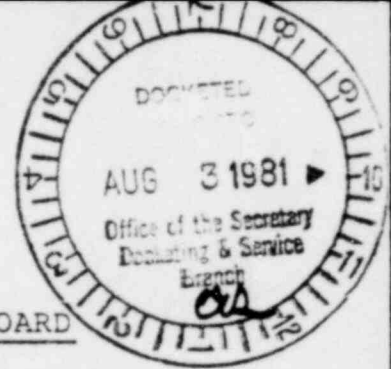


8/3/81



UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of )

PACIFIC GAS AND ELECTRIC COMPANY )

(Diablo Canyon Nuclear Power )  
Plant, Unit Nos. 1 and 2) )

Docket Nos. 50-275 O.L.  
50-323 O.L.

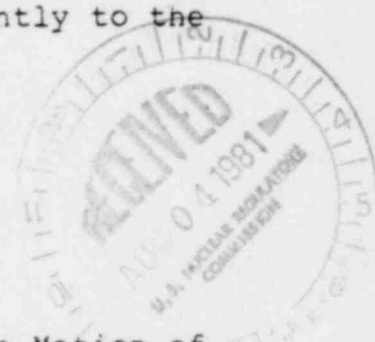
(Low Power Proceeding)

EXCEPTIONS OF GOVERNOR EDMUND G. BROWN JR. TO  
LICENSING BOARD PARTIAL INITIAL DECISION OF JULY 17, 1981

On July 17, 1981, the Licensing Board issued a Partial Initial Decision ("PID") concerning: (1) the Motion of Pacific Gas and Electric Company for Licenses for Fuel Loading and Low Power Testing, dated July 14, 1980; and (2) certain issues held in abeyance in previous decisions of the Licensing Board. In accordance with 10 C.F.R. §2.762, Governor Brown submits exceptions to the July 17, 1981 PID and to certain earlier orders and rulings of the Licensing Board which relate significantly to the PID.

Exceptions to Prehearing Orders and Rulings

1. The Licensing Board erred in ruling that the Motion of PG&E for Licenses for Fuel Loading and Low Power Testing, dated July 14, 1980, was sufficient for the conduct of the low power proceeding. (Licensing Board Order Relative to PG&E's Motion for Low Power Testing, October 2, 1980.)



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2. The Licensing Board erred in ruling that the NRC Staff is not required by 10 C.F.R. Part " , particularly Section 51.5(b)(3), to prepare an environmental assessment, and, if further required after analysis, an environmental impact statement concerning PG&E's proposed low power test program. (Prehearing Conference Order, February 13, 1981, pp. 3-7.)

3. The Licensing Board erred in denial of Governor Brown's "Motion to Stay Proceeding," dated December 8, 1980. (Prehearing Conference Order, February 13, 1981, pp. 3-7.)

4. The Licensing Board erred in its interpretation of the NRC's December 18, 1980 Revised Statement of Policy. (Prehearing Conference Order, February 13, 1981, pp. 7-15.)

5. The Licensing Board erred in rejecting Joint Intervenor's quality assurance contention in its Order of May 25, 1977. (PID, p. 11, ¶20.)

6. The Licensing Board erred in ruling that Joint Intervenor's did not take advantage of an opportunity to be heard on quality assurance matters at the Licensing Board hearing held in October, 1977. (Prehearing Conference Order, February 13, 1981, p. 18.)

7. The Licensing Board erred in rejecting Joint Intervenor's Contention 3 relating to quality assurance. (Prehearing Conference Order, February 13, 1981, p. 18.)

8. The Licensing Board erred in rejecting Joint Intervenor's Contentions 6 and 17 relating to combustion of hydrogen and hydrogen control systems. (Prehearing Conference Order, February 13, 1981, p. 19.)

9. The Licensing Board erred in rejecting Joint Intervenor's Contention 12 relating to classification of relief and block valves as safety grade. (Prehearing Conference Order, February 13, 1981, p. 23.)

10. The Licensing Board erred in limiting Joint Intervenor's Contention 13 to the question of timing of installation of the Diablo Canyon reactor vessel water level measurement instrumentation. (Prehearing Conference Order, February 13, 1981, p. 23; Licensing Board Memorandum and Order, April 30, 1981, p. 6.)

11. The Licensing Board erred in rejecting Joint Intervenor's Contention 18 relating to environmental qualification of safety related equipment. (Prehearing Conference Order, February 13, 1981, p. 26.)

12. The Licensing Board erred in ruling that parties could not challenge the adequacy of the Electric Power Research Institute testing program for block, relief and safety valves, thereby limiting the scope of Joint Intervenor's Contention 24 and Governor Brown Subject 14. (Licensing Board Memorandum and Order, April 30, 1981, p. 8; PID, p. 52, ¶ 134.)

13. The Licensing Board erred in rejecting Governor Brown's Subject 4 concerning PG&E's compliance with specified TMI Action Plan items. (Prehearing Conference Order, February 13, 1981, pp. 31-32.)

14. The Licensing Board erred in rejecting Governor Brown's Subject 6 which contested the statement of PG&E in its July 14, 1980 Motion that the low power licenses are "vital to demonstrate the effectiveness of the augmented reactor operation training

program, improved management organization and operating procedures and controls, and certain changes in design and equipment implemented by PG&E to meet the NTOL requirements." (Prehearing Conference Order, February 13, 1981, p. 32.)

15. The Licensing Board erred in rejecting Governor Brown's Subject 7 concerning the importance of the technical information to be derived from the PG&E low power testing program. (Prehearing Conference Order, February 13, 1981, p. 33.)

16. The Licensing Board erred in rejecting Governor Brown's Subject 8 concerning the nature and extent of the risk resulting from PG&E's low power testing program. (Prehearing Conference Order, February 13, 1981, p. 33.)

17. The Licensing Board erred in rejecting Governor Brown's Subject 10 concerning the alleged operator training benefits to be derived from PG&E's low power testing program. (Prehearing Conference Order, February 13, 1981, pp. 33-34.)

18. The Licensing Board erred in rejecting Governor Brown's Subject 11 concerning whether early operation of Diablo Canyon would contribute to lessening dependence on imported fuels, reduce the risks or consequences of inadequate generating resources, or allow generation of power using less expensive fuels. (Prehearing Conference Order, February 13, 1981, p. 34.)

19. The Licensing Board erred in rejecting Governor Brown's Subject 15 concerning the adequacy of PG&E's procedures for dissemination of operating experience to PG&E personnel. (Prehearing Conference Order, February 13, 1981, p. 35.)

20. The Licensing Board erred in rejecting Governor Brown's Subject 17 concerning compliance with the National Environmental Policy Act and the regulations thereunder. (Prehearing Conference Order, February 13, 1981, p. 36.)

21. The Licensing Board erred in rejecting the objections to the Prehearing Conference Order filed by Governor Brown on February 23, 1981. (Licensing Board Memorandum and Order, April 30, 1981.)

22. The Licensing Board erred in granting summary disposition of Joint Intervenor's Contention 13 and Governor Brown Subject 13. (Licensing Board Memorandum and Order, April 30, 1981, p. 6.)

#### Exceptions to Partial Initial Decision

##### A. Quality Assurance (PID, pp. 9-11)

23. The Licensing Board erred in ruling that the TMI accident failed to cause a substantial revision of required quality assurance procedures. (PID, p. 11, ¶26.)

24. The Licensing Board erred in relying on a description of PG&E's quality assurance program in reaching the conclusion that PG&E's quality assurance program meets regulatory requirements. (PID, p. 11, ¶26.)

25. The Licensing Board erred in failing to require a description of how the 10 C.F.R. Part 50, Appendix B quality assurance criteria would be satisfied by PG&E's program and procedures. (PID, p. 11, ¶26.)

26. The Licensing Board erred in failing to require that PG&E's quality assurance program for operations be included in the record. (PID, p. 11, ¶26.)

B. Unresolved Generic Safety Issues (PID, pp. 12-17)

27. The Licensing Board erred in rejecting Joint Intervenor's contention relating to unresolved generic safety issues.

28. The Licensing Board erred in failing to analyze the cumulative impact on risk of operation of the Diablo Canyon facility with unresolved generic safety issues still outstanding. (PID, pp. 12-17, ¶¶ 28-40.)

29. The Licensing Board erred in failing to discuss in the PID the unresolved generic safety issues which relate directly to the TMI accident, namely Tasks A-45 through A-48, as described in NUREG-0705. (PID, pp. 12-17.)

30. The Licensing Board erred in ruling that the TMI accident has had no explicit impact on generic safety issues. (PID, p. 13, ¶31.)

31. The Licensing Board erred in failing to condition the PID on resolution of all generic safety issues applicable to Diablo Canyon by some specified date. (PID, pp. 12-17.)

32. The Licensing Board erred in ruling that Category B-D tasks have no potentially significant public safety implications for Diablo Canyon. (PID p. 16, ¶¶ 37-38.)



33. The Licensing Board erred in allowing evidence on generic safety issues via affidavits, thus precluding an opportunity for cross-examination. (PID, p. 12, ¶ 29.)

C. Emergency Preparedness (PID, pp. 18-51)

34. The Licensing Board erred in ruling that FEMA recognized on March 12, 1980 that Diablo Canyon would soon seek authorization for low power testing. (PID, p. 20, ¶46.)

35. The Licensing Board erred in ruling that the FEMA/NRC Steering Committee determined that on an interim basis, public health and safety is protected adequately for low power operation if a facility is located in a state that had received concurrence under the NRC's voluntary concurrence program and "based on evaluation by a multi-agency Federal Regional Advisory Committee" and if operator plans are consistent with previous Appendix E to Part 50 and NRC Regulatory Guide 1.101. (PID, p. 20, ¶46; Gov. Brown Proposed Findings, pp. 41-48.<sup>\*/</sup>)

36. The Licensing Board erred in failing to strike those portions of the testimony of Mr. Sears relating to the alleged FEMA finding relating to offsite emergency preparedness for Diablo Canyon. (Transcript, pp. 11,033-37, 11,273-74; Gov. Brown Proposed Findings, pp. 43-44; Sears test. pp. 6, 8, Transcript after p. 11,035.)

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<sup>\*/</sup> Governor Edmund G. Brown Jr. Brief of Proposed Findings of Fact and Conclusions of Law in Opposition to the PG&E Motion for Licenses for Fuel Loading and Low Power Testing, June 16, 1981.

37. The Licenising Board erred in relying upon or giving any significance to any alleged findings by FEMA or the FEMA/NRC Steering Committee. (PID, p. 20, ¶ 46).

38. The Licensing Board erred in failing to rule that FEMA has made no finding relating to the adequacy of offsite emergency preparedness for Diablo Canyon. (PID, p. 20, ¶ 46; Gov. Brown Proposed Findings, pp. 41-47.)

39. The Licensing Board erred in ruling that SECY-81-188, dated April 22, 1981, changed the schedule of required compliance with the NRC's upgraded emergency planning regulations found in 10 C.F.R. § 50.47. (PID, pp. 22-23, ¶¶ 55-60.)

40. The Licensing Board erred in ruling that SECY-81-188 eliminated the necessity for a point-by-point examination of the planning standards of Section 50.47(b) and NUREG-0654 in considering a Section 50.47(c)(1) exemption from emergency planning and preparedness standards for low power operation. (PID, p. 23, ¶ 56; Gov. Brown Proposed Findings, pp. 12-15.)

41. The Licensing Board erred in ruling that a licensee seeking relief from the Section 50.47(b) Standards under Section 50.47(c)(1) does not need to demonstrate on a point-by-point basis why the specific standards of Section 50.47(b) do not need to be satisfied for low power operation. (PID, p. 23, ¶¶ 56-59; Gov. Brown Proposed Findings, pp. 12-15.)

42. The Licensing Board erred in ruling that Section 50.47 provides no schedule for implementation of that regulation. (PID, p. 23, ¶58.)



43. The Licensing Board erred in ruling that SECY-81-188 constitutes Commission policy guidance on emergency planning and preparedness requirements for low power testing. (PID, p. 23, ¶¶ 56-59; Gov. Brown Proposed Findings, pp. 12-15.)

44. The Licensing Board erred in ruling that SECY-81-188 reduced or eliminated the evidentiary burden on PG&E to demonstrate that deficiencies in compliance with the Section 50.47(b) standards are not significant for low power operation of Diablo Canyon. (PID, p. 23, ¶¶ 56-59; Gov. Brown Proposed Findings, pp. 12-15.)

45. The Licensing Board erred in ruling that relief from full compliance with the Section 50.47(b) standards does not need to be sought under Section 50.47(c)(1). (PID, p. 23, ¶¶ 56-59; Gov. Brown Proposed Findings, pp. 12-15.)

46. The Licensing Board erred in ruling that the maximum power levels which will be achieved during the PG&E low power test program will be approximately 3 percent of rated power. (PID, p. 24, ¶ 61.)

47. The Licensing Board erred in failing to base its analyses and conclusions on the activities specified by PG&E in its proposed form of license (Joint Intervenors' Ex. 113), namely, a license authorizing 5 percent power operation for one year. (PID, p. 24, ¶ 61; Gov. Brown Proposed Findings, pp. 19-20.)

48. The Licensing Board erred in ruling that the PG&E testing program will last for no longer than one month and probably will take approximately 18 days. (PID, p. 24, ¶ 61; Gov. Brown Proposed Findings, pp. 19-20.)

49. The Licensing Board erred when it ruled that PG&E witness Dr. Brunot testified that the risk of exposure to radiation for any member of the public is directly proportional to the core inventory of the isotope(s) which could contribute to that exposure. (PID, p. 24, ¶63.)

50. The Licensing Board erred in ruling that during low power testing the core fission product inventory will be a factor of 20 to 400 less than it would be at full power operation. (PID, p. 24, ¶ 63; Gov. Brown Proposed Findings, pp. 19-21.)

51. The Licensing Board erred in ruling that the reduced fission product inventory during low power operation means that the exposures that could occur at the site boundary and at the boundary of the low population zone ("LPZ") would be well within the prescribed exposure limits. (PID, p. 24, ¶ 64; pp. 44-45, ¶ 114; Gov. Brown Proposed Findings, pp. 20-23, 79.)

52. The Licensing Board erred when it ruled that Dr. Brunot calculated potential exposures at the site boundary and LPZ and compared them to regulatory limits. (PID, pp. 24-25, ¶ 64; Gov. Brown Proposed Findings, pp. 19-23, 79.)

53. The Licensing Board erred in failing to rule that PG&E and the Staff, in order to demonstrate the alleged reduced consequences of a low power accident, must prepare site-specific consequence analyses such as use of the CRAC code or its equivalent. (PID, pp. 24-25, ¶¶ 64-65.)

54. The Licensing Board erred when it failed to rule that neither PG&E nor the Staff had demonstrated that the consequences of a severe accidental radioactive release at low power justify

reduced emergency preparedness. (Gov. Brown Proposed Findings, p. 19.)

55. The Licensing Board erred in ruling that the exposure values set forth in Table 2 of the Partial Initial Decision are conservative. (PID, p. 25, ¶¶ 64-65; Gov. Brown Proposed Findings, pp. 19-23, 79.)

56. The Licensing Board erred in failing to rule that the exposure values discussed by PG&E witnesses, Dr. Brunot and Mr. Shiffer, and referenced in the PID are based upon design basis accidents and design basis limits for assumed containment leakage and, accordingly, did not include the range of accidents, including Class 9 accidents, which must be considered for emergency planning purposes. (Gov. Brown Proposed Findings, pp. 22-23, 79; PID p. 25, ¶¶ 64-65, p. 34, ¶¶ 85-86.)

57. The Licensing Board erred in accepting the consequence analysis of Dr. Brunot (PID Table 2), since Dr. Brunot's analyses relied upon design basis values for containment leakage. (Governor Brown Proposed Findings, p. 22; PID, p. 25, ¶¶ 64-65.)

58. The Licensing Board erred in giving credit for the alleged additional risk reduction factors testified to by Dr. Brunot and set forth at page 26 of the Partial Initial Decision. (PID, pp. 25-26, ¶ 66.)

59. The Licensing Board erred in ruling that during low power operation, the overall risk of events leading to accidental releases as well as the quantity of radioactive materials involved is greatly reduced from the corresponding values at full power. (PID, p. 27, ¶ 68.)

60. The Licensing Board erred in failing to rule that the risks of low power operation, even if less than the risks of full power operation, nevertheless are extremely significant, due particularly to the large fission product inventory (for example 4.5 million curies of I-131) which will be created by PG&E's testing program. (Gov. Brown Proposed Findings, pp. 19-24, 79; PID, p. 27, ¶ 68, p. 32, ¶ 81.)

61. The Licensing Board erred in denying the motion of Governor Brown to strike those portions of Dr. Brunot's testimony dealing with an alleged comparison of a hypothetical Diablo Canyon accident with the TMI accident. (PID, p. 27, ¶¶ 69-70; Transcript, pp. 10,591-95; Brunot Test. pp. 14-18, Transcript after p. 10,595.)

62. The Licensing Board erred in denying the motion of Governor Brown to strike portions of Staff witness Mr. Lauben's testimony on the basis that he lacked necessary expert qualifications to provide that testimony. (Transcript, pp. 10,996-11,013, 11,105-06; Lauben Test. pp. 2-5, 7-9, Transcript after p. 11,014; Gov. Brown Proposed Findings, pp. 30-32.)

63. The Licensing Board erred in ruling that for emergency planning and preparedness purposes, it is permissible to consider the alleged reduced probability of an accident during low power operation in determining what level of emergency preparedness is required for low power operation. (F D, pp. 30-35.; Gov. Brown Proposed Findings, pp. 24-27.)

64. The Licensing Board erred in rejecting the ATWS event as a credible event that could lead to significant radiological releases. (PID, p. 30, ¶ 75.)

65. The Licensing Board erred in ruling that PG&E and the Staff introduced reliable and probative evidence to demonstrate that the probability of an accident during low power operation of Diablo Canyon will be significantly less than the probability of an accident during full power operation of the facility. (PID, p. 32, ¶¶ 80-81.)

66. The Licensing Board erred in failing to rule that PG&E and the Staff must perform Diablo Canyon-specific event tree and fault tree analyses in order to establish the alleged reduced probability of an accidental release of radiation during low power operation. (PID, pp. 29-30, ¶¶ 73-75.)

67. The Licensing Board erred in failing to rule that the PG&E/Staff justification of reduced emergency preparedness for low power operation based upon the alleged reduced probability of an accidental release constitutes an impermissible attack on the Commission's regulations. (Gov. Brown Proposed Findings, pp. 24-27.)

68. The Licensing Board erred in failing to rule that for low power operation, Section 50.47 and NUREG-0654 require the Licensing Board to assume that significant releases of the low power fission product inventory will occur; and further, on the basis of such releases, to determine the necessary emergency preparedness which must be in place to respond to those predicted

consequences. (Gov. Brown Proposed Findings, pp. 16-27; PID, p. 30, ¶ 76.)

69. The Licensing Board erred in ruling that the probability of a serious accident during low power operation is reduced by a range of 400 to 1500 versus the probability of such an accident during full power operation. (PID, p. 32, ¶ 80; Gov. Brown Proposed Findings, pp. 28-29.)

70. The Licensing Board erred in ruling that for purposes of emergency planning, the risk to the public at low power operation is several hundred times below the risk during full power operation. (PID, p. 32, ¶ 81.)

71. The Licensing Board erred in ruling that Mr. Lauben's risk reduction estimates are conservative. (PID, p. 32, ¶ 82.)

72. The Licensing Board erred in ruling that the relative risk assessments provided by PG&E and Staff witnesses are meaningful in the absence of analyses of the risk of full power operation. (PID, pp. 33-34, ¶¶ 83-84; Gov. Brown Proposed Findings, p. 30.)

73. The Licensing Board erred in relying upon Diablo Canyon safety analyses for full power operation because, inter alia, these analyses considered only design basis events and did not include assessment of or findings on the adequacy of full power emergency preparedness have yet been made. (PID, p. 33, ¶ 84.)

74. The Licensing Board erred in ruling that "[r]elative risk estimates are ... useful for the purpose of determining the relative degree of emergency planning which is needed to protect health and safety at reduced power. (PID, p. 33, ¶ 84.)



75. The Licensing Board erred in accepting Staff witness Mr. Lauben's analyses which are based upon an extrapolation of WASH-1400 methodology. (PID, pp. 33-34, ¶ 84; Gov. Brown Proposed Findings, pp. 29-30.)

76. The Licensing Board erred in relying upon use of WASH-1400 to identify dominant accident scenarios which might affect the Diablo Canyon low power testing program. (PID, pp. 33-34, ¶ 84; Gov. Brown Proposed Findings, pp. 29-30.)

77. The Licensing Board erred in rejecting the analysis of Governor Brown of thyroid doses from an iodine-131 release, as set forth in Gov. Brown Proposed Findings, pp. 21-24 and 79. (PID, p. 34, ¶¶ 85-86.)

78. The Licensing Board erred in relying on 10 C.F.R. § 100.11, n. 1, for consideration of which accidents or releases are credible for emergency preparedness purposes. (PID, p. 34, ¶ 85.)

79. The Licensing Board erred in ignoring the guidance of NUREG-0654 (also see NUREG-0396 which is based on WASH-1400) concerning the range of accidents (PWR 1 thru 7) which must be deemed credible for emergency preparedness purposes. (PID, pp. 34-35, ¶¶ 85-86; Gov. Brown Proposed Findings, pp. 16-19.)

80. The Licensing Board erred in failing to rule on and grant the "Motion of Governor Edmund G. Brown Jr. to Reply to Pacific Gas and Electric Company Filing," dated July 10, 1981, and to discuss the points raised therein by the Governor in its Partial Initial Decision.

81. The Licensing Board erred in ruling that Governor Brown had the burden to "disclose an accident sequence or a failure mechanism" which might lead to the consequences postulated by Governor Brown in his Proposed Findings, pp. 21-24, 79. (PID, p. 34, ¶ 85.)

82. The Licensing Board erred in failing to rule that PG&E had the burden to prove that under no circumstances could serious consequences (such as postulated by Governor Brown in his Proposed Findings) occur as a result of a low power operation. (PID, p. 34, ¶ 85.)

83. The Licensing Board erred in failing to rule that the accident sequences set forth in NUREG-0654 (and NUREG-0396) and specifically cited to the Board (e.g. Gov. Brown Proposed Findings, p. 18) satisfied any burden which Governor Brown might have to demonstrate accident sequences or failure mechanisms which might lead to the consequences postulated in the Governor's Proposed Findings, pp. 21-24, 79. (PID, p. 34, ¶¶ 85-86.)

84. The Licensing Board erred in failing to analyse each deficiency in onsite and offsite emergency preparedness, when measured against the requirements of Section 50.47(b) and NUREG-0654, and to explain why each deficiency is not significant for Diablo Canyon low power operation. (PID, p. 23, ¶ 56, p. 37, ¶ 90; p. 51, ¶ 133.)

85. The Licensing Board erred in ruling that the principal deficiency in PG&E's emergency preparedness is the absence of a fast alerting system. (PID, p. 37, ¶ 90.)

86. The Licensing Board erred in ruling that the absence of a fast alert system and a public information program are not significant deficiencies during low power operation. (PID, p. 37, ¶ 91; p. 51, ¶ 132; Gov. Brown Proposed Findings, pp. 63-68.)

87. The Licensing Board erred in ruling that the interim Emergency Operations Facility has been approved by the NRC for fuel loading and low power testing. (PID, pp. 39-40, ¶ 99.)

88. The Licensing Board erred in ruling that no direct evidence was presented by Governor Brown or Joint Intervenors showing that the Technical Support Center, the Onsite Support Center, or the Emergency Operations Facility did not meet NRC regulatory requirements for low power testing. (PID, p. 40, ¶ 100.)

89. The Licensing Board erred in finding PG&E emergency communications and radio communications systems adequate for low power testing. (PID, p. 40, ¶¶ 101-02; p. 47, ¶ 120; p. 51, ¶ 132.)

90. The Licensing Board erred in finding the PG&E radiological monitoring program to be adequate for low power testing. (PID, pp. 40-41, ¶¶ 103-04; p. 51, ¶ 132; Gov. Brown Proposed Findings, pp. 73-74.)

91. The Licensing Board erred in finding that the PG&E arrangements with the San Luis Obispo Ambulance Service and French Hospital are adequate for treatment and transport of seriously injured persons. (PID, p. 42, ¶ 106; p. 51, ¶ 132.)

92. The Licensing Board erred in finding that the drills for transport and treatment of simulated accident victims conducted in 1977, 1979, and 1980 provide reasonable assurance that

these emergency preparedness activities can and will be conducted in a satisfactory manner in the event of a radiological emergency at Diablo Canyon. (PID, p. 42, ¶ 106.)

93. The Licensing Board erred in finding adequate the public warning system which allegedly "now consists of warning by house-to-house contact and loud speaker equipped vehicles." (PID, p. 42, ¶ 107; p. 51, ¶ 132.)

94. The Licensing Board erred in finding that PG&E onsite fire protection capability is adequate in the absence of an executed and implemented agreement with the California Department of Forestry to provide backup fire protection assistance. (PID, pp. 43-44, ¶¶ 108-111; p. 51, ¶ 132; Gov. Brown Proposed Findings, pp. 74-75.)

95. The Licensing Board erred in finding adequate the drills and training described by the PG&E panel. (PID, p. 44, ¶ 112; p. 51, ¶ 132.)

96. The Licensing Board erred in failing to rule that the drills and training exercises conducted by PG&E, particularly when evaluated in light of the testimony of Governor Brown's witness Dr. Howard Mitchell whose personnel participated in the drills, demonstrate that inadequate emergency preparedness exists for Diablo Canyon. (PID, p. 44, ¶ 112; Gov. Brown Proposed Findings, pp. 37-40; 71-73.)

97. The Licensing Board erred in ruling that the San Luis Obispo County emergency plans provide for evacuation of the LPZ in the event of an emergency. (PID, p. 45, ¶ 115.)

98. The Licensing Board erred in ruling that there are approximately 65 permanent residents in the LPZ and up to 1,500 visitors to Montana de Oro State Park who might need to be evacuated in the event of a Diablo Canyon emergency. (PID, p. 45, ¶ 115.)

99. The Licensing Board erred in failing to explain how agricultural workers will be notified and evacuated from the LPZ in the event of an emergency. (PID, p. 45, ¶ 115; Gov. Brown Proposed Findings, p. 58, n. 34.)

100. The Licensing Board erred in ruling that the Sheriff of San Luis Obispo County has the lead role in conducting an evacuation of the LPZ. (PID, p. 45, ¶ 116.)

101. The Licensing Board erred in ruling that the Sheriff of San Luis Obispo County has the authority to evacuate the LPZ in the event of a Diablo Canyon radiological emergency. (PID, p. 45, ¶ 116.)

102. The Licensing Board erred in ruling that evacuation of the LPZ could be completed in several hours. (PID, p. 46, ¶ 116.)

103. The Licensing Board erred in ruling that evacuation of the LPZ and other necessary emergency preparedness activities could be accomplished in view of the fact that there has never been a coordinated exercise of the PG&E, State and County plans to demonstrate that an adequate integrated response capability exists. (PID, pp. 45-46, ¶ 116; p. 51, ¶ 132; Gov. Brown Proposed Findings, 35-40, 54-58, 71-73.)

104. The Licensing Board erred in ruling that sufficient emergency preparedness exists to notify and evacuate persons in Montana de Oro State Park. (PID, p. 46, ¶ 117; p. 51, ¶ 132; Gov. Brown Proposed Findings, pp. 52-54.)

105. The Licensing Board erred in failing to rule that the Staff review of offsite emergency preparedness was superficial and entitled to no weight. (Gov. Brown Proposed Findings, pp. 49-56; PID, p. 51, ¶¶ 132-33.)

106. The Licensing Board erred in ruling that persons in remote sections of Montana de Oro State Park could be notified by personnel on foot or by using horses. (PID, p. 46, ¶ 117.)

107. The Licensing Board erred in ruling that the Sheriff of San Luis Obispo County has an agreement with Hunter-Liggett Air Force Base for use of a helicopter which, when equipped with bull horns, could be used to notify persons in remote regions of Montana de Oro State Park, even in adverse weather. (PID, p. 46, ¶ 117.)

108. The Licensing Board erred in failing to rule on and grant the "Motion of Governor Edmund G. Brown Jr. to Reopen the Record to Correct Staff Misstatements," dated July 15, 1981. This motion was hand-delivered to Board members on July 15, 1981, two days before issuance of the PID.

109. The Licensing Board erred in permitting the Sheriff of San Luis Obispo County to testify on behalf of PG&E as a surprise rebuttal witness. (PID, p. 46, ¶ 118; Transcript, pp. 11,298-11,305.)



110. The Licensing Board erred in admission of Board Exhibit 5. (PID, p. 46, ¶¶ 118-119; Transcript, pp. 11,328-29.)

111. The Licensing Board erred in ruling that the Sheriff's emergency plan for evacuation of the LPZ (Board Exhibit 5) provides assurance that the Sheriff has the authority and capability to carry out an evacuation of the LPZ in the event of a radiological emergency at Diablo Canyon. (PID, pp. 46-47, ¶ 119; Gov. Brown Proposed Findings, pp. 57-58.)

112. The Licensing Board erred in placing reliance on "paper plans," such as the County emergency plan and the Sheriff's emergency plan, rather than on a demonstration of actual emergency preparedness to respond to a Diablo Canyon emergency. (PID, p. 46, ¶ 117; pp. 46-47, ¶¶ 118-19; Gov. Brown Proposed Findings, pp. 12-15, 35-40.)

113. The Licensing Board erred in ruling that the Sheriff's evacuation plan represents adequate emergency preparedness to respond to a Diablo Canyon emergency and failed to recognize and rule that many other emergency matters, beyond those capable of being implemented by the Sheriff, must be taken in the event of a Diablo Canyon emergency. (Gov. Brown Proposed Findings, pp. 50-51; PID, pp. 46-47, ¶ 119; p. 51, ¶ 132.)

114. The Licensing Board erred in failing to rule that the Sheriff of San Luis Obispo County has no authority to order the evacuation of Montana de Oro State Park. (Gov. Brown Proposed Findings, p. 52.)

115. The Licensing Board erred in failing to require PG&E to demonstrate that the PG&E, State, and local emergency response

plans can function effectively in the complicating circumstance of an earthquake prior to or in conjunction with a radiological emergency at Diablo Canyon. (PID, p. 47, ¶ 120; Gov. Brown Proposed Findings, pp. 68-71.)

116. The Licensing Board erred in failing to rule that emergency preparedness at Diablo Canyon is inadequate in view of the undisputed fact that the PG&E, State and local emergency plans do not address the steps necessary to deal with the complicating effects of an earthquake or emergency preparedness and emergency response. (PID, p. 47, ¶ 120; Gov. Brown Proposed Findings, pp. 68-71.)

117. The Licensing Board erred in failing to hold the low power record open until a PG&E report concerning earthquake complications (testified by the Staff to be due in May 1981) was submitted by PG&E. (PID, p. 47, ¶ 120; Transcript. pp. 11,340-42.)

118. The Licensing Board erred in failing to rule that the pre-TMI San Luis Obispo County Emergency Response Plan and the pre-TMI Emergency Evacuation Plan are mere outdated paper plans that have never been implemented and, accordingly, that there is currently no offsite emergency preparedness to respond to a Diablo Canyon radiological emergency. (Gov. Brown Proposed Findings, pp. 35-40; PID, pp. 47-48, ¶¶ 121-122.)

119. The Licensing Board erred in ruling that adequate on-site and offsite emergency preparedness exists for support of the PG&E low power test program. (PID, p. 51, ¶ 132.)

120. The Licensing Board erred in ruling that Mr. Jorgensen, a member of the San Luis Obispo County Board of Supervisors who testified on behalf of Governor Brown, had expressed concerns primarily for the status of county-wide planning, rather than concerns for the planning and preparedness necessary for a low power test program. (PID, pp. 48-49, ¶¶ 123-24; Gov. Brown Proposed Findings, pp. 58-59.)

121. The Licensing Board erred in failing to rule that the testimony of Governor Brown's witness Mr. Jorgensen specifically pertained to the LPZ as well as the rest of the County. (PID, pp. 48-49, ¶¶ 123-24; Gov. Brown Proposed Findings, pp. 58-59.)

122. The Licensing Board erred in dismissing or discounting the testimony of Governor Brown's witness Dr. Howard Mitchell, the San Luis Obispo County Health Director, on the basis that he allegedly failed to take into account the lower risks at low power testing and on the basis that his testimony was not specifically related to PG&E's low power test program. (PID, pp. 49-50, ¶¶ 125-129; Gov. Brown Proposed Findings, pp. 38-39.)

123. The Licensing Board erred in failing to rule on the basis of the testimony of Governor Brown's witness Dr. Mitchell that offsite medical preparedness and monitoring capabilities are inadequate. (PID, pp. 49-50, ¶ 125-129; Gov. Brown Proposed Findings, pp. 38-39.)

124. The Licensing Board erred in ruling that the risks during fuel load and low power testing are considerably reduced from the risks at full power operation of Diablo Canyon. (PID, p. 50, ¶ 130.)

125. The Licensing Board erred in ruling that a 6-mile LPZ is the appropriate planning zone for emergency preparedness for low power testing. (PID, pp. 50-51, ¶ 131.)

126. The Licensing Board erred in ruling that the current level of emergency planning by PG&E and San Luis Obispo County provides substantial protection to the public which is at least equivalent to the protection which would be afforded by full compliance with the NRC's emergency planning regulations at full power operation. (PID, p. 51, ¶ 132.)

127. The Licensing Board erred in failing to make findings on the adequacy of State of California emergency preparedness to respond to an emergency at the Diablo Canyon facility. (PID, p. 51, ¶ 132.)

128. The Licensing Board erred in ruling that the current level of emergency preparedness at Diablo Canyon is consistent with NRC requirements set forth in 10 C.F.R. § 50.47. (PID, p. 51, ¶ 133.)

129. The Licensing Board erred in ruling that there is adequate County preparedness to respond to an emergency at Diablo Canyon. (PID, p. 51, ¶ 132.)

130. The Licensing Board erred in failing to rule that there is, in fact, inadequate County preparedness to respond to the effects of a radiological emergency at Diablo Canyon. (PID, p. 51, ¶ 132; Gov. Brown Proposed Findings, pp. 34-60.)

131. The Licensing Board erred in ruling that the deficiencies in the PG&E, local, and state emergency response plans are

not significant for operation of Diablo Canyon at power levels not in excess of 5 percent of full power. (PID, p. 51, ¶ 133.)

132. The Licensing Board erred in providing no basis for its ruling that the deficiencies in the PG&E, county, and State emergency response plans and preparedness are not significant for operation of Diablo Canyon at power levels not in excess of 5 percent of full power. (PID, p. 51, ¶ 133.)

133. The Licensing Board erred in ruling that PG&E and the Staff demonstrated that the allegedly reduced consequences of a severe accidental release at low power justify emergency preparedness which is less than in full compliance with the Section 50.47(b) standards. (PID, p. 25, ¶¶ 64-65; p. 51, ¶ 133; Gov. Brown Proposed Findings, p. 19.)

134. The Licensing Board erred in failing to rule that the absence of consistent and similar emergency classification and action level systems in both the onsite and the offsite emergency response plans requires a finding of inadequate emergency preparedness and rejection of the requested licenses. (Gov. Brown Proposed Findings, pp. 62-63; PID, p. 51, ¶ 132.)

135. The Licensing Board erred in ruling for PG&E in the absence of PG&E having carried out any public information program to explain what actions must be taken by the public in the event of a Diablo Canyon radiological emergency. (Gov. Brown Proposed Findings, pp. 66-68; PID, p. 37, ¶ 91.)

D. Relief, Safety, and Block Valves

136. The Licensing Board erred in ruling that the test program for the pressure operated relief valves and the safety valves at Diablo Canyon is scheduled to be completed by July 1, 1981. (PID, p. 56, ¶ 141.)

137. The Licensing Board erred in ruling that the evidence presented at the low power hearing provided no basis for requiring a testing program for block valves on a schedule other than that set forth in NUREG-0737. (PID, p. 60, ¶ 149.)

E. Conclusion of Law

138. The Licensing Board erred in ruling that construction of the Diablo Canyon facility has been substantially completed in conformity with the construction permit and the application as amended, the provisions of the Atomic Energy Act of 1954, as amended, and the rules and regulations of the Commission. (PID, p. 6, ¶ 154.)

139. The Licensing Board erred in ruling that the Diablo Canyon facility will operate in conformity with the application as amended, the provisions of the Act, and the rules and regulations of the Commission. (PID, p. 61, ¶ 154.)

140. The Licensing Board erred in ruling that there is reasonable assurance that the activities authorized by the fuel load and low-power testing (up to 5%) license can be conducted without



endangering the health and safety of the public. (PID, p. 61, ¶ 154.)

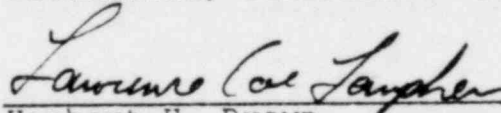
141. The Licensing Board erred in ruling that there is reasonable assurance that the activities authorized by fuel load and low power testing (up to 5%) license will be conducted in compliance with the Commission's regulations.

142. The Licensing Board erred in ruling that PG&E is technically and financially qualified to engage in the activities authorized by the fuel load and low-power testing license in accordance with the Commission's regulations. (PID, p. 61, ¶ 154.)

143. The Licensing Board erred in ruling that the issuance of a fuel load and low-power testing license will not be inimical to the common defense and security or to the health and safety of the public. (PID, p. 61, ¶ 154.)

Respectfully submitted,

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August 3, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of )  
)  
)

PACIFIC GAS AND ELECTRIC COMPANY )  
)  
)

(Diablo Canyon Nuclear Power )  
Plant, Unit Nos. 1 and 2) )  
)

-Docket Nos. 50-275 O.L.  
50-323 C.L.

CERTIFICATE OF SERVICE

I hereby certify that copies of the "EXCEPTIONS OF GOVERNOR EDMUND G. BROWN JR. TO LICENSING BOARD PARTIAL INITIAL DECISION OF JULY 17, 1981" have been served to the following on August 3, 1981 by U.S. mail, first class, except as otherwise noted.

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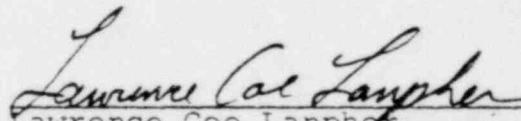
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August 3, 1981

(\*) Hand-delivered on August 3, 1981