

UNITED STATES COURT OF APPEALS

DISTRICT OF COLUMBIA CIRCUIT

333 Constitution Avenue, NW
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AGENCY DOCKETING STATEMENT

Administrative Agency Review Proceedings (To be completed by appellant/petitioner)

1. CASE NO.
2. DATE DOCKETED:
3. CASE NAME (lead parties only) v.

4. TYPE OF CASE: [] Review [] Appeal [] Enforcement [] Complaint [] Tax Court

5. IS THIS CASE REQUIRED BY STATUTE TO BE EXPEDITED? [] Yes [] No
If YES, cite statute

6. CASE INFORMATION:
a. Identify agency whose order is to be reviewed:
b. Give agency docket or order number(s):
c. Give date(s) of order(s):

d. Has a request for rehearing or reconsideration been filed at the agency? [] Yes [] No
If so, when was it filled? By whom?
Has the agency acted? [] Yes [] No If so, when?

e. Identify the basis of appellant's/petitioner's claim of standing. See D.C. Cir. Rule 15(c)(2):

f. Are any other cases involving the same underlying agency order pending in this Court or any other?
[] Yes [] No If YES, identify case name(s), docket number(s), and court(s)

g. Are any other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?
[] Yes [] No If YES, give case name(s) and number(s) of these cases and identify court/agency:

h. Have the parties attempted to resolve the issues in this case through arbitration, mediation, or any other alternative for dispute resolution? [] Yes [] No If YES, provide program name and participation dates.

Signature Date
Name of Counsel for Appellant/Petitioner
Address
E-Mail Phone () Fax ()

ATTACH A CERTIFICATE OF SERVICE

Note: If counsel for any other party believes that the information submitted is inaccurate or incomplete, counsel may so advise the Clerk within 7 calendar days by letter, with copies to all other parties, specifically referring to the challenged statement.

Attachment to

DOCKETING STATEMENT

Friends of the Earth v. U.S. Nuclear Regulatory Commission, No. 14-1213

December 1, 2014

Filed on behalf of Petitioner Friends of the Earth

Number 6.c. *Identify the date of the order to be reviewed.*

The final agency action under review is the Nuclear Regulatory Commission's approval of Revision 21 to the Final Safety Analysis Report as Updated for Diablo Canyon Power Plant Units 1 and 2, dated September 2013, without the required license amendment proceeding. The first public notice and evidence of this approval is contained in the Panel Report disposing of the Dissenting Professional Opinion by then-NRC senior resident inspector for Diablo Canyon, Dr. Michael Peck, which is appended to the Petition for Review as Attachment A. The Panel Report, issued internally on April 3, 2014, was made public on September 10, 2014.

Number 6.e. *Identify the basis of petitioner's claim of standing.*

Petitioner Friends of the Earth (FoE) has standing because its members have been injured in fact by the Nuclear Regulatory Commission (NRC) action at issue, the injury is traceable to that action, and the injury would be redressed by a favorable ruling from this Court.

This case involves the secret approval by the NRC of an amendment to the operating licenses for Diablo Canyon Power Plant Units 1 and 2, contained in Revision 21 to the Final Safety Analysis Report, in contravention of the Atomic Energy Act and the Commission's own regulations, which require the opportunity for a public adjudicatory hearing on any proposed license amendment. The main subject of Revision 21 is the addition of a different method of analysis (and attendant assumptions) required to evaluate new information about the seismic conditions (i.e. capability of faults) around the Diablo Canyon Power Plant.

FoE is a national non-profit environmental organization headquartered and incorporated in the District of Columbia with an office in Berkeley, California. FoE has a nationwide membership of over 33,000 (including over 6,000 members in California) and over 440,000 activists. Among its missions, FoE seeks to insure that the public has an opportunity to influence the outcome of government and corporate decisions that affect the lives of many people. Since its inception in 1969, FoE has sought to improve the environmental, health, and safety conditions at civil nuclear facilities licensed by the NRC and its predecessor agencies. To that end, FoE utilizes its institutional resources, including legislative advocacy, litigation, and public outreach and education, to minimize the risks that nuclear facilities pose to its members and to the general public.

Certain members of FoE living near Diablo Canyon are directly affected by the NRC's failure to notice and provide opportunity for a public adjudicatory hearing on the license amendment. These members have personal health, safety, economic, aesthetic, and environmental interests in the proper operation of Diablo Canyon and the risk of harms that the plant's operation, without proper seismic analysis, poses to those interests. These members support the Petition for Review and have authorized FoE to bring this Petition before the Court on their behalf.

Number 6.g. *Are there other cases, to counsel's knowledge, pending before the agency, this Court, another Circuit Court, or the Supreme Court which involve substantially the same issues as the instant case presents?*

Before the Nuclear Regulatory Commission: *In the Matter of Pacific Gas & Electric Company (Diablo Canyon Power Plant, Units 1 and 2)*, Docket Nos. 5-275/50-323 (involving different legal issues).

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing “Agency Docketing Statement,” with attachment, has been served via the Court’s Electronic Court Filing system upon all registered counsel this 1st day of December, 2014.

/s/Jessica Olson

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