc.gov)



**Wertz, Trent**

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**From:** Leeds, Eric  
**Sent:** Friday, September 06, 2013 8:05 AM  
**To:** Bernhard, Rudolph; Case, Michael; Hill, Brittain  
**Cc:** Wertz, Trent; Schwarz, Sherry; Pedersen, Renee  
**Subject:** DPO Panel

Gentlemen –

Thank you all for being willing to serve on the Diablo Canyon seismic DPO Panel. Each of you were distinctly chosen for what you can bring to the team; your independence from the issue and your expertise, experience and past service to the agency.

I'd like to hold a brief, ½ hour meeting to provide the Panel my thoughts on the DPO process and my expectations for your challenge in conducting this review. Sherry Schwarz will arrange the meeting. Rudy, I understand that you will be unavailable for the next few weeks, so we will work based on your schedule and will try to use the VTC for the meeting. All you need to do to prepare for the meeting is to have read the DPO submittal.

Thank you again for your willingness to serve!

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

**Wert, Trent**

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**From:** Leeds, Eric  
**Sent:** Friday, September 06, 2013 9:44 AM  
**To:** Pedersen, Renee  
**Cc:** Sewell, Margaret; Schwarz, Sherry; Wert, Trent  
**Subject:** RE: ACTION: Can I attend your DPO Panel meeting

Sounds like a good idea, Renee. I'll kick off the meeting. Basically, all I want to tell them is how I value the DPO process, that its important, that they are doing an important service for the agency, etc. About how important the first step in the process is: make sure they document the DPO submitters issue such that they understand it and the submitter agrees that they've captured his issue (fyi – from my read, its not clear in the existing documentation). My expectation is that they need to dig deep into the technical, as well as regulatory aspects of the issue and that they need to avail themselves of the expert staff throughout the agency. Don't work in a vacuum. Then I turn the meeting over to you.

Motherhood and apple-pie. But I want them to know how much I care about the process and that the agency needs them to do a good job.

Whaddyathink?

**From:** Pedersen, Renee  
**Sent:** Friday, September 06, 2013 8:51 AM  
**To:** Leeds, Eric  
**Cc:** Sewell, Margaret  
**Subject:** ACTION: Can I attend your DPO Panel meeting

Eric,

I think it's good for you to meet with the panel to discuss your expectations. Taking the time to meet with the panel demonstrates your support for the process. That being said, because independence is a keep attribute of the panel process, we need to be cautious that your engagement with the panel (now and in the future) doesn't get misunderstood as driving the outcome. (I know that you understand the importance of perception vs. reality in dealing with this process.)

I'd like to suggest that Marge and I attend the meeting.

In addition, I typically have a kickoff meeting with the panel to discuss the process and responsibilities, so perhaps I can piggyback off of your meeting? If Sherry sets up the meeting in your conference room with VTC, is it possible to ask for another ½ hour that Marge and I can meet with the panel?

Renée

**From:** Leeds, Eric  
**Sent:** Friday, September 06, 2013 8:05 AM  
**To:** Bernhard, Rudolph; Case, Michael; Hill, Brittain  
**Cc:** Wert, Trent; Schwarz, Sherry; Pedersen, Renee  
**Subject:** DPO Panel

Gentlemen –

B145

Thank you all for being willing to serve on the Diablo Canyon seismic DPO Panel. Each of you were distinctly chosen for what you can bring to the team; your independence from the issue and your expertise, experience and past service to the agency.

I'd like to hold a brief, ½ hour meeting to provide the Panel my thoughts on the DPO process and my expectations for your challenge in conducting this review. Sherry Schwarz will arrange the meeting. Rudy, I understand that you will be unavailable for the next few weeks, so we will work based on your schedule and will try to use the VTC for the meeting. All you need to do to prepare for the meeting is to have read the DPO submittal.

Thank you again for your willingness to serve!

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

**Wertz, Trent**

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**From:** Case, Michael  
**Sent:** Monday, November 25, 2013 10:42 AM  
**To:** Leeds, Eric  
**Cc:** Sheron, Brian; West, Steven; Pedersen, Renee; Bernhard, Rudolph; Hill, Brittain; Sewell, Margaret; Wertz, Trent  
**Subject:** RE: Diablo Canyon DPO Update  
**Attachments:** Appendix A.docx

The Statement of Concerns is attached (excuse whatever typos are there. Haven't polished yet).

**From:** Leeds, Eric  
**Sent:** Saturday, November 23, 2013 11:17 AM  
**To:** Case, Michael  
**Cc:** Sheron, Brian; West, Steven; Pedersen, Renee; Bernhard, Rudolph; Hill, Brittain; Sewell, Margaret; Wertz, Trent  
**Subject:** Re: Diablo Canyon DPO Update

Thank so much, Mike! As I mentioned to the team, your work will be highly scrutinized both internally and externally, so doing a thorough job is critical. If you can share the statement of concern that your team developed with agreement from the CI, please send it to me.

I really appreciate the heads up!

Eric

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**From:** Case, Michael  
**To:** Leeds, Eric  
**Cc:** Sheron, Brian; West, Steven; Pedersen, Renee; Bernhard, Rudolph; Hill, Brittain; Sewell, Margaret  
**Sent:** Fri Nov 22 16:04:19 2013  
**Subject:** Diablo Canyon DPO Update

Hi Eric. I just wanted to give you a quick update on the progress on the Diablo Canyon DPO. After the distractions of furloughs, vacations and performance appraisals, I think we have a good head of steam now. We've completed the statement of concerns, and have been primarily in the information gathering phase. Although we still need to gather some more information (including potentially with the licensee), we have a solid outline so we're entering the initial writing phase now. I think there is reasonable alignment among the panel so the struggle is likely to be not what to say, but how to say it.

As you might expect, the professionalism of both my fellow panelist and the folks involved in the Diablo Canyon issue has been outstanding. You're probably wondering about when we are planning to get done. My estimate would be mid-December at this point.

If I don't get to see you, have a great Thanksgiving!

Mike

## **Appendix A:**

### **Statement of Technical Concerns, Derived from Diablo Canyon DPO-2013-002**

- 1) The NRC has not enforced Diablo Canyon Technical Specification requirements that key plant safety equipment remain operable during reactor operation. New seismic information developed by Pacific Gas and Electric concluded that Technical Specification required Structures, Systems and Components (SSCs) can be exposed to greater vibratory motion than was used to qualify this equipment for the facility safe shutdown earthquake (SSE) design basis. For Technical Specification required SSCs to be considered operable, the licensee is required to demonstrate a reasonable assurance that this plant equipment would still be capable of performing the safety functions in accordance with the plant design bases and safety analysis.
- 2) Pacific Gas and Electric's operability evaluation following development of the new seismic information was inadequate. Comparison of the new seismic information only against the Hosgri Event (HE) and Long Term Seismic Program (LTSP) ground motions was not adequate to demonstrate Technical Specification required SSCs were operable. Neither the HE nor the LTSP methods were approved to be used in SSE safety analysis. The HE and LTSP methods over-predicted SSC performance when compared to the SSE design basis methods. Even though the HE and LTSP include higher ground motions, neither of these methods were bounding for plant Technical Specification SSCs seismic qualification. Use of the HE and LTSP ground motions failed to demonstrate that the requirements of the American Society of Mechanical Engineers' (ASME) Boiler and Pressure Vessel Code acceptance limits would be met at the higher ground motions. 10 CFR 50.50a required that ASME acceptance limits be met for plant safety Class 1 and 2 following an SSE. Demonstration that the ASME acceptance limits are met provides assurance that the integrity key plant systems, including the reactor coolant pressure boundary would be maintained following the higher seismic stress levels represented by the new seismic information.
- 3) The NRC has failed to enforce the 10 CFR 50.59 requirements that Pacific Gas and Electric obtain an amendment to the Diablo Canyon Operating License prior to incorporating the Shoreline scenario into the FSARU. A license amendment was required because the change resulted in more than a minimal increase in the likelihood of a malfunction of SSCs important to safety than previously evaluated in the FSARU. A license amendment was also required because this change represents a departure from the FSARU method of evaluation used to establish the seismic SSE design basis. The NRC conclusion that a "reasonable assurance of safety" existed was not an adequate basis to conclude an amendment to the Diablo Canyon Operating License was not required.
- 4) The NRC failed to adequately address the Los Osos and San Luis Bay faults. The new seismic information concluded that these faults were also capable of producing ground motions in excess of the current plant SSE design basis.

**Wertz, Trent**

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**From:** Pedersen, Renee  
**Sent:** Wednesday, November 27, 2013 10:12 AM  
**To:** Wertz, Trent  
**Cc:** Sewell, Margaret; Solorio, Dave; Leeds, Eric  
**Subject:** RE: Diablo Canyon DPO Update

**Importance:** High

Trent,

The ticketing must have slipped through the cracks. In any event, just have Eric send an email (like in the past) to [DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov) requesting an extension.

Include the current due date, the reason for the delay, and the proposed due date. I know that it took longer than expected to establish the panel. Maybe you can include something on that as well as furlough, scheduling issues, etc. Get input from Mike Case on when report will be complete and add 21 days. Although Mike says mid-December, is it realistic with holiday schedules?

Once we have your request, we'll forward iaw with DPO MD guidance.

Renée

P.S. Please be sure to include Marge on your emails because she is attempting to cover day-to-day activities while I work on a special project.

**From:** Wertz, Trent  
**Sent:** Tuesday, November 26, 2013 8:24 AM  
**To:** Pedersen, Renee  
**Subject:** FW: Diablo Canyon DPO Update

Renee,

I talked to Eric about this earlier this morning. Since we don't have a green ticket for the DPO, do we need to request an extension or should we just send a memo to the EDO stating that due to the following reasons the DPO that was originally scheduled to be completed in December will now be finished up in early Feb?

Seems like a better approach.

Let me know what you think.

Thanks,  
Trent

**From:** Leeds, Eric  
**Sent:** Monday, November 25, 2013 4:31 PM  
**To:** Wertz, Trent  
**Subject:** FW: Diablo Canyon DPO Update

Need your help with this – let's discuss! Thanks

**From:** Sewell, Margaret  
**Sent:** Monday, November 25, 2013 4:20 PM  
**To:** Leeds, Eric  
**Cc:** Pedersen, Renee  
**Subject:** FW: Diablo Canyon DPO Update

Hi Eric,

Renée is working on a project today and asked me to follow-up with you on this case. In light of Mike's update below, it's clear that an extension is going to be required. Mike is estimating that the panel report won't be complete until mid-December, which means that your decision should be issued around early January. With the holidays upon us, it may be more realistic to extend your decision to early February....just a thought.

Attached is the original Milestones & Timeliness Goals for your information. Please send us your justification for an extension request along with a new date and we'll be sure to submit it to EDO as soon as possible. We'll look forward to hearing from you.

If you have any questions, just let Renée or me know.

Thanks, Eric.

Marge

**From:** Case, Michael  
**Sent:** Monday, November 25, 2013 10:42 AM  
**To:** Leeds, Eric  
**Cc:** Sheron, Brian; West, Steven; Pedersen, Renee; Bernhard, Rudolph; Hill, Brittain; Sewell, Margaret; Wertz, Trent  
**Subject:** RE: Diablo Canyon DPO Update

The Statement of Concerns is attached (excuse whatever typos are there. Haven't polished yet).

**From:** Leeds, Eric  
**Sent:** Saturday, November 23, 2013 11:17 AM  
**To:** Case, Michael  
**Cc:** Sheron, Brian; West, Steven; Pedersen, Renee; Bernhard, Rudolph; Hill, Brittain; Sewell, Margaret; Wertz, Trent  
**Subject:** Re: Diablo Canyon DPO Update

Thank so much, Mike! As I mentioned to the team, your work will be highly scrutinized both internally and externally, so doing a thorough job is critical. If you can share the statement of concern that your team developed with agreement from the CI, please send it to me.

I really appreciate the heads up!

Eric

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**From:** Case, Michael  
**To:** Leeds, Eric  
**Cc:** Sheron, Brian; West, Steven; Pedersen, Renee; Bernhard, Rudolph; Hill, Brittain; Sewell, Margaret  
**Sent:** Fri Nov 22 16:04:19 2013  
**Subject:** Diablo Canyon DPO Update

Hi Eric. I just wanted to give you a quick update on the progress on the Diablo Canyon DPO. After the distractions of furloughs, vacations and performance appraisals, I think we have a good head of steam now. We've completed the statement of concerns, and have been primarily in the information gathering

phase. Although we still need to gather some more information (including potentially with the licensee), we have a solid outline so we're entering the initial writing phase now. I think there is reasonable alignment among the panel so the struggle is likely to be not what to say, but how to say it.

As you might expect, the professionalism of both my fellow panelist and the folks involved in the Diablo Canyon issue has been outstanding. You're probably wondering about when we are planning to get done. My estimate would be mid-December at this point.

If I don't get to see you, have a great Thanksgiving!

Mike



**Wertz, Trent**

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**From:** Case, Michael  
**Sent:** Wednesday, November 27, 2013 11:36 AM  
**To:** Peck, Michael  
**Cc:** Hill, Brittain; Bernhard, Rudolph; Sewell, Margaret  
**Subject:** DPO Update  
**Attachments:** Appendix A.docx

Attachment may be found as part of document B/46.
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Hi Michael. Happy Thanksgiving. I just wanted to give you a quick update on where we are and what we've been up to. First, attached is the statement of concerns that we're using. We're basically using the markup you provided earlier (there may be typos; my AA had to rekey it in). Since you've been back from leave, we've been mostly talking with other folks related to the DPO so we've done Mike Markley, Neil O'Keefe and Jon Ake. Quite frankly, we're still pulling information related to Diablo. After all, it is about 45 years of history.

Schedule wise, we're not going to make the initial timeline that I think you got when the DPO was initiated. We actually have started to write, but mostly it's just getting background information into the document. As far as estimates on getting our report done, I'm shooting for mid-December. If that turned out to be a final draft, I would be shocked but we have a good chance at a "report with holes" if you are familiar with how SERs are sometimes built.

Britt said you might be in town teaching in December. I'm sure the panel would enjoy meeting with you in person (except for Rudy who is out in Region II). If you have questions about what's going on, feel free to call (although email might be better in some respects. If I have free time, I'll be off working on the DPO which is almost impossible for me to do in my office).

Mike

**Wertz, Trent**

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**From:** Leeds, Eric  
**Sent:** Wednesday, November 27, 2013 12:05 PM  
**To:** DPOPM Resource  
**Cc:** Sewell, Margaret; Pedersen, Renee; Wertz, Trent; Case, Michael  
**Subject:** DPO Extension Request

To Whom It May Concern,

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension for DPO-2013-002.

In particular, please revise the current due date from November 29, 2013 to January 31, 2014.

The schedule has been impacted by several issues including the unavailability of one of the panel members due to prior work and leave commitments, the furlough in October, and the complex nature of the issue.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issues is critical to the success of the process. We have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

Thank you for your consideration of this request.

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

## **Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Tuesday, December 03, 2013 9:15 AM  
**To:** Leeds, Eric  
**Cc:** Pedersen, Renee; Solorio, Dave; Wertz, Trent; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Peck, Michael; Zimmerman, Roy  
**Subject:** FW: Extension Request for DPO-2013-002  
**Attachments:** DPO Extension Request; Milestones and Timeliness Goals.docx  
**Importance:** High

Eric,

Based on the approved subject extension, attached is the new, updated schedule for DPO-2013-002.

If you have any questions, please feel free to contact us.

Thank you.  
Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**From:** Khanna, Meena  
**Sent:** Monday, December 02, 2013 9:19 PM  
**To:** Sewell, Margaret; Pedersen, Renee  
**Cc:** Wertz, Trent  
**Subject:** FW: Extension Request for DPO-2013-002  
**Importance:** High

Just an fyi...thanks!

**From:** Khanna, Meena  
**Sent:** Monday, December 02, 2013 4:28 PM  
**To:** ExtensionRequest, EDO  
**Cc:** Sanfilippo, Nathan  
**Subject:** FW: Extension Request for DPO-2013-002  
**Importance:** High

Denise, I approve NRR's extension request for DPO-2013-002 from Nov 29, 2013 to January 31, 2014.

Thanks,  
Meena

**From:** ExtensionRequest, EDO  
**Sent:** Monday, December 02, 2013 4:22 PM  
**To:** Khanna, Meena

**Subject:** FW: Extension Request for DPO-2013-002  
**Importance:** High

Hi Meena,

For your review and approval.

Thanks,  
Denise

**From:** Sewell, Margaret  
**Sent:** Wednesday, November 27, 2013 1:05 PM  
**To:** ExtensionRequest, EDO  
**Cc:** Khanna, Meena; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
**Subject:** Extension Request for DPO-2013-002  
**Importance:** High

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from November 29, 2013 to January 31, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by several scheduling issues including leave commitments, the Government Shutdown, and the complex nature of the issue.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issue is critical to the success of the process. I have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let me or Renée Pedersen know if you have any questions. Thank you for your consideration of this request and we look forward to hearing from you.

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045

Renée Pedersen  
Office of Enforcement/Concerns Resolution Branch  
Sr. Differing Views Program Manager  
301-415-2742

**Wertz, Trent**

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**From:** Pedersen, Renee  
**Sent:** Friday, January 24, 2014 11:16 AM  
**To:** Leeds, Eric  
**Cc:** Wertz, Trent; Sewell, Margaret  
**Subject:** FW: Status of Diablo Canyon Seismic Issues - DPO-2013-002

**Importance:** High

Eric,

Just a heads up on your DPO. BTW, the Chairman's office referred Diane Curran (Mother for Peace) to me to answer her question about the status of this DPO.

Renée

**From:** Sewell, Margaret  
**Sent:** Friday, January 24, 2014 10:54 AM  
**To:** Case, Michael  
**Cc:** Pedersen, Renee; Solorio, Dave  
**Subject:** Status of Diablo Canyon Seismic Issues - DPO-2013-002  
**Importance:** High

Hi Mike,

We noticed that the projected DPO decision is quickly approaching (1/31/14) and just wanted to touch base to see how the panel is progressing. Do you have an approximate date for finalizing the panel report yet? Can you let us know where you are at this point in the process?

While the DPO guidelines say that Eric will have 21 days to make his final decision after receiving the report, he may need more time to do a thorough review of the report and prepare his decision. Consequently, it seems that another extension will be needed. If you haven't already done so, you may want to reach out to Eric so that he can submit an extension request to us as quickly as possible.

Thanks, Mike, and we'll look forward to hearing from you soon.

Marge

**Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Monday, January 27, 2014 1:34 PM  
**To:** Case, Michael  
**Cc:** Pedersen, Renee; Solorio, Dave; Hill, Brittain; Benney, Brian; Sheron, Brian; Bernhard, Rudolph; Gitter, Joseph; Leeds, Eric; Wertz, Trent  
**Subject:** RE: Status of Diablo Canyon Seismic Issues - DPO-2013-002

Hi Mike,

Thanks very much for the status update. A few questions came to mind as I read your email.

Having Joe Gitter review the final report for a quality/readability check isn't a problem and can certainly add value; however, it's not typically part of the process. Therefore, we want to make sure Michael Peck has been informed of this extra step as well as the additional time involved. Have you discussed it with him yet to make sure he's onboard with the plan?

Also, have you been keeping Michael informed in general of the progress the panel has made and your recommendation to Eric for an extension?

As we've discussed in the past, it's really important to make sure the submitter is aware of the panel's progress, especially any anticipated delays in the final outcome.

If you have any questions, please give Renée (X2742) or me a call. Thanks very much and we'll look forward to receiving the extension request from Eric.

Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**From:** Case, Michael  
**Sent:** Monday, January 27, 2014 9:52 AM  
**To:** Wertz, Trent; Leeds, Eric  
**Cc:** Pedersen, Renee; Solorio, Dave; Sewell, Margaret; Hill, Brittain; Benney, Brian; Sheron, Brian; Bernhard, Rudolph; Gitter, Joseph  
**Subject:** RE: Status of Diablo Canyon Seismic Issues - DPO-2013-002

Good morning gentlemen.

I wanted to give you a status update and unfortunately recommend that we seek another extension. As you may recall, back in December, we had a teleconference with the licensee and requested that they develop some information that would support our DPO analysis. That seems to be the long pole in the tent at this point. They are working on it but have had some challenges due to the holidays and an illness. We have a fully written document at this point except for Concern #2 which I expect relatively shortly. We have also coordinated with Joe Gitter who has kindly agreed to give the report a quality/readability check when we complete it. Summarizing, the major steps remaining are:

Receive licensee information  
Complete drafting of Concern #2  
Factor licensee information into existing writeup  
Write conclusion and recommendation section  
QC review  
Issue

I'll touch base with Brian B. on the licensee information but I would think it would take two weeks from the point that we get it to get to final draft. Joe will try to do his review in about a week.

Sorry for the delay. Among the panel, I think we all have a good grasp of the issue (and the submitter has been very helpful with that) and we seem to see the issues in the same way (although we emphasize different aspects).

**From:** Sewell, Margaret  
**Sent:** Friday, January 24, 2014 10:54 AM  
**To:** Case, Michael  
**Cc:** Pedersen, Renee; Solorio, Dave  
**Subject:** Status of Diablo Canyon Seismic Issues - DPO-2013-002  
**Importance:** High

Hi Mike,

We noticed that the projected DPO decision is quickly approaching (1/31/14) and just wanted to touch base to see how the panel is progressing. Do you have an approximate date for finalizing the panel report yet? Can you let us know where you are at this point in the process?

While the DPO guidelines say that Eric will have 21 days to make his final decision after receiving the report, he may need more time to do a thorough review of the report and prepare his decision. Consequently, it seems that another extension will be needed. If you haven't already done so, you may want to reach out to Eric so that he can submit an extension request to us as quickly as possible.

Thanks, Mike, and we'll look forward to hearing from you soon.

Marge

## **Wertz, Trent**

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**From:** ExtensionRequest, EDO  
**Sent:** Thursday, January 30, 2014 4:59 PM  
**To:** Sewell, Margaret; ExtensionRequest, EDO  
**Cc:** Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Dorman, Dan; Uhle, Jennifer  
**Subject:** RE: Extension Request for DPO-2013-002

OEDO has reviewed and approved the subject extension. The new due date is 03/28/14.

Thanks,  
Denise

**From:** Sewell, Margaret  
**Sent:** Wednesday, January 29, 2014 2:28 PM  
**To:** ExtensionRequest, EDO  
**Cc:** Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Peck, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Dorman, Dan; Uhle, Jennifer  
**Subject:** Extension Request for DPO-2013-002

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from January 31, 2014 to March 28, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by several issues including the development of information from the licensee (which has been delayed due to the holidays and an illness), addition of a peer review of the information, and the complex nature of the issue.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issue is critical to the success of the process. I have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let me or Renée Pedersen know if you have any questions. Thank you for your consideration of this request and we look forward to hearing from you.

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)



**Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Friday, January 31, 2014 9:32 AM  
**To:** Leeds, Eric  
**Cc:** Brock, Kathryn; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Case, Michael; Peck, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
**Subject:** Extension Request for DPO-2013-003  
**Attachments:** RE: Extension Request for DPO-2013-002; Milestones and Timeliness Goals.docx

Eric,

OEDO has approved the subject extension request (see attached email). Based on OEDO's approval, the new due date is 3/28/2014. Attached is the updated Milestones & Timeliness Goals for DPO-2013-002.

If you have any questions, please feel free to contact Renée or me.

Thank you.  
Marge

B154

## **Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Monday, February 10, 2014 4:23 PM  
**To:** Leeds, Eric  
**Cc:** Case, Michael; Wertz, Trent; Pedersen, Renee; Solorio, Dave  
**Subject:** FW: FOIA 2014-0134 has been rec'd about a DPO  
**Attachments:** 2014-0134-r.pdf; RE: FOIA 2014-0134 has been rec'd about a DPO  
**Importance:** High

FOIA-2014-0134 is publicly available as  
ML14035A435.

Hi Eric,

We just wanted to give you a heads-up that Michael Peck has submitted the FOIA request below to publicly release his Diablo Canyon Seismic Issues DPO prior to the case closing (i.e., issuance of the management decision). I think you're aware that there has been previous external interest in this case and just wanted to make you aware.

Of course, we provided the attached email explaining that it is premature to publicly release the DPO at this time.

Thanks!  
Marge (& Renée)

**From:** FOIAPAOE Resource  
**Sent:** Friday, February 07, 2014 9:01 PM  
**To:** Pedersen, Renee; Sewell, Margaret  
**Subject:** FOIA 2014-0134 has been rec'd about a DPO  
**Importance:** High

Hi Renee and Marge,

A FOIA has been rec'd from Michael Peck requesting that his DPO ADAMS Pkg ML13213A248 be made publicly available (see attached PDF of incoming FOIA).

To summarize:

On pg 2 of the incoming he says: "As the author of the DPO, I have expert understanding of the issues raised in the document.

External stockholders, including members of Congress, have expressed an interest in the issues raised in the DPO. Release of the DPO will provide clarity to the public understanding of issues affecting nuclear and seismic safety at Diablo Canyon.

This DPO raised immediate operability concerns related to important to safety plant equipment required by the facility Technical Specifications and the operating license. This DPO was submitted on July 18, 2013 but still remains unresolved by the agency. I request the DPO be released prior to final disposition by the DPO Panel due to the length of time these potential safety significant outstanding issues remained unresolved."

I'm thinking that premature release of this would be contrary to the DPO Mgmt Dir. Pls let me know ASAP if we can make this public or how we can respond to this. (I'm working a late to make up some time. OE has rec'd sev'l FOIAs in the past few days.)

## **Wertz, Trent**

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**From:** Case, Michael  
**Sent:** Friday, February 28, 2014 12:58 PM  
**To:** Peck, Michael  
**Cc:** Bernhard, Rudolph; Hill, Brittain; Wertz, Trent; Sewell, Margaret  
**Subject:** Latest Update

Hello Michael. I just wanted to give you a status update. PG&E finished up some additional information for us and Brett and I are flying out to take a look at it Tuesday of next week. The panel has pretty much drafted our report with some open items to write up what we found in this additional information. So we're not done but making some good progress.

Maybe we can hook up Monday and touch base.

**Wertz, Trent**

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**From:** Wertz, Trent  
**Sent:** Tuesday, March 25, 2014 8:32 AM  
**To:** Case, Michael  
**Subject:** RE: DPO Status

Understand. I'll suggest to Eric that he request an extension until April 18. He did mention that he wants to have a meeting with you to discuss the report, possibly even before you send it to him formally. Maybe the afternoon of 4/1 or 4/2 (those are the next free times he has on his calendar).

**From:** Case, Michael  
**Sent:** Tuesday, March 25, 2014 7:30 AM  
**To:** Wertz, Trent  
**Cc:** Hill, Brittain; Bernhard, Rudolph; Sewell, Margaret  
**Subject:** RE: DPO Status

Hi Trent. Thanks for your patience. Let me update you on where I think we are. We are working on resolving some comments from Joe Gitter who did an informal review of our report as Eric had suggested. Best case, if we don't have any scheduling issues and alignment issues, I think we could have the report to Eric by Friday. Worst case, it would be a week from Friday.

I'm not sure wrt time how long Eric will need to take to review the report and finalize his decision. The report itself is about 20 pages so it's not huge. We would be available to walk him through it if that would be helpful. I think Margaret has some ballpark time frames from the MD on this part of the process. I think it's about 2 weeks but I could be wrong.

**From:** Wertz, Trent  
**Sent:** Monday, March 24, 2014 1:28 PM  
**To:** Case, Michael  
**Subject:** DPO Status

Mike,

Given that the due date is this Friday, what would you project as a reasonable extension date? Perhaps a couple of weeks past the time you project Eric receiving the panel report?

Thoughts?

Thanks,

Trent L. Wertz  
Technical Assistant  
Office of Nuclear Reactor Regulation  
301-415-1568  
[trent.wertz@nrc.gov](mailto:trent.wertz@nrc.gov)

**Wertz, Trent**

---

**From:** Wertz, Trent  
**Sent:** Tuesday, March 25, 2014 8:41 AM  
**To:** Leeds, Eric  
**Subject:** DPO Extension Request

Eric,

Here is a draft for the DPO extension request. You'll need to send it to DPOPM Resource and copy Marge Sewell, Renee Pedersen, Mike Case, and myself.

To Whom It May Concern,

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension for DPO-2013-002.

In particular, please revise the current due date from March 28, 2014 to April 18, 2014.

The schedule has been impacted by the complex nature of the issue and the need to gather information from the licensee.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issues is critical to the success of the process. We have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

Thank you for your consideration of this request.

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

**From:** Markley, Michael  
**To:** Mullins, Charles  
**Cc:** Oesterle, Eric; Bamford, Peter; Lyon, Fred  
**Subject:** RE: Documents for the lawsuit  
**Date:** Monday, November 24, 2014 12:37:00 PM

---

This is a holiday week. Sorry...

My availability is only before 1:00 pm. I am going to grab some lunch but will be back in a few minutes. I have meetings:

1-2:00pm  
1:30-3:30pm  
3:00-4:00pm

Have you checked with Rene Pedersen in OE? She was the DPO manager.

I am confused by the process we are in now. These documents are all in ADAMs, except possibly e-mail. Are these official requests under "discovery"?

For the FSAR revision 21. You would need to check with Peter Bamford. Fred Lyon will be back tomorrow.

Mike

---

**From:** Mullins, Charles  
**Sent:** Monday, November 24, 2014 12:22 PM  
**To:** Markley, Michael  
**Subject:** Documents for the lawsuit

Michael;

The petitioners want to include a list of documents in the record of the case. Do you have a few minutes this afternoon to discuss them?

Chuck

---

**From:** John Bernetich [<mailto:bernetichj@ayreslawgroup.com>]  
**Sent:** Monday, November 24, 2014 12:01 PM  
**To:** Mullins, Charles  
**Cc:** Richard E. Ayres; Jessica Olson  
**Subject:** Re: My current view of the Record

Chuck,

We intend to ask for the following documents:

1. Two inspection reports cited in the June 23, 2014 memo from Peter Bamford to Michael Markley (IR 2012004, IR 2011005)
2. A "change report" submitted by PG&E to accompany its submission of FSAR Revision 21

B/59

(in addition to the cover letter)

3. Documents cited by Dr. Peck in his appeal of the Panel Report issued in DPO-2013-002
4. Any documents related to a 50.59 review prepared for Revision 21, including emails between PG&E and NRC, and between NRC Staff members

In addition, we do not agree with your suggestion that the documents from the de facto licensing proceeding before the Commission should be included in the record for the Court of Appeals on the Revision 21 issue.

Thanks,  
John

--

John Bernetich  
Associate Attorney  
Ayres Law Group LLP  
Ph: (202) 452-9200  
Dir: (202) 416-0241  
[www.ayreslawgroup.com](http://www.ayreslawgroup.com)

On Nov 24, 2014, at 10:40 AM, Mullins, Charles <[Charles.Mullins@nrc.gov](mailto:Charles.Mullins@nrc.gov)> wrote:

Ok. While we are at it, if you guys have anything to suggest for the Record, I would appreciate a head's up so I can take a look at it before we speak.

**From:** John Bernetich [<mailto:bernetichj@ayreslawgroup.com>]  
**Sent:** Monday, November 24, 2014 10:38 AM  
**To:** Mullins, Charles  
**Subject:** Re: My current view of the Record

Chuck: just to confirm, we'll await your call at 2pm this afternoon.

Thanks,  
John

--

John Bernetich  
Associate Attorney  
Ayres Law Group LLP  
Ph: (202) 452-9200  
Dir: (202) 416-0241  
[www.ayreslawgroup.com](http://www.ayreslawgroup.com)

On Nov 21, 2014, at 5:04 PM, Mullins, Charles  
<[Charles.Mullins@nrc.gov](mailto:Charles.Mullins@nrc.gov)> wrote:

I will do my best to be available then. I will let you know if

something comes up.

**From:** John Bernetich [<mailto:bernetichj@ayreslawgroup.com>]  
**Sent:** Friday, November 21, 2014 4:59 PM  
**To:** Mullins, Charles  
**Cc:** Richard E. Ayres; Jessica Olson  
**Subject:** Re: My current view of the Record

Chuck,

Thanks for sending this over. Are you free to talk about the record and scheduling matters on the phone at 2pm on Monday? You can call Dick at 202-452-9200 x1.

--  
John Bernetich  
Associate Attorney  
Ayres Law Group LLP  
Ph: (202) 452-9200  
Dir: (202) 416-0241  
[www.ayreslawgroup.com](http://www.ayreslawgroup.com)

On Nov 21, 2014, at 4:36 PM, Mullins, Charles  
<[Charles.Mullins@nrc.gov](mailto:Charles.Mullins@nrc.gov)> wrote:

John;

This reflects my current view of the record in this case  
– the documents related to Rev 21 and the documents  
pending before the Commission.

Obviously, if you guys think I should add some more, I  
will take a look at them.

Have a good weekend.

Chuck  
<14-1213(D.C.Cir.)CurrentRecord.pdf>



## **Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Tuesday, March 25, 2014 9:23 AM  
**To:** Case, Michael  
**Cc:** Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Pedersen, Renee; Solorio, Dave; Leeds, Eric  
**Subject:** RE: DPO Status  
**Attachments:** Milestones and Timeliness Goals.docx; Eric's DPO Extension request.txt

Mike,

Thanks for the update and estimate on getting the report to Eric. The Milestones & Timeliness goals (see attached) allow for 21 days after receiving the report for Eric to issue his decision, which is scheduled for Fri., 3/28. Obviously, this isn't going to happen based on your estimates for submitting the panel report to Eric.

So in your best case scenario, Eric would need to issue his decision on 4/18. In your worst case scenario, 4/25 would be the issue date. Either way, an extension is going to be needed. In order to allow for any scheduling issues, etc., I would recommend requesting an extension to 4/25 or maybe even the end of April just to make sure Eric has enough time to thoroughly evaluate the report before making his final decision.

Please ask Eric to submit his extension request as quickly as possible, so that we can submit to EDO for approval.

For your convenience, I'm attaching the Eric's last extension request submitted on 1/29.

Please call if you have any questions. Thanks, again, and we'll look forward to receiving the request!

Marge (& Renée)

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**From:** Case, Michael  
**Sent:** Tuesday, March 25, 2014 7:30 AM  
**To:** Wertz, Trent  
**Cc:** Hill, Brittain; Bernhard, Rudolph; Sewell, Margaret  
**Subject:** RE: DPO Status

The entire email string may be found  
as document B/63.

Hi Trent. Thanks for your patience. Let me update you on where I think we are. We are working on resolving some comments from Joe Glitter who did an informal review of our report as Eric had suggested. Best case, if we don't have any scheduling issues and alignment issues, I think we could have the report to Eric by Friday. Worst case, it would be a week from Friday.

I'm not sure wrt time how long Eric will need to take to review the report and finalize his decision. The report itself is about 20 pages so it's not huge. We would be available to walk him through it if that would be helpful. I think Margaret has some ballpark time frames from the MD on this part of the process. I think it's about 2 weeks but I could be wrong.

**Wertz, Trent**

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**From:** Leeds, Eric  
**Sent:** Tuesday, March 25, 2014 10:56 AM  
**To:** DPOPM Resource  
**Cc:** Sewell, Margaret; Pederson, Cynthia; Case, Michael; Wertz, Trent  
**Subject:** DPO Extension request

To Whom It May Concern,

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension for DPO-2013-002.

In particular, please revise the current due date from March 28, 2014 to April 30, 2014.

The schedule has been impacted by the complex nature of the issue and the need to gather information from the licensee.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issues is critical to the success of the process. We have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

Thank you for your consideration of this request.

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

**Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Tuesday, March 25, 2014 4:24 PM  
**To:** ExtensionRequest, EDO  
**Cc:** Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Case, Michael; Case, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
**Subject:** Extension Request for DPO-2013-002  
**Attachments:** DPO Extension request; Milestones and Timeliness Goals.docx

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from March 28, 2014 to April 30, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by the complex nature of the issue and the need to gather information from the licensee.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issue is critical to the success of the process. I have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let me or Renée Pedersen know if you have any questions. Thank you for your consideration of this request and we look forward to hearing from you.

Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**Wertz, Trent**

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**From:** Case, Michael  
**Sent:** Wednesday, March 26, 2014 7:24 AM  
**To:** Hill, Brittain; Bernhard, Rudolph  
**Cc:** Wertz, Trent  
**Subject:** FW: DPO Status

Hi guys. How's your availability on April 1<sup>st</sup> or 2<sup>nd</sup> afternoon (Briit, I think you said you were out). Trent, I'm available both days. Probably April 1<sup>st</sup> would be preferred.

**From:** Wertz, Trent  
**Sent:** Tuesday, March 25, 2014 8:32 AM  
**To:** Case, Michael  
**Subject:** RE: DPO Status

Understand. I'll suggest to Eric that he request an extension until April 18. He did mention that he wants to have a meeting with you to discuss the report, possibly even before you send it to him formally. Maybe the afternoon of 4/1 or 4/2 (those are the next free times he has on his calendar).

**From:** Case, Michael  
**Sent:** Tuesday, March 25, 2014 7:30 AM  
**To:** Wertz, Trent  
**Cc:** Hill, Brittain; Bernhard, Rudolph; Sewell, Margaret  
**Subject:** RE: DPO Status

Hi Trent. Thanks for your patience. Let me update you on where I think we are. We are working on resolving some comments from Joe Giitter who did an informal review of our report as Eric had suggested. Best case, if we don't have any scheduling issues and alignment issues, I think we could have the report to Eric by Friday. Worst case, it would be a week from Friday.

I'm not sure wrt time how long Eric will need to take to review the report and finalize his decision. The report itself is about 20 pages so it's not huge. We would be available to walk him through it if that would be helpful. I think Margaret has some ballpark time frames from the MD on this part of the process. I think it's about 2 weeks but I could be wrong.

**From:** Wertz, Trent  
**Sent:** Monday, March 24, 2014 1:28 PM  
**To:** Case, Michael  
**Subject:** DPO Status

Mike,

Given that the due date is this Friday, what would you project as a reasonable extension date? Perhaps a couple of weeks past the time you project Eric receiving the panel report?

Thoughts?

Thanks,

Trent L. Wertz  
Technical Assistant

**Wertz, Trent**

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**From:** Sewell, Margaret  
**Sent:** Friday, March 28, 2014 12:28 PM  
**To:** Leeds, Eric  
**Cc:** Case, Michael; Peck, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Foster, Jack; Brock, Kathryn  
**Subject:** Approved Extension Request - DPO-2013-003  
**Attachments:** RE: Extension Request for DPO-2013-002; Milestones and Timeliness Goals.docx

Eric,

OEDO has approved the subject extension request (see attached email). Based on OEDO's approval, the new due date is 4/30/2014. Attached is the updated Milestones & Timeliness Goals for DPO-2013-002.

If you have any questions, please feel free to contact Renée or me.

Thanks!  
Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**Wertz, Trent**

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**From:** Case, Michael  
**Sent:** Tuesday, April 01, 2014 7:21 AM  
**To:** Peck, Michael  
**Cc:** Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Sewell, Margaret  
**Subject:** DPO Status Update

Hi Michael. I'm doing a rotation in the next couple of days down at IP so things are a bit crazy. I just wanted to keep you up to speed on status. We very close to being done on our piece of the process. Eric has asked us for a status briefing of where we are and we are scheduled to do that today. Unless there are some surprises from that meeting, we would expect to sign out the panel report shortly thereafter.

When we send it to Eric, we also send copies to you (and a few other folks). That will give you an opportunity to review it and then maybe we can schedule some time with you and the panel to field some questions. Eric has about 3 weeks before he issues his decision (I think they are targeting the end of April)

**Wertz, Trent**

---

**From:** Pedersen, Renee  
**Sent:** Tuesday, April 08, 2014 11:45 AM  
**To:** Leeds, Eric  
**Cc:** Wertz, Trent; Sewell, Margaret; Solorio, Dave  
**Subject:** RE: I've received the draft Diablo Canyon DPO report - EOM  
**Attachments:** DPO Decision.doc

Eric,

For your convenience, here is a template for the decision.

Renée

**From:** Leeds, Eric  
**Sent:** Tuesday, April 08, 2014 10:55 AM  
**To:** Case, Michael  
**Cc:** Wertz, Trent; Pedersen, Renee  
**Subject:** I've received the draft Diablo Canyon DPO report - EOM

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

## DPO Decision Template/Instructions

MEMORANDUM TO: DPO Submitter

FROM: OD or RA

SUBJECT: DIFFERING PROFESSIONAL OPINION DECISION INVOLVING (ISSUE)  
(DPO-YYYY-NNN)

### GENERAL INSTRUCTIONS:

The DPO Decision should be a factual discussion focused on the DPO and the decision (including the rationale for the decision). It should not include personnel performance type issues. If these issues are necessary to be addressed, they should be addressed separately. Although the DPO Decision is being issued to the individual employee, the submitter may request that the DPO case file be made public. Therefore, the DPO Decision has the ability to affect and/or influence the entire staff and the NRC's public image.

The format of the DPO Decision is meant to be flexible to accommodate each unique DPO. For example, some DPOs include multiple issues. The DPO Panel's report may include conclusions and recommendations that do not align with each DPO concern. The format of the DPO Decision may be influenced by whether the OD or RA agrees or disagrees with all the conclusions, or whether the OD or RA agrees with some conclusions and disagrees with others.

Regardless of specific formatting, the DPO Decision should address the following elements:

Introduction/purpose: identify (1) issue and date of DPO submittal; (2) date DPO Panel was established; (3) date(s) (or statement) that DPO Panel met with submitter to establish a concise statement of the submitter's concern(s); (4) date (or statement) that submitter approved statement of concern(s).

Statement of how the decision was made, e.g., after reviewing the DPO Panel's report, meeting with the DPO Panel, meeting with the submitter, meeting with the staff, reviewing the submitter's



comments on the DPO Panel's report.

List of Concern(s)

DPO Panel conclusion(s)

DPO Panel recommendation(s)

Decision

Rationale

Closing statement thanking the submitter for raising the concern(s).

Notification that a summary of the DPO will be included in the Weekly Information Report to advise interested employees of the outcome when the case is closed.

Notification that the submitter will be included on correspondence involving the development/listing of followup actions and implementation schedules.

cc: DPOPM

Backup DPOPM

Director, OE

DPO Panel members

**ADAMS DOCUMENT PROCESSING INSTRUCTIONS:**

Use DPO ADAMS template OE-011

Name of record=DPO Decision

Document type= Differing Professional Opinion Case File

Case/reference number=DPO-YYYY-NNN

Keyword=OE-011

Make the record non-public

Limit viewers to those NRC employees on distribution and provide owner rights to "DPO Staff"

Declare the document as an OAR

Send email to [DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov) with the ML # so that we can file the record in the ADAMS DPO Case Files folder for the specific DPO

**Wertz, Trent**

---

**From:** Wertz, Trent  
**Sent:** Tuesday, April 29, 2014 12:35 PM  
**To:** Leeds, Eric  
**Subject:** DPO Extension request

Eric,

Suggested wording for the DPO extension request. Please edit and send to DPOPM Resource and copy Marge Sewell, Mike Case, and myself.

To Whom It May Concern,

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension for DPO-2013-002.

In particular, please revise the current due date from April 30, 2014 to May 30, 2014.

The schedule has been impacted by the complex nature of the issue, the need to gather information from the licensee, and competing schedule commitments.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issues is critical to the success of the process. We have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

Thank you for your consideration of this request.

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270

**Wertz, Trent**

---

**From:** Sewell, Margaret  
**Sent:** Tuesday, April 29, 2014 5:30 PM  
**To:** ExtensionRequest, EDO  
**Cc:** Brock, Kathryn; Leeds, Eric; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Campbell, Andy; Case, Michael; Peck, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent  
**Subject:** DPO-2013-002 - Extension Request  
**Attachments:** DPO extension request.; Milestones and Timeliness Goals.docx

In accordance with Management Directive 10.159, Handbook (D)(5)(b), DPOs are expected to be completed within 120 days and the 120-day time frame may only be extended with the approval of the EDO through the DPOPM for offices that report to the EDO.

The purpose of this email is to request an extension on behalf of Eric Leeds, Director, Office of Nuclear Reactor Regulation, for DPO-2013-002.

In particular, please revise the current due date from April 30, 2014 to May 30, 2014.

I am attaching Eric Leeds' extension request. The schedule has been impacted by the complex nature of the issue, the need to gather information from the licensee, and competing schedule commitments.

The DPO process affords employees an opportunity to have their views expressed to and considered by high level managers. Ensuring that managers have sufficient time to fully consider the issue is critical to the success of the process. I have reviewed the extension request and think that it is reasonable and consistent with the goals of the DPO Program.

I am also including the current Milestones and Timeliness Goals for this case.

Please let us know if you have any questions. Thank you for your consideration of this request and we look forward to hearing from you.

Marge Sewell  
Safety Culture Specialist  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

Renée Pedersen  
Sr. Differing Views Program Manager  
301-415-2742  
[Renee.pedersen@nrc.gov](mailto:Renee.pedersen@nrc.gov)

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**Wertz, Trent**

---

**From:** Sewell, Margaret  
**Sent:** Friday, May 09, 2014 4:21 PM  
**To:** Leeds, Eric  
**Cc:** Case, Michael; Peck, Michael; Hill, Brittain; Bernhard, Rudolph; Wertz, Trent; Pedersen, Renee; Solorio, Dave; Zimmerman, Roy; Foster, Jack; Weil, Jenny  
**Subject:** Approved Extension Request - DPO-2013-002  
**Attachments:** STARS OEDO Office Notification (OEDO-14-00211-NRR); Milestones and Timeliness Goals.docx

Eric,

OEDO has approved the subject extension request (see attached email). Based on OEDO's approval, the new due date is May 30, 2014. Attached is the updated Milestones & Timeliness Goals for DPO-2013-002.

If you have any questions, please feel free to contact Renée or me.

Thanks!  
Marge

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

## DPO Milestones and Timeliness Goals

DPO-2013-002: Diablo Canyon Seismic Issues

Assigned to: Eric Leeds, NRR

DPO Panel: Michael Case, Panel Chair;  
Britt Hill, Panel Member; Rudolph Bernhard, Panel Member

DPO Milestone	Timeliness Goals*	Actual Date
Individual submits DPO (NRC Form 680)	None	7/19/2013
DPOPM receives, screens, and accepts DPO	8 days	7/31/2013
DPOPM forwards DPO to office manager	7 days	8/2/2013
Office manager establishes DPO Panel	14 days	9/3/2013
DPO Panel conducts review and issues report <ul style="list-style-type: none"> <li>- meets with submitter (≈7 days)</li> <li>- establishes Statement of Concern (≈7 days)</li> <li>- confirms schedule with office manager (≈7 days)</li> <li>- completes review (≈ 49 days after start of review)</li> <li>- writes report (≈21 days after completion of review)</li> </ul>	70 days	
Office manager issues DPO Decision	21 days	5/29/2014
<b>DPO TIMELINESS GOAL</b> (time from acceptance of DPO to DPO Decision)	120 days 11/29/2013 1/31/2014 (1) 3/28/2014 (2) 4/30/2014 (3) 5/30/2014 (4)	302 days

\*The timeframes for completing process milestones are identified strictly as goals—a way of working towards reaching the Differing Professional Opinions (DPO) timeliness goal of 120 calendar days.

Office managers should e-mail requests for extension beyond the 120-day timeframe to [DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov) and the DPOPM will forward the request to the EDO with a recommendation.

- (1) New Schedule approved by EDO 12/3/2013. Extension due to several scheduling issues including leave commitments, the Government Shutdown, and the complex nature of the issue.
- (2) New Schedule approved by EDO 1/30/2014. Extension due to development of information from the licensee (which has been delayed due to the holidays and an illness), addition of a peer review of the information, and the complex nature of the issue.

(3) New Schedule approved by EDO 3/28/2014. Extension due to complex nature of issue and need for Panel to gather information from the licensee.

(4) New schedule approved by EDO 5/9/2014. The schedule has been impacted by the complex nature of the issue, the need to gather information from the licensee, and competing schedule commitments.

<b>DPO Appeal Milestone</b>	<b>Timeliness Goals*</b>	<b>Actual Date</b>
Individual submits DPO Appeal (NRC Form 690)	NLT 21 days of DPO Decision	6/23/2014
DPOPM screens, accepts, and requests statement of views from OD or RA	4 days	6/24/2014
OD or RA provides statement of views to DPOPM	14 days	6/27/2014
DPOPM provides DPO appeal package to EDO	2 days	7/7/2014
EDO issues DPO Appeal Decision	30-60 days	9/9/2014
<b>DPO APPEAL TIMELINESS GOAL</b> (time from acceptance of appeal to DPO Appeal Decision)	50-80 days	77 days

\*The timeframes for completing process milestones are identified strictly as goals—a way of working towards reaching the DPO appeal timeliness goal of 80 calendar days.



## Wertz, Trent

**From:** Sewell, Margaret  
**Sent:** Tuesday, May 13, 2014 2:54 PM  
**To:** Wertz, Trent  
**Subject:** DPO-2013-002 Submittal & Panel Report

Trent,

Got your voicemail. Here's the ADAMS link to the documents you're looking for as well as a screen shot. So, it looks like everything is there and you have viewer rights. Just let me know if you have any other questions.

p.s. thanks so much for attending the OCWE Champion mtg. this morning. It was good to finally meet you in person!

<https://adamsxt.nrc.gov/WorkplaceXT/Browse.jsf>

FileNet Workplace XT - Browse - Microsoft Internet Explorer provided by USNRC

<https://adamsxt.nrc.gov/WorkplaceXT/Browse.jsf>

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FileNet Workplace XT - Browse

**ADAMS** FileNet Workplace XT

Tools

Actions

Name	Accession Number	Official Record?	Availability
Differing Professional Opinion Report On Diablo Canyon Seismic Issues (DPO-2013-002)	ML14093A008	Yes	Non-Publicly Available
DPO 2013 002, Differing Professional Opinion Involving Diablo Canyon Seismic Issues	ML13213A248	Yes	Non-Publicly Available
DPO-2013-002 - Ad Hoc Review Panel - Differing Professional Opinion Involving Seismic Issues at Diablo Canyon	ML13242A305	Yes	Non-Publicly Available

- DPO-2008-002
- DPO-2009-001
- DPO-2010-001
- DPO-2011-001
- DPO-2011-002
- DPO-2012-001
- DPO-2012-002
- DPO-2012-003
- DPO-2013-001
- DPO-2013-002
- DPO-2014-001
- EDO Congressional Materials
- EDO Office Operating Plans
- ELECTRONIC DOCKET-OTHEI
- ELECTRONIC DOCKET-CLOSE
- ELECTRONIC DOCKET-NON-P
- ELECTRONIC DOCKET-OFFICI
- ELECTRONIC REGULATORY
- ELECTRONIC RULEMAKING C
- EMPLOYEE PERSONAL FOLDI
- ERCT

Local intranet | Protected Mode: Off

Marge Sewell  
Safety Culture Specialist  
Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**Wertz, Trent**

---

**From:** Cho, Esther  
**Sent:** Tuesday, May 20, 2014 10:49 AM  
**To:** Wertz, Trent  
**Subject:** RE: DPO Memo

Good Morning,

I have added the document in ADAMS and provided OE, Renee Pedersen, and yourself "owner" rights to the document.

The Accession No. is as follows:

- ML14140A225 – Differing Profession Opinion Involving Seismic Issues at Diablo Canyon (DPO-2013-002)

I also left a hard copy for you on your chair. Please let me know if there is anything else I can assist you with. Thank you!

Sincerely,  
Esther Cho

**From:** Wertz, Trent  
**Sent:** Tuesday, May 20, 2014 9:38 AM  
**To:** Cho, Esther  
**Subject:** DPO Memo

Attached.

Trent L. Wertz  
Technical Assistant  
Office of Nuclear Reactor Regulation  
301-415-1568  
[trent.wertz@nrc.gov](mailto:trent.wertz@nrc.gov)

## **Wertz, Trent**

---

**From:** Pedersen, Renee  
**Sent:** Thursday, May 22, 2014 9:12 AM  
**To:** Leeds, Eric  
**Cc:** Wertz, Trent; Sewell, Margaret; Solorio, Dave; Zimmerman, Roy  
**Subject:** Diablo Canyon DPO  
  
**Importance:** High

Eric,

I just wanted to pass this on to you. This reinforces my recommendation to you to consider a communication plan, which would bring OPA in. In addition, we will pass the DPO Decision on to senior management and the Commission to keep them informed because we delay the WIR until the process is complete (which could take time if the submitter appeals). (Lesson learned from previous DPO).

Trent,

On an administrative note, include Dave Skeen on distribution for the DPO Decision. Declare as non-public and limit view rights to those on distribution, including "DPO Staff" as a viewer and email the ADAMS ML to [DPOPM.Resource@nrc.gov](mailto:DPOPM.Resource@nrc.gov).

Please let us know if you have any questions or if there is something that we can do to support you.

*We're here to help!*

Renée & Marge

P.S. Starting next week, I will be out for 2 weeks (I know--unbelievable), so if you need assistance, please contact Marge or Dave Solorio.

**From:** Pedersen, Renee  
**Sent:** Thursday, May 22, 2014 8:54 AM  
**To:** McIntyre, David  
**Cc:** Sewell, Margaret; Solorio, Dave  
**Subject:** RE: DPO Process

Dave,

Two wrongs don't make a right. We are still in a predecisional process and should not release or discuss documents until the process is complete and records are reviewed iaw for procedures for discretionary release.

When Eric Leeds issues the DPO Decision on Diablo Canyon, we will notify the submitter of his right to appeal the decision and will remind him our policy on not releasing predecisional information to the public.

Renée

**From:** McIntyre, David  
**Sent:** Thursday, May 22, 2014 8:40 AM  
**To:** Pedersen, Renee  
**Cc:** Sewell, Margaret  
**Subject:** RE: DPO Process

Thanks, Renee. If the submitter leaks it to the press (he has already been in touch with an AP reporter in California), are we then free to discuss it?

**From:** Pedersen, Renee  
**Sent:** Wednesday, May 21, 2014 5:11 PM  
**To:** McIntyre, David  
**Cc:** Sewell, Margaret  
**Subject:** RE: DPO Process

The DPO Decision is part of the DPO Case file which does not go public (if the submitter wants and it has been screened by management) until the process is complete. The DPO process is complete if the employee does not appeal the decision or after the EDO issues a decision on the appeal.

This is why we wait until the process is complete before we put a summary in the WIR.

Renée

**From:** McIntyre, David  
**Sent:** Wednesday, May 21, 2014 3:48 PM  
**To:** Pedersen, Renee  
**Subject:** DPO Process

Hi Renee – when a DPO decision is signed by an office director, how does it become public? Five days later in ADAMS?

Thanks,  
Dave

**Wertz, Trent**

---

**From:** Cho, Esther  
**Sent:** Thursday, May 22, 2014 10:17 AM  
**To:** DPOPM Resource  
**Cc:** Wertz, Trent; Pedersen, Renee  
**Subject:** Diablo Canyon DPO

Good Morning,

On behalf of the NRR Front Office, I have made adjustments to the distribution and viewer permissions of the Diablo Canyon DPO as requested.

The ADAMS Accession No. is as follows:

- ML14140A225 – Differing Profession Opinion Involving Seismic Issues at Diablo Canyon (DPO-2013-002)

Please let me know if there is anything else I can assist you with. Thank you. Have a great day!

Sincerely,  
Esther Cho

Contract Administrative Assistant  
U.S. Nuclear Regulatory Commission  
NRR/DPR/MSD, Location: O-13H18  
Main: 301-415-2239 Direct: 301-415-0618  
[Esther.Cho@nrc.gov](mailto:Esther.Cho@nrc.gov)

## Wertz, Trent

---

**From:** Leeds, Eric  
**Sent:** Thursday, May 22, 2014 11:23 AM  
**To:** Dapas, Marc; Reynolds, Steven  
**Cc:** Dricks, Victor; Burnell, Scott; McIntyre, David; Johnson, Michael; Dorman, Dan; Uhle, Jennifer; Evans, Michele; Lund, Louise; Flanders, Scott; Cook, Christopher; Wertz, Trent; Kennedy, Kriss; Schwarz, Sherry; Case, Michael  
**Subject:** FW: Heads up!!!! Belay my last on Diablo Canyon

Folks –

Marc and I discussed the issue this morning and I need to reflect on what I heard before I issue my decision. I still plan to issue the decision this month – certainly by the end of next week. I appreciate everyone's attention on this matter and your interest in being prepared to discuss the issue in a public forum once the DPO submitter grants release of the information. I will let everyone know if anything changes with regard to my proposed key messages.

Sorry for any confusion.

Eric

**From:** Leeds, Eric  
**Sent:** Wednesday, May 21, 2014 1:26 PM  
**To:** Dapas, Marc; Reynolds, Steven  
**Cc:** Dricks, Victor; Burnell, Scott; McIntyre, David; Johnson, Michael; Dorman, Dan; Uhle, Jennifer; Evans, Michele; Lund, Louise; Flanders, Scott; Cook, Christopher; Wertz, Trent; Kennedy, Kriss; Schwarz, Sherry  
**Subject:** Heads up!!!! Diablo Canyon DPO on seismic

RIV –

Heads up. I'm planning on signing out my decision on the DPO involving seismic issues at Diablo Canyon by COB tomorrow, Thursday May 22. We will send everyone on concurrence for this email a copy of the final letter. Obviously, we expect stakeholder interest in the issue, so I am providing you some high level key messages for external (and internal) stakeholders.

Key messages:

- The DPO Panel, a group of three independent staff members who have NOT worked on the seismic issues at Diablo Canyon previously (and one of which had been recommended by the DPO submitter), concluded that there is not a significant or immediate safety concern regarding the seismic design of the Diablo Canyon Nuclear Power Plant (DCNPP). The Director of the Office of Nuclear Reactor Regulation has concluded that this is not a safety significant issue as independent groups have verified that the most recent seismic information is bounded by the existing analysis for DCNPP.
- The NRC is currently re-evaluating the seismic hazards at all the nuclear power plants in the US, as part of its response to the accident at the Fukushima Dai-ichi nuclear power plant. The Diablo Canyon plant is required to provide its response to the re-evaluation in March 2015.
- In order to clarify the regulatory process in this area, the NRC is committed to revise its formal regulatory guidance for evaluating new information on natural hazards, including new seismic information, as part of its response to the Fukushima accident.

Let me know if you have any questions.

Eric J. Leeds  
Director, Office of Nuclear Reactor Regulation  
U.S. Nuclear Regulatory Commission  
301-415-1270



**Wertz, Trent**

**From:** Sewell, Margaret  
**Sent:** Tuesday, May 27, 2014 2:01 PM  
**To:** Wertz, Trent  
**Subject:** DPO-2013-002 - ML13268A466

Trent,




Got you message. Try the subject ML# for the actual DPO submittal. Here's a screen shot to show you where it is too. Call if you have any more questions.

Package Contents - ML13213A248 - Microsoft Internet Explorer provided by USNRC

Package Name: DPO 2013 002, Differing Professional Opinion Involving Diablo Canyon Seismic Issues  
Accession Number: ML13213A248

**Package Properties**

View Profile Open Checkout

	Name	Accession Number	Official Record?
	DPO-2013-002, Memo Forwarding Differing Professional Opinion Involving Diablo Canyon Seismic Issues (OEDO-14-00211)	ML13213A249	Yes
	DPO-2013-002, Milestones and Timeliness Goals (OEDO-14-00211)	ML13213A259	Yes
	DPO-2013-002, Diablo Canyon Seismic Issues, DPO Submittal (OEDO-14-00211)	ML13268A466	Yes

There are 3 Documents in this Package

Local in

Marge Sewell  
Safety Culture Specialist

B175

Office of Enforcement/Concerns Resolution Branch  
301-415-8045  
[margaret.sewell@nrc.gov](mailto:margaret.sewell@nrc.gov)

**Wertz, Trent**

---

**From:** Leeds, Eric  
**Sent:** Wednesday, May 28, 2014 3:31 PM  
**To:** Wertz, Trent  
**Cc:** Dapas, Marc; Johnson, Michael  
**Subject:** Diablo Canyon DPO

Trent -

I've reflected on my conversation with Marc Dapas as well as the email I received from Michael Peck today. I stand firm on my decision with regard to Mr. Peck's DPO that we discussed last week. Please issue the DPO letter as we have previously discussed and that I signed. Thanks! See you in the office when I return from Paris!

Eric

**Wertz, Trent**

---

**From:** Cho, Esther  
**Sent:** Thursday, May 29, 2014 4:08 PM  
**To:** Skeen, David; Pedersen, Renee; Zimmerman, Roy; Case, Michael; Bernhard, Rudolph; Dapas, Marc; Johnson, Michael; Satorius, Mark; Hill, Brittain  
**Cc:** Wertz, Trent  
**Subject:** Differing Professional Opinion Involving Seismic Issues at Diablo Canyon (DPO-2013-002)  
**Attachments:** DPO Panel Report.pdf; ML14140A225.pdf

Good Afternoon,

**Please follow the link below for the electronic distribution of:**

**DATE:** May 29, 2014

**TO:** Michael S. Peck

**FROM:** Eric J. Leeds

**SUBJECT:** Differing Professional Opinion Involving Seismic Issues at Diablo Canyon (DPO-2013-002)

This has been sent to the submitter. This has not been released to the public. Thank you.

Sincerely,  
Esther Cho

Contract Administrative Assistant  
U.S. Nuclear Regulatory Commission  
NRR/DPR/MSD, Location: O-13H18  
Main: 301-415-2239 Direct: 301-415-0618  
[Esther.Cho@nrc.gov](mailto:Esther.Cho@nrc.gov)

**Burnell, Scott**

---

**From:** Burnell, Scott  
**Sent:** Wednesday, September 10, 2014 11:50 AM  
**To:** Brenner, Eliot; Harrington, Holly; McIntyre, David; Dricks, Victor  
**Subject:** FW: DPO Case file now public

FYI

---

**From:** Pedersen, Renee  
**Sent:** Wednesday, September 10, 2014 11:47 AM  
**To:** Burnell, Scott; Oesterle, Eric; Buchanan, Theresa; Uselding, Lara; Walker, Wayne; Hipschman, Thomas; Hill, Brittain; Sebrosky, Joseph; Pruett, Troy; Williams, Megan  
**Cc:** Markley, Michael  
**Subject:** RE: DPO Case file now public

It's there now.

http://adams.nrc.gov/wba/

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October 2013

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August 2013

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June 2013

Hide Package Contents

Document Title

DPO Case File-DPO-2013-002 (Public).

09/25/2014 Corrosion rates for Fitness for Service (FFS) evaluations of buried pipe

NUREG-2157 Vol 1, "Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel: Final Report."

---

**From:** Pedersen, Renee  
**Sent:** Wednesday, September 10, 2014 11:38 AM  
**To:** Burnell, Scott; Oesterle, Eric; Buchanan, Theresa; Uselding, Lara; Walker, Wayne; Hipschman, Thomas; Hill, Brittain; Sebrosky, Joseph; Pruett, Troy; Williams, Megan  
**Cc:** Markley, Michael  
**Subject:** RE: DPO Case file now public

Scott,

Thanks for bringing this to my attention. We're looking into it and will send out clarification.

---

**From:** Burnell, Scott  
**Sent:** Wednesday, September 10, 2014 11:13 AM  
**To:** Pedersen, Renee; Oesterle, Eric; Buchanan, Theresa; Uselding, Lara; Walker, Wayne; Hipschman, Thomas; Hill, Brittain; Sebrosky, Joseph; Pruett, Troy; Williams, Megan  
**Cc:** Markley, Michael  
**Subject:** RE: DPO Case file now public

Still not visible in the public website ADAMS.

---

**From:** Pedersen, Renee  
**Sent:** Wednesday, September 10, 2014 11:11 AM  
**To:** Oesterle, Eric; Buchanan, Theresa; Uselding, Lara; Burnell, Scott; Walker, Wayne; Hipschman, Thomas; Hill, Brittain; Sebrosky, Joseph; Pruett, Troy; Williams, Megan  
**Cc:** Markley, Michael  
**Subject:** FYI: DPO Case file now public

FYI, the DPO Case File is now public.

---

**From:** Oesterle, Eric  
**Sent:** Wednesday, September 10, 2014 9:55 AM  
**To:** Buchanan, Theresa; Uselding, Lara; Burnell, Scott; Walker, Wayne; Hipschman, Thomas; Hill, Brittain; Sebrosky, Joseph; Pedersen, Renee; Pruett, Troy; Williams, Megan  
**Cc:** Markley, Michael  
**Subject:** draft DPO Comm Plan  
**Importance:** High

Everyone,

Good morning. Attached please find a draft of the DPO Comm plan that was discussed at the 8:30 call this AM. This is provided to you for comment. Please note that it reflects real-time action on the DPO Appeal and incorporates comments from the discussion this morning on the AB-1632 Seismic Report. Much of the Q&A comes from the "living-DCPP Comm Plan" that is being maintained by RIV (the highlighted questions are troublesome to NRR/DORL but we understand that RIV prefers to maintain these). I have included a question at the end about whether new information in the AB-1632 report could impact the DPO conclusions. Also note that the Comm Plan does not contain a timeline as we are already real-time. Please let me know if you have any questions or comments.

*Eric R. Oesterle*  
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