

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of

PACIFIC GAS AND ELECTRIC COMPANY

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

)
) Docket Nos. 50-279 O.L.
) 50-323 O.L.
)
)
)

RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY
TO SUPPLEMENT TO JOINT INTERVENORS'
PETITION FOR REVIEW OF ALAB-644

On July 6, 1981, Joint Intervenorors filed their Petition for Review of ALAB-644, an Appeal Board decision affirming the seismic findings of the Licensing Board. In that Petition for Review, Joint Intervenorors argued, inter alia, that the Appeal Board erred in not reopening the seismic hearings for a second time,^{1/} following the publication of USGS Open file report 81-365 written by Messrs. Boore and Joyner. Joint Intervenorors have now filed ^{2/} a supplement to their Petition for Review making further argument and attaching a preprint of an article by Boore and Joyner which is essentially the same as USGS 81-365. In addition, Joint Intervenorors argue that Dr. Boore testified at the San Onofre hearings and then attempt, without even a citation to any transcript, exhibit or like source, to tell the Commission what Dr. Boore's testimony "confirmed".

^{1/}Following the Imperial Valley Earthquake of October 15, 1979, with a 6.9 M_s, the Appeal Board granted Joint Intervenorors' motion to reopen and conducted hearings themselves which commenced October 20, 1980.

^{2/}August 13, 1981.



Joint Intervenors' latest filing is yet another attempt to persuade this Commission that both the Licensing and Appeal Boards erred in finding that the Diablo Canyon Nuclear Power Plant is seismically qualified. Unfortunately, as in the case of their Motion to Reopen originally filed with the Appeal Board on April 27, 1981, Joint Intervenors have failed to meet the standards for reopening the record. First, USGS Open File Report 81-365 and the conclusions therein are not "new information", but rather, an analysis by two individuals of existing data.^{3/} Second, and foremost, the analysis by Messrs. Boore and Joyner would not affect the decision of the Appeal Board. As stated at page 178 of ALAB-644:

"[W]e have thoroughly examined the evidence now before us bearing on the points covered by the Open-File Report. Even were the caveat we mentioned not present, we are satisfied that the report itself is insufficient to overcome the result required by the record as we have discussed and evaluated it in this decision. In all the circumstances, and particularly as the new report would not affect the out-come of this case, the standards for reopening are not met. ALAB-598, supra, 11 NRC at 879; Kansas Gas & Electric Co. (Wolf Creek Station, Unit 1), ALAB-462, 7 NRC 320, 338 (1978). See also, Bowman Transportation v. Arkansas-Best Freight System, 419 U.S. 281, 294-96 (1974); United States v. ICC, supra; ICC v. Jersey City, supra.

Joint Intervenors' "supplement" is nothing more than a reiteration of the argument they have made and lost before.

^{3/}The report analyzed data which was existing and thoroughly analyzed by many other experts at the time of the seismic hearings of October 20, 1980.

It should be disposed of accordingly.

Respectfully submitted,

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DATED: August 28, 1981.

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NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	Docket Nos. 50-275 O.L.
PACIFIC GAS AND ELECTRIC COMPANY)	50-323 O.L.
)	
(Diablo Canyon Nuclear Power)	
Plant, Units No. 1 and 2))	

CERTIFICATE OF SERVICE

I hereby certify that copies of "RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY TO SUPPLEMENT TO JOINT INTERVENORS' PETITION FOR REVIEW OF ALAB-644", dated August 28, 1981, have been served on the following by deposit in the United States mail, postage prepaid, this 28th day of August, 1981:

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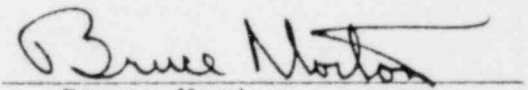
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