

13679

DUCKETED
USNPC

'93 MAR -5 P4:05

SAN LUIS OBISPO MOTHERS FOR PEACE
before the
ATOMIC LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the matter of
Pacific Gas and Electric Co.
Diablo Canyon Nuclear Power Plant
Unit Nos. 1 and 2

Docket No. 50-275-OLA - 2
50-323-OLA
ASLBP No. 92-669-03-OLA-2

San Luis Obispo Mothers for Peace
Reply to PG&E's Preliminary Response
and Motion for Protective Order

On February 3, 1993, the San Luis Obispo Mothers for Peace ("SLOMFP") filed a request for entry to the Diablo Canyon Nuclear Power Plant ("DCNPP") for purposes of inspection, measuring, and photographing, for observation of interim fire-protection measures and maintenance and surveillance activities and for other activities as authorized in the provisions of 10 CFR 2.741 (a)(2). On February 12, 1993, Pacific Gas & Electric Co. ("PG&E") filed a preliminary response and motion for protective order, to which SLOMFP hereby replies. 1

I. Contention V: Thermo-Lag Interim Fire Protection Measures

PG&E objects to certain aspects of SLOMFP's entry request on the grounds that the request goes beyond the scope of Contention V. In particular, PG&E objects to SLOMFP's request to the extent that it seeks to have access to "each and every fire barrier containing Thermo-Lag material at the plant," and disputes SLOMFP's request to augment its inspection to include other areas which are connected with systems and areas where

1 "Pacific Gas & Electric Company's Preliminary Response to Discovery Request" filed pursuant to 10 CFR 2.741 (a)(2) and Motion for Protective Order (February 12, 1993) ("PG&E Motion for Protective Order"). SLOMFP's response to PG&E's Motion for Protective Order was initially due on February 24, 1993, but SLOMFP obtained a one-week extension of time to respond.

DS03

Thermo-Log is located. 2 PG&E Motion for Protective Order at 5. PG&E also rejects SLOMFP's suggested list of five representative areas to be inspected, (a) Fire Area 5-A-4, Unit 1 480 volt A.C. switchgear room; (b) Fire Area 5-B-4, Unit 2 480 volt A.C. switchgear room; (c) Fire Area 30-A-5, Units 1 and 2 intake structure (if this structure contains the Auxiliary Salt Water system pumps and related components); (d) Fire Area 10, Unit 1 12 KV A.C. switchgear room. Id. Finally, PG&E objects to SLOMFP's request to examine the control room, where fire alarms are displayed. Id. For all of these objections, PG&E's general argument is that SLOMFP's requests "have nothing to do with how well PG&E has implemented fire watches at DCPP." Id. PG&E argues that SLOMFP must be limited to those areas in which Thermo-Log is installed and interim compensatory measures are implemented. Id.

SLOMFP believes that the scope of Contention V includes all matters relating to the adequacy of PG&E's interim compensatory fire protection measures for DCNPP, including such issues as whether the extent and coverage of the program is adequate, whether it is designed in a way that fire watches can be carried out in an effective manner, and whether fire watchers can and will perform their assigned tasks adequately. However, PG&E apparently interprets the scope of Contention V to include only the limited examples provided in the contention's basis, i.e., "missed fire watches and certain open fire doors." PG&E Motion for Protective Order at 4. This view of Contention V, which is so narrow as to reduce the

2 In light of the fact that inspection of each and every location where Thermo-Log is installed could be very time-consuming, SLOMFP proposed to negotiate with PG&E for inspection of a mutually agreed upon set of systems and plant areas. Request for entry at 2-3. However, the parties must be able to choose this limited set of areas from the full spectrum of areas in which Thermo-Log is located.

contention to a virtual nullity, is inconsistent with the Board's order admitting the contention and NRC regulations governing the admission of contentions.

The scope of Contention V can be determined from the language of the contention and the Board's order admitting it. Contention V asserts that:

Thermo-Lag material fails as a fire barrier and, in fact, poses a hazard in the event of a fire or an earthquake. Until this situation is adequately resolved, the license for Diablo Canyon Nuclear Power Plant should certainly not be extended.

SLOMFP Contentions at 28. On the basis of Contention V, SLOMFP cited safety hazards caused by the use of Thermo-Lag in nuclear power plants, and criticized the compensatory measures taken by PG&E in response to NRC Bulletin 92-01, Supp. 1. In particular, SLOMFP challenged the reliability of human observers and gave several supporting examples of human errors in fire detection and prevention. In ruling on the contention, the Board found "insufficient basis for the claim concerning the generic resolution of the Thermo-Lag issue, as applied at Diablo Canyon," and rejected that part of the contention. However, the Board found:

the portion of the contention applying to the interim corrective action stands on a different footing. Facts are provided to support this aspect of the contention -- i.e., missed fire watches and disablement of fire barriers, together with the use of Thermo-Lag at Diablo Canyon and the existence of problems with Thermo-Lag. Moreover, there is not basis for requiring MFP to demonstrate that the interim measures will become moot by the recapture period, as asserted by the Staff. Those measures are scheduled to extend indefinitely, until superseded by a generic resolution of the issue.

* * *

For these reasons, MFP has met all applicable requirements for setting forth a contention concerning the interim fire-protection measures. We could provide various forms of relief, ranging from license denial to conditions designed to improve fire protection pending generic resolution of the Thermo-Lag issue. Accordingly, this contention is accepted, limited to the litigation of interim fire-protection measures.

Prehearing Conference Of: 37-38 [January 21, 1993] [emphasis added].

In a later order, the Licensing Board clarified that the scope of the

contention does not include the "generic validity" of the interim measures ordered by NRC to compensate for the failure of Thermo-Lag, but "the adequacy of the Applicant's adherence to interim measures." Memorandum and Order (Discovery and Hearing Schedules) (February 9, 1993). Thus, while SLOMFP may not challenge the "generic" wisdom of the type of compensatory measures chosen by NRC as an interim substitute for an effective fire barrier, the adequacy and effectiveness of interim compensatory measures taken at DCNPP are open to challenge. In this regard, it is important to note that in Supp. 1 to Bulletin 92-01, the NRC did not prescribe specific details for interim fire protection at DCNPP or any other plant. Each licensee was left to design its own plan. Thus, the question of whether DCNPP's interim fire protection measures are adequate involves not just the issue of whether fire watch personnel can carry out DCNPP's plan, but whether the plan itself is adequate to meet the requirements of Supp. 1 to Bulletin 92-01.

PG&E attempts to restrict the scope of Contention V to the specific examples provided in the basis of the contention. However, such a limitation is inconsistent with the broader language of the Board's Prehearing Conference Order, which allows SLOMFP a hearing on "the interim fire-protection measures." Moreover, as the Licensing Board pointed out in admitting Contention I, such a narrow interpretation of a contention would not square with the NRC's admissibility standard, which "does not call upon the intervenor to make its case at [the contention-submitting] stage of the proceeding, but rather to indicate what facts or expert opinion, be it one fact or opinion or many, of which it is aware at that point in time which provide the basis for its contention." Prehearing Conference Order at 25, quoting 54 Fed. Reg. at 33,170 (emphasis in original). Thus, in the basis

to Contention V, SLOMFP raised legitimate questions regarding the reliability of human fire watches as an effective substitute for fire barriers. The specific examples provided in support of that proposition cannot be used as the limits of the contention.

Accordingly, there is no basis for PG&E's various objections to SLOMFP's site visit request. First, PG&E has no grounds for arguing that the inspection of DCNPP should be limited only to those areas where Thermo-Lag is installed **and** interim compensatory measures have been implemented. PG&E Motion for Protective Order at 2. Such a limitation would prevent SLOMFP from evaluating the adequacy of PG&E's interim fire protection measures with respect to the question of whether PG&E has correctly identified all areas where fire watches are needed and provided for fire watches in those areas. For the same reason, SLOMFP should be able to examine areas near Thermo-Lag installations, to which fires could spread through failed Thermo-Lag barriers. SLOMFP needs to inspect and measure all areas of the plant where fire watches are required or needed in order to evaluate such matters related to the effectiveness of fire watches as accessibility, visibility, and distances that must be traveled to conduct fire watches.

Similarly, PG&E has no grounds for objecting to having SLOMFP inspect any of the five areas specifically listed in SLOMFP's entry request. Each of these areas was chosen because it has been designated for hourly fire watches, and because all but one area has no fire suppression system at all. See PG&E Response to Supplement 1 to NRC Bulletin 92-01, Attachment 1 Table 1 (September 28, 1992) (attached). Again, SLOMFP has a legitimate interest in examining these areas to determine how effectively they can be monitored by fire watches. It is also relevant for SLOMFP to inspect the

control room, where the adequacy of interim fire protection measures depends on the ability of operators to respond to fire watch information and smoke detector alarms.

Accordingly, SLOMFP requests the Licensing Board to reject PG&E's request for a protective order barring SLOMFP from gaining access to the areas described above.

II. Interviews with Maintenance and Fire Watch Personnel

PG&E objects to SLOMFP's request to informally interview maintenance and fire watch personnel; thus, SLOMFP will take any discovery of these individuals through formal means.

Respectfully submitted,

Nancy Culver

Nancy Culver, President
San Luis Obispo Mothers for Peace

March 3, 1993

Table 1

196781

Thermo-Lag Installations

Fire Area (FA)	Thermo-Lag Installation	Detection	Suppression	Compensatory Actions	Fire Duration (minutes)
1. FA 3-BB (Unit 1 Containment Penetration Area)	One 3" ϕ conduit; box made from pre-formed panels for one 1" ϕ conduit; boxes made from pre-formed panels for 5 junction boxes	Smoke	Sprinklers	Hourly Fire Watch	17
2. FA 3-CC (Unit 2 Containment Penetration Area)	Two 3" ϕ conduits; boxes made from pre-formed panels for 6 junction boxes	Smoke	Sprinklers	Hourly Fire Watch	11
3. FA 3-L (85 Foot Elevation Auxiliary Building)	One 4" ϕ conduit; box made from pre-formed panels for 1 junction box	None	None	Continuous Fire Watch, or Hourly Fire Watch with Temporary 8-hour Lights to ensure a lighted path in case of Thermo-Lag failure causing loss of vital lights	15
4. FA 4-B (Access Control)	One 4" ϕ conduit	Smoke	Sprinklers	Hourly Fire Watch	32
5. FA 5-A-4 (Unit 1 480 V Switchgear Room)	One 2" ϕ conduit	Smoke	None	Hourly Fire Watch	34
6. FA 5-B-4 (Unit 2 480 V Switchgear Room)	One 2" ϕ conduit	Smoke	None	Hourly Fire Watch	34
7. FA 22-C (Unit 2 Diesel Generator Corridor)	Two 2" ϕ conduits	None	Sprinklers	Continuous Fire Watch, or Portable Detection System with Hourly Fire Watch	9
8. FA 30-A-5 (Units 1 and 2 Intake Structure)	Individual boxes made from pre-formed panels for two 1" ϕ conduits, two 2" ϕ conduits, and four 3" ϕ conduits; boxes made from pre-formed panels for 2 junction boxes	Smoke	High pressure CO ₂ for circulating water pump motors	Hourly Fire Watch	19

Table 1

196781

Thermo-Lag Installations
(cont'd)

Fire Area (FA)	Thermo-Lag Installation	Detection	Suppression	Compensatory Actions	Fire Duration (minutes)
9. FA 10 (Unit 1 - 12 kV Switchgear Room)	Thermo-Lag/Pyrocrete Barrier	Smoke	None	Hourly Fire Watch	23
10. FA 20 (Unit 2 - 12 kV Switchgear Room)	Thermo-Lag/Pyrocrete Barrier	Smoke	None	Hourly Fire Watch	23
11. FA 13-E/11-B-2 (107 Foot Elevation Turbine Building)	Partial Wall constructed of pre-formed Thermo-Lag panels	None/None	None/None	Continuous Fire Watch, or Portable Detection System with Hourly Fire Watch	2 min/ 2 min

SECRET
USNRC

Certificate of Service

'93 MAR -5 P4:05

I hereby certify that copies of the foregoing San Luis Obispo Mothers for Peace Reply to PG&E's Preliminary Response and Motion for Protective Order have been served upon the following persons by U.S. mail, first class.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Charles Bechhoefer, Chairman
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Jerry Kline
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Administrative Judge
Frederick J. Shon
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Ann P. Hodgdon, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Edward O'Neill
Peter Arth, Jr.
Truman Burns
Robert Kinosian
Peter G. Fairchild, Esq.
California Public Utilities
Commission
505 Van Ness Avenue
San Francisco, CA 94102

Joseph B. Knotts, Jr., Esq.
Winston & Strawn
1400 L Street, N.W.
Washington, DC 20005

Adjudicatory File
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Secretary of the Commission
Docketing and Service Branch
U.S. Nuclear Regulatory Commission
Washington, DC 20555

Robert R. Wellington, Esq.
Diablo Canyon Independent Safety Committee
857 Cass Street, Suite D
Monterey, CA 93940

Christopher Warner, Esq.
Richard Locke, Esq.
Pacific Gas and Electric Co.
77 Beale Street
San Francisco, CA 94106

Dated March 3, 1993, San Luis Obispo County, CA
Jill ZamEk

Jill ZamEk