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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY  
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BEFORE THE ATOMIC SAFETY AND LICENSING 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  
) (Construction Period  
) Recovery  
)  
)

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PACIFIC GAS & ELECTRIC COMPANY'S  
INITIAL RESPONSE TO QUESTIONS FOR PARTIES

On April 16, 1993, the Licensing Board issued Memorandum (Questions for Parties), identifying, among other things, two questions it would call upon the parties to address at the upcoming prehearing conference. Although written responses were not required, Pacific Gas & Electric Company ("PG&E") herein, with the leave of the Licensing Board, provides its initial views on the questions. PG&E believes these written answers prior to the conference will be beneficial to the Licensing Board and the parties. PG&E expects and welcomes further discussion at the conference. PG&E's responses follow.

1. What objection (on the merits, without regard to timeliness) would MFP (and other parties) have to litigating the "aging" aspects of the first late-filed contention in conjunction with Contention I (concerning the Surveillance and Maintenance programs)? Cf. our suggestion that the earlier "aging"

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contention be litigated in that manner  
(LBP-93-1, 37 NRC 5, 25 (January 21, 1993)).

PG&E objects to litigation of the merits of "aging" aspects of the first late-filed contention in the context of Contention I. The San Luis Obispo Mothers for Peace ("MFP") first late-filed contention alleges that an environmental impact statement ("EIS") must be prepared by the NRC on the proposed license amendment. The contention is late without good cause (see, 10 C.F.R. § 2.714(a)(2)(iii), and lacks a basis in either law or fact for the assertion of the need for an EIS. An inadmissible late contention demanding an EIS cannot and should not change the scope of a previously admitted technical contention. Therefore, litigation of the merits of the generic "aging" aspects of the issue should not be permitted.

The "aging" aspects of the first late-filed contention are practically a verbatim recitation of previously proposed, and rejected, Contention IV (Aging). The Licensing Board's earlier suggestion in LBP-93-1, 37 NRC 5, 25, regarding the aging issue, was as follows:

We agree that the [aging] contention lacks an adequate basis. We also note that, to the extent that degradation is subject to maintenance efficacy, the subject will be examined in conjunction with the contention on that subject that we are accepting. (Contention I).

PG&E does not read this as allowing litigation of aging or degradation issues generally. Rather, Contention 1 relates to a specific alleged maintenance and surveillance issue: whether, taken together, isolated nonconformances and violations cited by MFP proves that the maintenance and surveillance program at Diablo Canyon is neither comprehensive nor effective. This assertion is not an umbrella to allow litigation of any matter remotely related to maintenance/surveillance. The Licensing Board's prior "suggestion" reflected the focus of Contention 1 on maintenance "efficacy" rather than on the different, more broad issue of aging and equipment degradation. It did not suggest that aging and degradation are issues in and of themselves, but would be involved only indirectly under Contention I if MFP demonstrates some ineffectiveness in the maintenance and surveillance programs. The focus of Contention I should not be changed. An untimely late environmental contention cannot turn the admitted Contention I into the equivalent of the previously rejected (for lack of basis) Contention IV.

2. With respect to the second late-filed contention, what rationale, if any, explains the apparent inconsistency between the Staff's evaluation of Thermo-Lag as being "combustible" (NRC Information Notice 92-82, dated December 15, 1992, submitted as Attachment 2 to MFP's second late-filed contention), based on NIST tests, and the Applicant's designation of Thermo-Lag material as being "noncombustible" under Underwriter Laboratories standards in its submission of its interim compensatory measures on September 28, 1992 (Enclosure, Attachment 1,

at 2) (approved by the Staff by letter dated October 27, 1992)?

The Licensing Board's question is addressed in detail in the attached Affidavits of John A. Lee and Usama A. Farradj.<sup>1/</sup> Two points, however, merit highlighting.

First, PG&E referred to Thermo-Lag as "noncombustible" in Attachment 1 to its submittal of September 28, 1992. The context was a discussion of the use of Thermo-Lag at Diablo Canyon in radiant energy shields. Radiant energy shields are an inside containment application of Thermo-Lag under 10 C.F.R. Part 50, Appendix R, § III.G.2.f. This is an application distinct from uses of Thermo-Lag for 1 hour (§ III.G.2.c) and 3 hour (§ III.G.2.a) fire barriers. Only applications of Thermo-Lag as fire barriers were included in Table 1 in the September 28, 1992 submittal. The Table 1 fire areas were those subject to compensatory fire watches. Moreover, Appendix R does not require fire barriers to be "noncombustible."

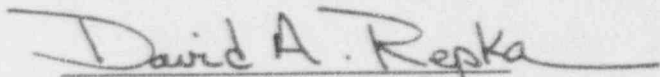
Second, as noted in PG&E's letter to the NRC of April 30, 1993 (DCL-93-109), also attached hereto, PG&E has elected to replace Thermo-Lag radiant energy heat shields at DCPD. The Thermo-Lag radiant energy shield material in the Unit 2 containment was

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<sup>1/</sup> Due to logistics, facsimile copies of the affidavits are attached. Copies of the originals are being served under separate cover from San Francisco.

replaced during the recent refueling outage. The Unit 1 Thermo-Lag heat shield material will be removed during the next Unit 1 refueling outage. This commitment should moot the combustibility issue identified by the Licensing Board.

Respectfully submitted,

  
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Dated in Washington, DC  
this th day of May, 1993