

adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309 (d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received.

An answer or a request for hearing shall not stay the immediate effectiveness of this order.

Dated this 6th day of November, 2007.

For the Nuclear Regulatory Commission.

Leonard D. Wert,

Acting Regional Administrator.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 72-26]

Notice of Issuance of Addendum to the Supplement to the Environmental Assessment for the Diablo Canyon Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Issuance.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing an Addendum to the supplement to the Environmental Assessment (EA) for the Diablo Canyon Independent Spent Fuel Storage Installation (ISFSI). NRC issued the EA and initial Finding of No Significant Impact (FONSI) for this action on October 24, 2003, and subsequently issued a license for the Diablo Canyon ISFSI to the Pacific Gas and Electric Company (PG&E), on March 22, 2004. The license authorizes PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Diablo Canyon Power Plant in an ISFSI at the site for a term of 20 years. On August 30, 2007, NRC

issued a supplement to the EA and final FONSI, in response to the June 2, 2006, decision by the United States Court of Appeals for the Ninth Circuit, *San Luis Obispo Mothers for Peace v. NRC*, 449 F.3d 1016 (9th Cir. 2006). The supplement to the EA addressed the environmental impacts from potential terrorist acts against the Diablo Canyon ISFSI. The Addendum lists six documents to be added to the list of references provided in the supplement to the EA.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION: On December 21, 2001, PG&E submitted an application to NRC, requesting a site-specific license to build and operate an ISFSI, to be located on the site of the Diablo Canyon Power Plant, in San Luis Obispo County, California. The NRC staff issued an EA and FONSI for this action on October 24, 2003, in accordance with the National Environmental Policy Act, and in conformance with the applicable requirements of 10 CFR part 51.

On March 22, 2004, the NRC staff issued Materials License No. SNM-2511 to PG&E, pursuant to 10 CFR part 72, authorizing PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Diablo Canyon Power Plant in an ISFSI at the site for a term of 20 years. Subsequently, the San Luis Obispo Mothers for Peace and other parties filed suit in the United States Court of Appeals for the Ninth Circuit, asking that NRC be required to consider terrorist acts in its environmental review associated with this licensing action. In its decision of June 2, 2006, *San Luis Obispo Mothers for Peace v. NRC*, 449 F.3d 1016 (9th Cir. 2006), the Ninth Circuit held that NRC could not categorically refuse to consider the consequences of a terrorist attack under NEPA and remanded the case to NRC.

In response to the Ninth Circuit decision, the Commission directed the NRC staff to prepare a revised EA, addressing the likelihood of a terrorist attack at the Diablo Canyon ISFSI site and the potential consequences of such an attack. On May 29, 2007, the NRC staff issued a preliminary supplement to the EA and draft FONSI to address the environmental impacts from potential terrorist acts against the Diablo Canyon

ISFSI. On August 30, 2007, NRC issued the final supplement to the EA and final FONSI for this action. NRC summarized the comments received and responded to those comments in the final supplement to the EA, which also included a list of 14 references. Subsequent to the issuance of the final supplement, the staff determined that certain other documents concerning NRC's generic security assessments should also be included in the list of references. These 6 documents are listed in the Addendum.

Documents related to this action, including the May 29, 2007, preliminary supplement to the EA and draft FONSI; the August 30, 2007, EA supplement and final FONSI; the October 24, 2003, EA; and the Diablo Canyon ISFSI license and supporting documentation, are available electronically, at NRC's Electronic Reading Room, at: <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the final EA supplement and final FONSI is ML072400511, and the accession number for the Addendum is ML073040434. For the preliminary supplement to the EA and draft FONSI, the accession number is ML071280256. The ADAMS accession number for the October 24, 2003, EA is ML032970337; and for the ISFSI license and related documents, the accession number is ML040780107. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact NRC's Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

These documents may also be viewed electronically on the public computers located at NRC's PDR, O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.

Dated at Rockville, Maryland, this 7th day of November, 2007.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

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