



Pictured from left to right at the 9<sup>th</sup> Circuit Court in San Francisco:  
Liz Apfelberg, Morgan Rafferty, Diane Curran (attorney), Jill ZamEk, June Von Ruden

## 9<sup>th</sup> Circuit Court of Appeals

The highlight of the year was our day in Court! You helped us raise the \$100,000 it cost to get us there. On October 17, the Mothers for Peace attorney, Diane Curran, addressed the 9<sup>th</sup> Circuit Court of Appeals in San Francisco. As you are aware, the NRC licensed a new high level radioactive waste storage facility (utilizing dry casks) at Diablo Canyon. We have asked the Court to vindicate our legal right to participate in the decisions about how best to protect the environment from terrorist attack on the new nuclear waste facility. We are awaiting a decision, but we expect this case to involve future litigation. The Sierra Club and former Supervisor Peg Pinard are co-intervenors in this case.

Diane Curran's oral argument was extremely impressive; you can listen to it at:

<http://www.ca9.uscourts.gov/ca9/media.nsf/526d390090f67d8488256e1a006323db?OpenView&Count=200&ExpandView> Audio #03-74628

## California Public Utilities Commission and the Steam Generators

Our other current legal case involves the CPUC. On November 18, the CPUC gave its final approval to allow the replacement of the plant's eight steam generators. PG&E can charge ratepayers up to \$815 million plus millions of dollars in profits for their shareholders. Thus, the total cost to ratepayers will likely be much more than \$815 million.

Because of defects in the two-decades old generators, without the replacements the plant would have to end operations by 2013/2014. Replacement of these steam generators will

enable PG&E to continue operating Diablo Canyon at least through 2025 - and possibly longer if PG&E seeks and receives a license extension to 2045.

The San Luis Obispo Mothers for Peace, along with Sierra Club, Public Citizen, and Environment California, have actively participated in this case in an effort to ensure that the full range of environmental and cost concerns associated with the extended operating period be thoroughly considered. In this decision, the CPUC has failed to comply with the California Environmental Quality Act, which requires that the environmental and safety implications of Diablo's extended operations be addressed. The impacts include increased risks associated with the generation, transportation, and storage of larger quantities of radioactive materials, increased seismic and terrorism risks, and greater environmental and public health impacts. **We intend to continue efforts to see that the public and the environment are properly protected.**

## NRC Proposed Rule Changes

The NRC is currently working on two new rules. One is a response to a 2003 petition from the Mothers for Peace and the Union of Concerned Scientists which would require all plant operators to evaluate the effect of changes, tests, or experiments on both safety from malfunction and defense against terrorist attack.

The other proposed rule revises the "Design Basis Threat" (DBT). The DBT is the worst possible conditions to which the plant might be subjected by terrorists. The proposed rule responds to a portion of the 9<sup>th</sup> Circuit Court of Appeals

challenge, a lawsuit from 2003 filed by Mothers for Peace and Public Citizen, and a petition by Committee to Bridge the Gap in 2004.

Neither of these proposed rule changes addresses the vital issue of protection from attack by aircraft. Look for an "Action Alert" letter regarding this on our website in the near future.

## California Energy Commission

The Mothers for Peace is participating in the California Energy Commission's (CEC) energy policy planning process. There has been no clear nuclear power policy in California, and this has created an environment where the CPUC felt justified in its decision to replace the degraded steam generators. This replacement project has been treated as an isolated and routine construction project rather than as a step toward extending the operations of Diablo Canyon 10 to 30 additional years.

The Mothers for Peace is working with this agency with the aim of establishing policies which would require greater scrutiny of future projects, particularly with respect to economics, seismic impacts, alternatives, terrorism, and the storage, transport, and disposal of waste.

The Mothers for Peace has participated in workshops and hearings and has submitted lengthy comments. The culmination of the process was the 2005 Integrated Energy Policy Report which the CEC adopted in late November and transmitted to the CPUC and state legislature to support the creation of a better energy policy. The final report has some helpful language governing the process for reviewing possible relicensing of the state's nuclear power plants. This language calls for full consideration of the costs and benefits associated with possible relicensing as well as a request for the state to evaluate the long-term implications of the continuing accumulation of high level radioactive waste. The Mothers for Peace intends to continue participation in energy policy proceedings at the CEC and the CPUC to develop responsible nuclear power policy for California.

## \$ Funding \$

The Mothers for Peace has received three grants this year – Ben & Jerry's Foundation, Tres Chicas, and Patagonia. But its primary source of funding continues to be from YOU, our persevering supporters. We truly appreciate your financial contributions and your confidence in our work. All donations to Mothers for Peace are tax-deductible. Contributions may be mailed to our P.O. box or paid on-line at our website.

## Thank you!

We thank our many sponsors, artists, and businesses that helped make our fund raiser, "Sampling Sustainable Systems," a success.

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## Mark your Calendar!

### December 14, 2005:

The NRC will be holding a town hall style meeting to discuss the new waste storage facility (Independent Spent Fuel Storage Installation). Mothers for Peace has asked that the presentations by PG&E and the NRC be kept to a minimum so that the public comment period can come earlier in the evening. We have also requested that an NRC expert be available to answer questions regarding NRC requirements for emergency preparedness. The NRC has indicated that it will accommodate both of these requests at the December 14 meeting.

6:00 – 9:00pm

Embassy Suites Hotel  
337 Madonna Road  
San Luis Obispo

Please plan to attend – even if you choose not to speak. We want the NRC to know that our community continues to care about safety and security at Diablo Canyon.

**Please continue to check our website for news, action alerts, and upcoming events:**

**[www.mothersforpeace.org](http://www.mothersforpeace.org)**

If you would like to be added to our e-mail alerts, make this request at [morgan@mothersforpeace.org](mailto:morgan@mothersforpeace.org)



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