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April 14, 1993

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USNRCUNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

'93 APR 16 P3:00

BEFORE THE ATOMIC SAFETY AND LICENSING BOARDOFFICE OF SECRETARY
DOCKETING & SERVICE
BOARD

In the Matter of:

Pacific Gas and Electric Company

(Diablo Canyon Nuclear Power
Plant, Units 1 and 2)

Docket Nos. 50-275-OLA

50-323-OLA - 2

(Construction Period
Recovery)PACIFIC GAS & ELECTRIC COMPANY'S
MOTION TO STRIKE IN PART SAN LUIS OBISPO MOTHERS
FOR PEACE FILING REGARDING ADDENDUM TO FES

On April 8, 1993, the San Luis Obispo Mothers For Peace ("MFP") filed what is purported to be a response^{1/} to the Licensing Board's March 19, 1993, Memorandum and Order (Addendum to FES). However, the "response" barely addresses the Memorandum and Order at all. Instead, the MFP filing revisits MFP's old arguments as to why MFP believes that an Environmental Impact Statement ("EIS") is needed for the proposed license amendment at issue in this proceeding. The filing in fact constitutes an unauthorized reply to PG&E's recent opposition^{2/} to MFP's untimely, unsupported EIS contention.

^{1/} "Intervenor San Luis Obispo Mothers for Peace Response to Memorandum and Order (Addendum to FES)," dated April 8, 1993 ("MFP Response").

^{2/} See "Pacific Gas & Electric Company's Response to San Luis Obispo Mothers For Peace First Late-Filed Contention," dated April 2, 1993.

The Licensing Board's March 19, 1993, Memorandum and Order asked two very specific questions regarding the 1976 Addendum to the NRC Staff's Final Environmental Statement for the Diablo Canyon Plant. However, MFP's response is not so limited or organized. At the threshold, MFP provides its only relevant answer: "SLOMFP accepts that the NRC Staff considered the differing environmental impacts noted in the Addendum in the conclusions reached in its EA." MFP Response at 1-2. This is it. The Licensing Board need read no further; it has the answer to its questions with all parties apparently in agreement.

MFP, nonetheless, launches into a long argument regarding the need for an EIS -- an issue not raised in the Licensing Board's two questions. First, MFP at page 2 of the filing, expressly responds to PG&E's opposition to the late EIS contention. MFP there addresses (out of context) one of the many reasons provided by PG&E as to why the late EIS contention should not be admitted. Second, MFP, at page 3 of the filing, claims to have "identified problems" with operation of the DCPD plant. While PG&E disputes the assertion, there is in any event no relevance to the issue at hand, i.e., the Board's questions. Finally, MFP, at page 3 of the filing, nods to the long-ago-resolved issue regarding the proximity of Diablo Canyon to "an active earthquake fault." Obviously, there is no correlation between this non-specific, well-worn assertion and the Licensing Board's questions.

As observed in PG&E's response to MFP's request for an extension of time to respond to the Licensing Board's questions,^{3/} neither the Addendum nor the Licensing Board's questions should provide MFP an occasion to revisit arguments regarding the need for an EIS, or for MFP to reply to PG&E's opposition to the late-filed EIS contention. The April 8, 1993, MFP filing should be struck, as unauthorized and non-responsive, to the extent it covers matters beyond the Licensing Board's March 19, 1993, questions.

Respectfully submitted,


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Dated in Washington, DC
this 14th day of April, 1993

^{3/} "Pacific Gas & Electric Company's Response to San Luis Obispo Mothers For Peace Extension Request re Board Questions", dated April 2, 1993.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

EXCLUDED
USNRC

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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(Diablo Canyon Power
Plant, Units 1 and 2)

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) Docket Nos. 50-275-OLA
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) (Construction Period
) Recapture)
)
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CERTIFICATE OF SERVICE

I hereby certify that copies of "PACIFIC GAS & ELECTRIC COMPANY'S MOTION TO STRIKE SAN LUIS OBISPO MOTHERS FOR PEACE FILING REGARDING ADDENDUM TO FES" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk (*), by deposit for Federal Express overnight delivery, or, as indicated by the (†) symbol, by hand delivery, this 14th day of April, 1993.

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