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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



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

RESPONSE OF PACIFIC GAS AND ELECTRIC COMPANY
TO JOINT INTERVENORS' AND GOVERNOR BROWN'S
PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

April 12, 1982

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14
15 I

16 INTRODUCTION

17 After hearings on Pacific Gas and Electric
18 Company's ("PGandE") application for a full power operating
19 for its Diablo Canyon Nuclear Power Plant were held from
20 January 19 through January 26, 1982, PGandE filed its
21 Proposed Findings of Fact and Conclusions of Law on
22 February 26, 1982. On March 19, 1982 the Joint Intervenors
23 and Governor Brown filed their respective Proposed Findings

24 ///

25 ///

26 ///

1 and Conclusions. The NRC Staff filed its Proposed Findings
2 and Conclusions on March 29, 1982. 1/

4 II

5 Contention 10 - Pressurizer Heaters

6 In paragraph 47 of the Joint Intervenors' Proposed
7 Findings of Fact [J.I. Findings] and paragraph 10 2/ of
8 Governor Brown's Proposed Findings of Fact [G.B. Findings]
9 reference is made to a recommendation by a unit of the NRC
10 Staff that the pressurizer heaters should be classified as
11 safety grade. However, this recommendation was not adopted
12 by the NRC in NUREG-0737, which is the only document in
13 which the Commission has given its approval for post-TMI
14 implementation items. [Tr. 11656.]

15 Paragraphs 48-51 of J.I. Findings and Paragraphs 2
16 through 8 of the G.B. Findings describe the function of the
17 pressurizer heaters in maintaining natural circulation.
18 However, both the NRC Staff witness and the PGandE witnesses

19
20 1/ PGandE has reviewed the Staff's Proposed Findings and
21 Conclusions and, except as noted, is in substantial
22 agreement with them. The Staff's brief sets forth
23 lengthy arguments refuting the legal and factual argu-
24 ments made by the Joint Intervenors and Governor Brown.
25 PGandE will attempt to restrict its responses which in
26 almost all respects agree with the Staff's position.
However, we believe it important to place our response
on the record even though it repeats many of the argu-
ments and conclusions reached by the Staff.

2/ Governor Brown's findings and this contention are on
pages 49-56 of his Proposed Findings of Fact.

1 testified that the pressurizer heaters are not the only
2 means of maintaining natural circulation of Diablo Canyon.
3 [Hoch-Young testimony following Tr. 11550, p. 2; Jensen
4 testimony following Tr. 11621, pp. 3, 4; Tr. 11562, 11567.]
5 In support of its position PGandE and the NRC Staff cited
6 test data from the Sequoyah facility. Joint Intervenors and
7 Governor Brown fault the citation of this test data but the
8 Staff witness testified that he knew of no differences in
9 the facilities that would make the Sequoyah data
10 inapplicable to Diablo Canyon. [Tr. 11641.] Further in
11 reviewing these tests it is not necessary to assume the
12 complications of a TMI-type accident because the heaters are
13 not required following such an accident. The Joint
14 Intervenors and Governor Brown also allege that PGandE
15 operating procedures fail to direct the operators what to do
16 if the heaters became unavailable. PGandE witnesses
17 testified that in such event the operators' general training
18 would tell them what to do and that there are procedures
19 available covering alternate methods of controlling
20 pressure. [Tr. 11558, 11664, 11583, 11584.] It was also
21 pointed out that extensive cross-referencing between various
22 procedures would produce a document so lengthy as probably
23 to be unworkable. [Tr. 11580.]

24 In paragraph 52 of the J.I. Findings and
25 paragraph 6 of the G.B. Findings criticism is directed at
26 the method utilized by PGandE to transfer some of the

1 heaters to the on-site emergency power system. However, the
2 NRC Staff has approved this method because it permits
3 emergency power to be supplied to the heaters well within
4 the one-hour limit recommended by Westinghouse to meet the
5 applicable portion of NUREG-0737. [Staff Ex. 25, SER Supp.
6 14, p. 2-21.] 3/

7 In Paragraphs 53 through 57 of the J.I. Findings
8 and 9 through 12 in the G.B. Findings reference is made to
9 the fact that the pressurizer heaters are not seismically
10 qualified and otherwise not qualified as safety-related.
11 However, the heaters are not required to be so qualified
12 because operation of the heaters is not required to provide
13 any of the safety functions identified in Section III.C of
14 Appendix A to 10 CFR 100. [Jensen testimony following Tr.
15 11621, p. 7; Hoch-Young testimony following Tr. 11550,
16 pp. 2, 3; Tr. 11558, 11559, 11568, 11569, 11647, 11648.]

17 ///

18 ///

19 ///

21
22 3/ In footnote 19, page 52, Governor Brown alleges that it
23 is not common to connect a safety grade power supply to
24 non-safety grade equipment. However, PGandE witness
25 Young explained the conditions under which such a
26 connection is permitted, and that such conditions exist
at Diablo Canyon. [Tr. 11576, 11577.] Further,
NUREG-0737 requires that the heaters be connected to
the emergency power supply. [Hoch-Young testimony
following Tr. 11550, p. 3.]

1 III

2 Contention 12 - Valves

3 Paragraph 61 of the J.I. Findings states that the
4 power operated relief valves (PORVs) and block valves,
5 together with their instruments and controls, should be
6 classified as safety-related. Although in fact two of the
7 PORVs and the three block valves are so classified, such
8 classification is not required by the NRC because the valves
9 do not perform any of the critical functions identified in
10 the definition of safety related systems and components.
11 [Hoch-Crawford testimony following Tr. 11590, p. 4, Jensen
12 testimony following Tr. 11621, pp. 9, 12, 14.]

13 Paragraph 62 of the J.I. Findings discusses the
14 TMI accident. However, that reactor had only one PORV so it
15 is not comparable to Diablo Canyon. [Tr. 11594.]

16 Paragraph 63 contains a reference to a Staff
17 report recommending that the relief and block valves be
18 re-evaluated for safety grade classification. As with the
19 pressurizer heaters, this recommendation was not adopted by
20 the Commission in NUREG-0737.

21 With regard to the seismic qualification of these
22 valves [J.I. Findings, paragraph 64], they were considered
23 by PGandE to be seismically qualified. PGandE is reviewing
24 this qualification and has committed itself to take whatever
25 steps are necessary to maintain qualification of the valves.
26 [PGandE letter 2/24/82; Board Notification PNO-V-82-09.]

1 In paragraph 65 [G.B. Findings, paragraph 2] 4/
2 Joint Intervenors list a number of functions of the valves
3 of alleged safety significance. Only the first two of these
4 functions are safety-related and, of these, only the second
5 (low temperature overpressurization) relates to an active
6 function of the PORVs. [Bridenbaugh-Minor testimony
7 following Tr. 11671, pp. 4, 5; Tr. 11599-11600.] Two of the
8 three PORVs are qualified to perform that function. [Tr.
9 11607.] The first function listed is a passive function and
10 all PORVs and block valves are qualified to perform it since
11 their valve bodies are safety-grade. [Hoch-Crawford
12 testimony following Tr. 11590, pp. 4, 5.] Further, since
13 the valves are designed to open and relieve pressure the
14 opening of a valve is not a violation of the reactor system
15 pressure boundary. [Tr. 11638.] 5/

16 In paragraph 66 [G.B. Findings, paragraph 6] Joint
17 Intervenors argue that procedures and the technical
18 specifications should differentiate between the safety-grade
19 and non-safety-grade valves. However, the only function the
20 non-safety-grade valve cannot perform is low temperature

21 ///

22
23 4/ Governor Brown's valve findings are set forth in pages
24 56-61 of his Proposed Findings.

25 5/ Governor Brown in paragraph 3 of his findings attempts
26 to make the additional point that PORVs reduce chal-
27 lenges to safety valves. However, this is not a safe-
28 ty-related function. [Bridenbaugh-Minor testimony
29 following Tr. 11671, pp. 4, 5; Tr. 11600.]

1 overpressure protection, which is an automatic function.

2 [Tr. 11607.] 6/ In any event the operators are given
3 training as to which of the PORVs are safety-grade and which
4 one is not. [Tr. 11607.]

5 In paragraph 67 Joint Intervenors allege that the
6 addition of a non-qualified PORV creates additional failure
7 points. However, if this valve fails closed its function
8 may be performed by either of the other two valves. If the
9 valve fails open it may be isolated by its block valve,
10 which is safety-grade. These valves and their control
11 circuitry have been designed so that no credible failure
12 mode associated with the non-safety grade components of the
13 third PORV's control system would adversely affect the
14 function of any safety-grade components. In addition, an
15 unisolated stuck-open PORV during a design basis accident
16 considered in the FSAR would not result in core damage, as
17 demonstrated by analyses contained in Chapter 15 of the FSAR
18 and WCAP-9601. Therefore, the consequences of failure of
19 the third PORV in either the closed or the open position
20 during design basis accidents considered in the FSAR have

21 ///

22
23 6/ In paragraph 8 of his Proposed Findings, Governor Brown
24 discusses low-temperature over-pressurization protec-
25 tion. The reason the two PORVs were made safety-grade
26 was to provide this protection, and this design was
accepted by the Staff. There are no current require-
ments for the PORVs to provide this protection for the
first fuel cycle. [Jensen testimony following Tr.
11621, p. 9; Tr. 11609, 11649-11651.]

1 been shown by analysis to be insignificant. [Hoch-Crawford
2 testimony following Tr. 11590, pp. 6, 7.]

3 Next, Joint Intervenors state that the accident
4 analyses relied upon by PGandE and the Staff are inadequate.
5 [J.I. Findings, paragraph 68.] 7/ In addition to the
6 argument advanced in paragraph 7 PGandE's evidence showed
7 that all three PORVs and their associated block valves could
8 fail open without core uncover and assuming no operator
9 action rather than no incorrect operator action. [Burns et
10 al., testimony following Tr. 11590, p. 11; Tr. 11597, 11614,
11 11615, 11639.]

12 Paragraph 69 of the J.I. Findings and paragraph 5
13 of the Brown Findings concern the EPRI Test Program.
14 Details of the results of the test program to date were
15 presented at the hearing. The results of these tests and
16 plant specific analyses are scheduled to be documented by
17 EPRI and the various utilities by July 1, 1982 and PGandE
18 plans to meet this deadline. [Hoch-Crawford testimony
19 following Tr. 11590, pp. 7, 8; Tr. 11598.] 8/

20 ///

21 _____
22 7/ Brown Findings, paragraph 4.

23 8/ In paragraph 7 of his proposed findings, Governor Brown
24 alleges that a block valve manufactured by Velan "the
25 same model as utilized at Diablo Canyon, has failed."
26 However, the testimony was that the valve failed to
"meet design specifications." [Burns et al., testimony
following Tr. 11590, p. 14; Tr. 11617.] In any event
that valve has a smaller operator than the equivalent
Diablo Canyon valve. [Tr. 11618.]

Contention 1 - Emergency PlanningA. The Adequacy Of The FEMA Findings

Joint Intervenors and Governor Brown have raised several questions regarding the legal adequacy of the FEMA findings. First, they question the use of "interim findings" and the level of review conducted by FEMA. Next, they question whether the FEMA finding of "reasonable assurance" can be made given the state of development of the offsite emergency plans for Diablo Canyon. Finally, they question the EPZ designation for Diablo Canyon and the effects of earthquakes on emergency planning. These matters are discussed seriatim.

The NRC in making its determination on the adequacy of offsite emergency preparedness relies on the Federal Emergency Management Agency ("FEMA") findings and determination whether "state and local emergency plans are adequate and capable of being implemented..." 10 CFR 50.47 (a)(2). The rule goes on to state that "...a FEMA finding will constitute a rebuttable presumption on a question of adequacy." 10 CFR 50.47 (a)(2). In order to facilitate this process, NRC and FEMA entered into a "Memorandum of Understanding Between NRC and FEMA Relating to Radiological Emergency Planning and Preparedness" ("MOU") on November 4, 1980, which provided that FEMA could furnish to the NRC interim findings and determinations for use in the

1 NRC licensing process notwithstanding the status of the FEMA
2 review and approval of state and local plans pursuant to the
3 FEMA rules contained in 44 CFR Part 350. (45 Fed. Reg.
4 82713).

5 In conformity with the MOU, FEMA issued its
6 interim findings in a November 2, 1981, report and
7 November 17, 1981, Memorandum stating that, with the
8 completion of 12 corrective actions relating to seven of the
9 16 planning standards in 10 CFR 50.47 (b), "...an adequate
10 level of emergency preparedness will exist in San Luis
11 Obispo County." [Attachment 3 to PGandE Panel #1 Testimony,
12 TR. 11782.] FEMA further noted that the cited corrective
13 actions were "primarily administrative in nature" and should
14 not preclude "the Atomic Safety and Licensing Board from
15 making a finding of reasonable assurance of adequate offsite
16 preparedness capability at this time." [Staff Exhibit 35.]

17 Governor Brown and Joint Intervenors argue that
18 since the State plan has not been finalized or formally
19 reviewed by FEMA, no FEMA finding can be made at this time
20 and, hence, consideration of emergency planning adequacy at
21 this time is premature. However, as noted above this
22 position is inconsistent with the provisions of 10 CFR 50.47
23 and the 1980 FEMA/NRC MOU. A corollary to this argument is
24 the assertion that the FEMA finding is incomplete since
25 there is no specific finding or evidence on the adequacy of
26 the State Plan and whether it is capable of being

1 implemented. However, the Governor and Joint Intervenors
2 refuse to recognize that in California the primary
3 responsibility for emergency response planning and execution
4 is at the county level not the state level. For that
5 reason, the FEMA review naturally concentrated on the County
6 Plan. Further, the record does reflect that FEMA did
7 review, and is cognizant of, state preparedness in the two
8 areas -- reentry and recovery and ingestion pathway sampling
9 and interdiction -- where the State is primarily
10 responsible. [Eldridge, TR. 12709].

11 The final argument with regard to the FEMA
12 findings on the adequacy of the county plans rests on the
13 contention that the May 1981 rather than the October 1981
14 County Plan was the Plan upon which the FEMA findings are
15 based. Once again, the Governor and Joint Intervenors
16 misunderstand the nature of the emergency review process
17 which is basically an ongoing and constantly evolving
18 process of plan development, review, and revision. Thus, it
19 is the nature of the process that plans will be changed in
20 response to reviews, critiques, and drills and exercises.
21 This is such a case. The FEMA findings confirm that the
22 current level of preparedness is sufficient. In fact, the
23 FEMA review takes cognizance of this evolving process up to
24 and including the October 1981 County Plan as well as the
25 corrective actions scheduled to be completed by
26 June 20, 1982. [Eldridge, Tr. 12710, Staff Ex. 35.]

1 Accordingly, the FEMA findings do support a finding that
2 state and local plans are adequate and capable of being
3 implemented.

4 Central to intervenors' arguments throughout their
5 briefs is the concept that all emergency planning and
6 preparedness criteria can and must be 100 percent satisfied
7 before the requisite approvals by this board can issue.
8 Notwithstanding the technical and administrative
9 impossibilities that intervenors' position yield, the
10 regulations clearly require no such showing. Instead a
11 standard of "reasonable assurance" is provided in 10 CFR
12 50.47(a)(1). More specifically, the Commission recognized
13 that there will be deficiencies and provided guidance that
14 "the Commission will examine State plans, local plans, and
15 licensee plans to determine whether features of one plan can
16 compensate for deficiencies in another plan." [45 Fed. Reg.
17 55403, August 19, 1980.] It is precisely this situation
18 existing at Diablo Canyon, where deficiencies in the State
19 of California Plan are compensated by SLO County and PGandE
20 plans, recognizing the limited role the State has in
21 emergency response.

22 Also, at odds with intervenors' position that 100
23 percent compliance with 100 percent of the 100 percent
24 literally construed criteria is required, is the recent
25 proposed rule dealing with exercises. [46 Fed. Reg. 61134-5
26 December 15, 1981.] In its statement of consideration, the

1 Commission proposes clarification of 10 CFR 50.47(a)(1) to
2 the effect "that findings on emergency planning required
3 prior to license issuance are predictive in nature and do
4 not need to reflect the actual state of preparedness at the
5 time the finding is made." Here, again, the situation at
6 Diablo Canyon is one where all parties are actively pursuing
7 improvements in preparedness. All reviewing authorities are
8 satisfied with the current levels, but recognize more will
9 be accomplished in the near future. NRC staff inspection
10 and enforcement actions, as well as FEMA interaction with
11 State and local emergency planning agencies assure that the
12 actual level of preparedness remains adequate. 9/

13 Governor Brown and Joint Intervenors also argue
14 that the State-adopted Basic Emergency Planning Zones (BEPZ)
15 and Extended Emergency Planning Zones (EEPZ) which extend
16 into Santa Barbara County are the appropriate and required
17 zones for consideration in this proceeding. These zones
18 extend far beyond the NRC required 10 and 50 mile zones of
19 ///

20
21 9/ Contrary to Staff's proposed Conclusion 3 (Staff
22 Findings p. 141), applicant sees no need, nor basis to
23 require certification to this Licensing Board that FEMA
24 corrective actions are completed prior to issuance of a
25 full power license. The Licensing Board findings on
26 emergency preparedness are necessarily predictive [46
Fed.Reg. 61134-5, December 15, 1981] and NRC Staff has
sufficient enforcement authority to assure satisfactory
completion of necessary corrective actions prior to
full power operation even after such license issues.
[Grimes, Tr. 12652.]

1 10 CFR 50.47 which were adopted from the joint NRC/EPA
2 report, "Planning Basis for Development of State and Local
3 Government Radiological Emergency Response Plans in Support
4 of Light Water Nuclear Power Plants," NUREG-0396 - EPA
5 520/1-78-016, December 1978.

6 We view this argument as nothing more than a
7 direct attack on a regulatory requirement (10 CFR 50.47 (c)
8 (2)) adopted after a formal rulemaking proceeding. While
9 the rule does allow that the exact size and characteristics
10 of the EPZ may be determined on a case-by-case basis, it is
11 abundantly clear that the EPZ cannot be made substantially
12 larger or smaller Metropolitan Edison Company, Docket
13 No. 50-289-SP. (Three Mile Island, Unit 1, Restart,
14 December 14, 1981.) In this case the State BEPZ extends in
15 excess of 20 miles to the southeast of the Diablo Canyon
16 Plant. This new zone clearly is not an adjustment based
17 upon local demography, topography, land characteristics,
18 access routes, and jurisdictional boundaries as demonstrated
19 in 10 CFR 50.47 (c)(2). In our view, the proper zones to be
20 used in this proceeding are those set in the 10 CFR 50.47
21 (c)(2). 10/

22 Finally, Joint Intervenors and Governor Brown urge
23 again that the emergency response planning for Diablo Canyon
24

25 10/ We note that neither Joint Intervenors nor Governor
26 Brown presented expert testimony to justify this major
enlargement of the zone.

1 must take into account the effects of earthquakes. This
2 Board ruled on December 23, 1981, that it had no
3 jurisdiction to consider the impacts on emergency planning
4 of earthquakes which cause or occur during an accidental
5 release based upon the Commission's holding in the San
6 Onofre case (CLI-81-33, December 8, 1981). The Board
7 continues to hold that the Commission's action precludes
8 consideration of this factor in this proceeding.

9
10 B. Emergency Planning Standards

11 § 10 CFR 50.47(b)(1) - Assignment of Responsibility

12 Joint Intervenors' Proposed Findings of Fact (pp.
13 34 and 35) argue that assignment of primary responsibility
14 has not been made for counties other than San Luis Obispo
15 (SLO), State and local plans contain no letters of
16 agreement, standard operating procedures are incomplete; the
17 State plan is not in compliance with NUREG-0654; and local
18 jurisdictions have not approved the SLO County Plan. Joint
19 Intervenors fail to recognize that the organizations which
20 must be included in this planning standard are those within
21 the Federally defined EPZs and not those within the State
22 defined EPZs. Additionally, Joint Intervenors continue to
23 expect that all emergency planning activities must be
24 totally finished to meet these regulations. Clearly the
25 regulatory standard recognizes that certain activities would
26 be ongoing. [10 CFR 50.47(a)(1).]

1 More specifically, regarding letters of agreement,
2 Joint Intervenorors ignore the testimony that planning
3 documents are, themselves, the "agreement instrument" in
4 many instances. [Potter, Tr. 11804.] Also, the letters of
5 agreement for SLO County Plan are not important to the plan.
6 [Ness, Tr. 12458.]

7 While all SLO County SOPs were not complete at the
8 time of the hearing, those within the 10 mile EPZ were
9 complete. [Ness, Tr. 12559-61.] Furthermore, Joint
10 Intervenorors misconstrue the testimony relating to approval
11 of the SLO County Plan or procedures by local jurisdictions
12 since no such sign off or approval is needed [Ness, Tr.
13 12459-63] and the County has sufficient powers to implement
14 emergency response without local jurisdictions cooperation.
15 [Ness, Tr. 12563-4.]

16 Joint Intervenorors have argued that the State plan
17 is not in compliance with applicable regulations, but fail
18 to reflect the improvements in State planning [PGandE Ex.
19 85] or FEMA testimony that given the limited role of the
20 State in emergency response, sufficient planning has been
21 performed. [Eldridge, Tr. 12709.]

22
23 § 10 CFR 50.47(b)(2) - On-Site Emergency Organization

24 Both Governor Brown [G.B. Findings pp. 30-32] and
25 Joint Intervenorors [J.I. Findings pp. 35-36] argue that
26 PGandE's failure to strictly meet NUREG-0654's "goal" of

1 timely augmentation of staff in case of an emergency is a
2 fatal flaw. Table B-1 of NUREG-0654 sets, as a goal, the
3 operator of a facility be able to bring to the site 11
4 people within 30 minutes and an additional 15 people within
5 60 minutes. Under normal workday conditions, PGandE can
6 meet both augmentation goals. [Tr. 11,827.] However,
7 because of the remote location of the site, PGandE can not,
8 at all times, meet the goal of having 11 people at the site
9 within 30 minutes although it can provide more than 26 (11
10 plus 15) additional people within 60 minutes. [SER Supp. 14
11 at B-2.] As set forth supra at p. 12, Governor Brown and
12 Joint Intervenors seemingly argue that 100% compliance with
13 100% of the 100% literally construed statutes, regulations,
14 regulatory guides, memos of understanding, and now "goals"
15 is necessary to provide "reasonable assurance that adequate
16 protective measures can and will be taken in the event of a
17 radiological emergency." [10 C.F.R. § 50.47(a)(1).] The
18 benefits of a "remote location" in the event of a
19 radiological emergency are self-evident. Obviously that
20 same beneficial remoteness is not without some
21 countervailing results such as the length of time for people
22 to travel from population centers to the site. It is
23 precisely these minor paradoxes which lead to words such as
24 "reasonable" and "goals" in regulations and regulatory
25 guides -- words Governor Brown and Joint Intervenors fail to
26 recognize as existent.

1 § 10 CFR 50.47(b)(3) - Emergency Response Support and
2 Resources

3 Joint Intervenors argue deficiencies in State and
4 local planning using many of the same basis discussed above;
5 namely, the lack of letters of agreement, omissions in the
6 State Plan; the incomplete status of plans for jurisdictions
7 outside the Federally defined EPZ; and that certain SOPs
8 were still in preparation for local jurisdictions outside
9 the Federal but within the State BEPZ. These arguments are
10 deficient for the reasons discussed above.

11 Typical of Joint Intervenors frequent misstatement
12 of the evidence is their allegation that Joint Intervenors'
13 witness Erikson testified [J.I. Findings p. 37 citing
14 Erikson at p. 8] that emergency workers will not move into
15 the danger zone if asked to do so. The Licensing Board
16 specifically questioned Dr. Erikson regarding this
17 testimony, from which he quickly retreated [Tr. 12,422-5]
18 indicating that he had no data or other basis to support his
19 statements.

20
21 § 10 CFR 50.47(b)(4) - Emergency Classification System

22 Joint Intervenors arguments are a total miscon-
23 struction of the record, since in both instances [J.I.
24 p. 37] these perceived deficiencies had been corrected.
25 [Staff's Ex. 30, MacElvaine, Tr. 12257-8, Sears, Tr.
26 12634-5, Grimes Tr. 12656-7, Sears, Tr. 12660-7.]

1 § 10 CFR 50.47(b)(5) - Notification Methods and Procedures

2 Joint Intervenors allege a number of deficiencies
3 in planning which are not supported by references to the
4 record, pertain to State planning zones not Federal planning
5 zones, or are not specified in regulatory criteria.

6 [Specifically items 3, 7, 8, 10, 11 and 12 of J.I. Findings
7 pp. 37-40.] They again reiterate deficiencies in the State
8 plan without any showing of significance or recognition of
9 the update to J.I. Ex. 120 contained in PGandE Ex. 85.

10 Joint Intervenors argue that "cascade or
11 sequential warning system" for county workers is
12 inconsistent with regulatory requirements, however, the
13 applicable requirement [Appendix 3 to NUREG-0654] does not
14 pertain to internal notification of personnel within an
15 organization. Thus, since the SLO County Plan does require
16 all key personnel at the second level to be notified by the
17 initial warning point [PGandE Ex. 80, Attachment II.2-1] the
18 applicable requirement is satisfied.

19 All other Joint Intervenors' arguments pertain to
20 the adequacy of the Early Warning System, specifically that
21 its capability has not been demonstrated and that it may not
22 be adequate for alerting 100% of the population including
23 the deaf and people in large structures. While the EWS is
24 fully constructed [Sears, Tr. 12638 at p. 17], local
25 permitting restrictions require that the EWS not be tested
26 until August 1982. However, full power operation will be

1 after this date and therefore earlier testing is not
2 necessarily required. Regarding the adequacy of the EWS for
3 alerting people located in large structures or the deaf,
4 NUREG-0654 [Appendix 3 p. 3-3 and 3-8] specifically
5 addresses these special situations and the EWS is designed
6 to meet these requirements. [PGandE Ex. 73, Section 7.]
7

8 § 10 CFR 50.47(b)(6) - Emergency Communications

9 Both Governor Brown [G.B. Finding pp. 4, 22-29]
10 and Joint Intervenors [J.I. Finding pp. 32-34, 40-43] argue
11 that the communication systems of San Luis Obispo County are
12 inadequate. The primary basis upon which both parties mount
13 this attack is the "County of San Luis Obispo Department of
14 Technical Services Five Year Communications Plan," dated
15 January 1982. [G.B. Ex. 10.] Both parties repeatedly quote
16 the report as "proof" that communications facilities in San
17 Luis Obispo County are inadequate to provide reasonable
18 assurance that protective measures will be taken in the
19 event of a radiological emergency. The argument and, more
20 importantly, the "evidence" is seriously flawed. Brown
21 Exhibit 10 was sponsored by a Mr. Richter, Director of the
22 County Department of Technical Services, who testified that
23 the document was prepared under his direction and that the
24 conclusions and recommendations (of the report) were true
25 and correct. [Tr. 12682.] That is all to which he
26 testified. He was not qualified as an expert in

1 communications, emergency planning, radiological
2 emergencies, or in any other aspect relating to this
3 hearing. He offered no testimony whatsoever on the
4 significance of the document as respects emergency planning
5 in the event of a radiological emergency at Diablo Canyon.
6 That testimony was never brought forward at hearing in this
7 matter. Counsel for Joint Intervenors and Governor Brown
8 now attempt, in their pleadings, to so testify. It is
9 respectfully submitted that such testimony, if it could ever
10 have been adduced, should have been provided by qualified
11 witnesses at hearing. Counsel are neither qualified, under
12 oath, nor available for cross-examination.

13 Governor Brown and Joint Intervenors have once
14 again, and not surprisingly, found some aspect that is less
15 than perfect. What they have failed to do is set forth
16 evidence by expert testimony or show by law that a perfect
17 communications system is necessary or required. What they
18 have ignored is the evidence adduced through qualified
19 expert witnesses at hearing that dealt with communications
20 and equipment necessary to deal with a radiological
21 emergency. [See PGandE proposed findings at 42-43, Staff
22 Brief in Support of Findings at 61-64.] It is clear, from
23 the evidence, that there is reasonable assurance that
24 adequate off-site emergency communications will exist prior
25 to full-power operation at Diablo Canyon.

26

1 § 10 CFR 50.47(b)(7) - Public Education and Information

2 Joint Intervenors [J.I. Finding pp. 32, 43-45] and
3 Governor Brown [G.B. Findings pp. 32-42] both argue that the
4 public information and education requirements of
5 §50.47(b)(7) have not been complied with at this point in
6 time. Governor Brown points out that while PGandE offered
7 evidence on the steps taken to date and intended to be taken
8 in the future, "the County itself offered no evidence of
9 steps it intends to take to institute a public information
10 program. (G.B. Findings p. 33). Such an argument is
11 without merit. The County is not a party to these
12 proceedings and "offered no evidence" on anything. The
13 evidence offered by PGandE on steps to be taken by the
14 County is in the record, undisputed, and in total compliance
15 with the requirements of 10 CFR §50.47(b)(7).

16 Governor Brown and Joint Intervenors spend a great
17 deal of time arguing that a "survey" must be taken of the
18 residents of San Luis Obispo County in order to, among other
19 things, have "an effective public education program." This
20 argument is based on the testimony of Drs. Erikson and
21 Johnson which was countered by the testimony of Dr. Miletic.
22 The testimony of these witnesses was diametrically opposed
23 and has been thoroughly aired in previous filings. (PGandE
24 Findings pp. 44-46, Staff Findings pp. 68-73). In summary,
25 Dr. Erikson and Dr. Johnson believe that a "social and
26 psychological profile of the local population . . . would

1 help immensely in whatever program of public information is
2 being contemplated for the area." [Erikson Test. pp. 10-11,
3 ff. Tr. 12,407.] Neither Dr. Erikson or Dr. Johnson offered
4 any criticism of the public information ongoing or planned.
5 They simply believe it would be better with a survey. It is
6 respectfully submitted that is not the test. The test is
7 one of "reasonable assurance" that an "adequate" public
8 information program is or will be in place. The only
9 testimony offered on that test was offered by Dr. Mileti who
10 found the public information program for Diablo Canyon
11 sufficient. [Mileti, Tr. 12,153-12,154.]

12
13 § 10 CFR 50.47(b)(8) - Emergency Facilities and Equipment

14 Many of Joint Intervenor's arguments are based
15 solely upon an assertion of what they think should be
16 required, unsupported by evidence, regulatory position or
17 expert opinion; specifically, the need for the permanent EOF
18 for adverse environmental conditions or independent on-site
19 radiation monitors are opinions of counsel, not qualified
20 expert opinion. Equipment and facilities necessary to
21 respond to an emergency are or will be provided prior to
22 full power operation. [Sears ff. Tr. 12638, pp. 24-27;
23 PGandE Panel #4, ff. Tr. 11903, PGandE Ex. 73, 74a; Eldridge
24 ff. Tr. 12682.] Specifically, the OSC has sufficient
25 equipment to support evacuation and other equipment is
26 stored in the TSC. [Keyworth Tr. 11905-6, Shiffer Tr.

1 11906.] Any equipment that needs to be supplied to satisfy
2 FEMA's evaluation will be available prior to full power
3 operation. [Staff Ex. 35.]
4

5 § 10 CFR 50.47(b)(9) - Accident Assessment

6 In attacking PGandE's compliance with 10 CFR
7 50.47(b)(9), both Governor Brown and Joint Intervenors use a
8 combination of argument as to what the applicable
9 regulations and regulatory guidelines should, but do not,
10 say and small bits of testimony from which they attempt to
11 argue "evidence" which does not exist in the record. An
12 example of the latter can be found at J.I. Findings, page
13 47, where it is argued that the size of error band for
14 monitoring equipment "precludes confidence that releases can
15 and will be promptly and accurately assessed during an
16 emergency." Such a statement cannot be found in the record.
17 In fact, just the opposite testimony is all that was adduced
18 at hearing. [Tr. 11,952-59.]

19 Governor Brown argues PGandE does not now comply
20 with Regulatory Guide 1.97 [G.B. Findings p. 21] despite the
21 fact that Regulatory Guide 1.97 does not need to be complied
22 with until June, 1983. PGandE testified that it has
23 complied with many of the 1.97 requirements now and will
24 comply with the remainder by June, 1983. Neither through
25 cross-examination nor direct testimony was this evidence
26 contradicted in any way. Governor Borwn simply argues that

1 PGandE's commitment is " cursory and conclusory, providing no
2 details of how PGandE intends to comply." [Id.] Such an
3 argument is without merit. No such contention was ever
4 before this board.

5 Finally, Governor Brown and Joint Intervenors
6 argue that PGandE's failure to set forth, literally within
7 emergency operating procedures (EOP's), the qualification
8 status of equipment to be used in EOP's is also "evidence"
9 of noncompliance with 10 CFR 50.47(b)(9). Messrs. Hubbard
10 and Minor are cited as authorities for this position despite
11 the fact that on cross-examination their misinterpretations
12 of NUREG-0654 and 10 CFR 50.47 on this point were shown, if
13 not admitted. [Tr. 12,319-326.] No regulation or
14 regulatory guide requires an operator to rely only on
15 safety-related equipment in emergency situations or to
16 identify non-safety related equipment in EOP's.

17
18 § 10 CFR 50.47(b)(10) - Protective Response

19 In addition to Joint Intervenors general arguments
20 which have been addressed above, both Governor Brown and
21 Joint Intervenors continue to stress the importance of
22 considering the so-called "evaucation shadow phenomenon" at
23 Diablo Canyon. [G.B. Findings pp. 36-38; J.I. Finding pp.
24 30, 49, 53.] Unfortunately, they also continue to ignore
25 the result reported by their own witness, Dr. James Johnson,
26 in the paper "Evacuation From a Nuclear Technological

1 Disaster" [appended to Dr. Johnson's testimony], that at TMI
2 only approximately 9% of the households farther than 12
3 miles from the plant had any members who evacuated, as
4 opposed to 53% for the area within 12 miles of the plant.
5 [P. 6 of the paper.] In other words, the evacuation shadow
6 phenomenon observed at TMI was primarily a "close-in"
7 phenomenon--i.e., it was primarily observed at distances of
8 less than 12 miles from the plant. The TMI experience thus
9 supports the hypothesis that large voluntary evacuations are
10 unlikely at distances of greater than 12 miles from the site
11 of a nuclear power plant accident. In spite of this, the
12 intervenors seem to have concluded that a large voluntary
13 evacuation is likely at distances of 25 to 35 miles from the
14 site of an accident at the Diablo Canyon Nuclear Power
15 Plant.

16 Thus it is clear that whatever logic the inter-
17 venors use, that logic is not based on the facts of the
18 Three Mile Island accident as they are reported by Dr.
19 Johnson in his paper. The Three Mile Island experience
20 simply does not support the intervenors' position that large
21 voluntary evacuations are likely at distances of 25 to 35
22 miles from a nuclear power plant accident--in fact, it
23 supports the opposite position.

24 In addition to this fact, the intervenors also
25 continue to ignore the report (also given by Dr. Johnson in
26 his paper) that at TMI "evacuees living close to the plant

1 were likely to leave earlier than those living in the
2 outlying communities" and that the evacuation of those
3 living ten or more miles from the plant was spread over
4 several days. [P. 12 of Dr. Johnson's paper.] Thus,
5 whatever small amount of voluntary evacuation might take
6 place at distances of 25 to 35 miles from the Diablo Canyon
7 Nuclear Power Plant could be expected (based on the TMI
8 experience) to be spread over a period much longer than that
9 required to evacuate the 10 mile EPZ. This would reduce
10 even further any impact which any small voluntary evacuation
11 from outlying areas might have on the evacuation of areas
12 closer to the plant.

13 These facts, coupled with the fact that the road
14 network beyond the Santa Lucia Mountains does fan out (thus
15 providing additional capacity for whatever small amount of
16 voluntary evacuation does take place from outlying
17 communities) [Winslow Tr. 12780-12781], make one wonder why
18 the intervenors have even brought up the subject of the
19 evacuation shadow phenomenon with respect to the Diablo
20 Canyon Nuclear Power Plant.

21 It has also been stated by the Joint Intervenor
22 that at TMI "few of the evacuees utilized designated
23 evacuation shelters or stopped at designated evacuation
24 destinations." [J.I. Findings p. 49.] This statement
25 brings to mind the question, "Where is it stated that the
26 goal of an evacuation is to have every evacuee (or even most

1 evacuees) utilize one of the designated evacuation shelters
2 or destinations?" These shelters and destinations are meant
3 to be used as they are needed, and the proportion of
4 evacuees which actually uses them is irrelevant to any kind
5 of measure of the "success" of an evacuation.

6 With regard to paragraphs 5, 8 and 11 in J.I.
7 Findings, the irrelevancy of the evacuation shadow
8 phenomenon to the Diablo Canyon site is discussed above. In
9 addition, Dr. Mileti stated that "the causes of human
10 behavior remain the same" in different types of disaster
11 situations [Mileti Tr. 12229] and that "what we've concluded
12 about other sorts of hazards seems applicable to events
13 involving nuclear materials" such as the Three Mile Island
14 experience. [Mileti Tr. 12232.] Thus, the TMI experience
15 is simply one of a number of disasters which has given rise
16 to a body of knowledge about how to design a warning and
17 notification system that can "get the word out to the
18 endangered population." [Mileti Tr. 12147.] Dr. Mileti
19 continued: "The knowledge and factors that are known (about
20 how to design such a system) have in many regards found
21 their way into the plan" [Mileti Tr. 12153], and "the bases
22 that need to exist in such a system are contained in
23 PGandE's plans." [Mileti Tr. 12154.]

24 With respect to paragraphs 6 and 9 in Joint
25 Intervenor's brief regarding the supposed need for a social
26 survey, Dr. Mileti testified, regarding the correlation

1 between the responses to a survey and future behavior, that
2 "how people report about past behavior is suspect enough in
3 terms of correlating with past behavior, that future
4 behavior and questions about it are even more suspect" and
5 "I would not expect that there would be a good correlation
6 between the two." [Mileti Tr. 12165.] Thus, in response to
7 a question about whether any benefits could accrue from
8 doing a social survey in the Diablo Canyon area, Dr. Mileti
9 stated:

10 "I would think that the human effort and
11 that energy could be better spent in
12 other directions. I think we have
13 enough knowledge to design a warning
14 system for San Luis Obispo County as
15 well as anywhere else in reference to a
16 nuclear reactor, in reference to
17 tsunamis, in reference to an earthquake
18 prediction warning, that doing a local
19 specific survey would not produce re-
20 sults that would be all that usable in
21 assisting in designing and installing
22 that warning system." [Mileti, Tr.
23 12162.]

24 Joint Intervenors also state that "surveys of
25 intended behavior do have a purpose" citing Dr. Mileti's
26 testimony. [Tr. 12157.] However, the only mention which
Dr. Mileti makes with respect to the purpose of a social
survey is to say, "I don't feel that one for this purpose is
needed." [Mileti Tr. 12157.] The closest that Dr. Mileti
actually came to stating what he believes the purpose of
performing a social survey was when he stated, "Speaking as
a sociologist, the key benefits that come to sociologists

1 from doing social surveys is getting data so that they can
2 draft potential publications so that they can get tenure and
3 raises in universities." [Mileti Tr. 12159.] Thus, while
4 it might be said that Dr. Mileti agrees with the view that
5 "surveys of intended behavior do have a purpose" [J.I.
6 Findings p. 50], the purpose which Dr. Mileti ascribed to
7 them can scarcely be said to be the same purpose which Drs.
8 Erikson and Johnson seem to be ascribing to them.

9 With regard to behavior of emergency workers, Dr.
10 Mileti stated that once emergency workers "are able to find
11 out that their family is safe, [they] typically continue and
12 play out their emergency roles." [Mileti Tr. 12265.] Dr.
13 Mileti also stated that in disaster scenarios,

14 "What is typical is that a worker who is
15 out of the area of duty, i.e. not at
16 their place of work, what is typical is
17 for them to volunteer and report to work
18 without even being called up. For exam-
19 ple, a fireman who is home and off duty,
20 and there are massive fires, reports to
21 work without being called in.

22 The same in hospitals. In fact, that is
23 a phenomenon that is typically observed
24 in all sorts of different disaster
25 events." [Mileti Tr. 12265-12266.]

26 Numerous other allegations by Joint Intervenors
fail to acknowledge or misconstrue the record. Specifical-
ly, with regard to paragraphs 10a and 10c, TERA Corporation
did perform a "no traffic control" evacuation time estimate
which takes into account congestion on the freeways.
[Winslow Tr. 12216-12217.] With respect to paragraphs 10b,

1 10g, and 10h, both Mr. Winslow and Mr. Urbanik stated that
2 accidents would be unlikely in an evacuation. [Winslow Tr.
3 12200, Urbanik Tr. 12389.] With respect to paragraph 10d,
4 there is no regulatory requirement to consider a heavy fog
5 or flooding scenario. With respect to paragraphs 10e and
6 10f, Mr. Winslow testified that what the intervenors
7 consider to be unlikely is in fact the likely situation.
8 [Winslow Tr. 12208, 12212, 12222.]

9 With respect to paragraphs 10j and 19, Attachment
10 CE-2, given in Section III.04 of the San Luis Obispo County
11 Plan, Part III, SOPs (Part 1) [PGandE Ex. 81] does in fact
12 give a tabulation of the estimated number of carless
13 population and busses for each Protective Action Zone. With
14 respect to paragraph 12, regulations do not require
15 "complications arising from flooding or a major earthquake"
16 to be considered.

17
18 § 10 CFR 50.47(b)(11) - Radiological Exposure Control

19 As in other portions of Joint Intervenors' brief,
20 the record does not support the arguments presented. All
21 experts testified that adequate planning procedures and
22 equipment is or will be available to control radiological
23 exposures. [PGandE Panel #5, ff. Tr. 11924; PGandE Ex. 74a,
24 73, 80, 81, 82; Sears ff. Tr. 12638 pp. 34-36; Eldridge Tr.
25 12721.] Joint Intervenors did not offer any evidence to
26 support their position on this planning standard.

1 § 10 CFR 50.47(b)(12) - Medical and Public Health Support

2 Joint Intervenors' brief [pp. 56-7] ignores the
3 preponderance of testimony which supports the adequacy of
4 medical and public health support provided. [PGandE Panel
5 #7 ff. Tr. 12065, Attachments 16 and 17; Sears ff. Tr.
6 12638; Eldridge ff. Tr. 12682.] Neither Joint Intervenors
7 nor Governor Brown introduced testimony to rebut this
8 testimony. In their brief, Joint Intervenors allege that
9 certain facts impugn the adequacy of medical resources, but
10 offer no evidence to support their conclusion.

11
12 § 10 CFR 50.47(b)(13) - Recovery and Reentry

13 The only direct evidence that planning in this
14 area is not adequate were quotes from Mr. J. Kearns'
15 deposition to the effect that State recovery and reentry had
16 not been adequately addressed. [Skidmore Tr. 12005.]
17 However, additional evidence was provided that more detailed
18 planning was not required since there are no additional
19 protective actions required for recovery [Skidmore Tr.
20 12015] and that additional State planning was available that
21 might not have been known by Mr. Kearns. [Skidmore Tr.
22 12016-17.] Additionally, it was clear from other aspects of
23 Mr. Kearns' deposition that he believed adequate planning
24 and preparedness exists at Diablo Canyon to allow full power
25 operation. [Hubbard Tr. 12315-17.]

1 § 10 CFR 50.47(b)(14) - Exercise and Drills

2 Joint Intervenors' list "deficiencies" in the
3 August 19, 1981 exercise; however, there was no testimony
4 that these items were in fact deficiencies or that this
5 exercise was anything except a success. Moreover, the
6 responsible reviewing authorities summarized the performance
7 of PGandE and the local governments during the exercise as
8 indicated below:

9 NRC Staff "On the basis of the eight NRC inspector
10 observations made in the Control Room,
11 Technical Support Center, Emergency
12 Operations Facility, and on observations
13 made of other in-plant and on-site
14 emergency response activities the
15 inspection team has concluded that the
16 exercise was well planned and executed,
17 and met the objectives set forth in
18 Attachment B; that the exercise demon-
19 strated the licensee's overall capabil-
20 ity to implement their Emergency Plan
21 and procedures; and that no observations
22 were made that would indicate that
23 appropriate measures would not or could
24 not be taken to protect the public
25 health and safety in the event of a
26 radiological accident at Diablo Canyon."
 [Attachment 5 to PGandE Panel #1 Testi-
 mony ff. Tr. 11778.]

19 FEMA "The evaluation conclusion is that due
20 to the planning effort to date and full
21 participation by all participants, the
22 exercise succeeded in its three basic
23 goals." [Attachment 1 to PGandE Panel
24 #1 Testimony ff. Tr. 11778.]

23 All corrective items identified by FEMA [Attach-
24 ment 2 to PGandE Panel #1 Testimony ff. Tr. 11778; Staff Ex.
25 35] as a result of the exercise should be completed by
26 June 20, 1982. The completion of these items will be prior

1 to full power operation and subject to the review and
2 verification by both FEMA and NRC staff. [Id.] Both NRC
3 staff and FEMA view that the significance of these
4 corrective actions "do not represent matters which in any
5 way preclude the Atomic Safety and Licensing Board of making
6 a finding of reasonable assurance." [Grimes Tr. 12693.]

7
8 § 10 CFR 50.47(b)(15) - Radiological Emergency Response
9 Training

10 As discussed previously, Joint Intervenor's argu-
11 ment that plans do not comply with NUREG-0654 criteria
12 misstates the record. [Sears, ff. Tr. 12638 at 42, Tr.
13 12639-40; PGandE Ex. 73, Section 8 PGandE's Panel #10 ff.
14 Tr. 12022, Skidmore Tr. 12047-50, 12757-8, PGandE Ex. 85.]
15 Persons performing support roles do not require specialized
16 training. [Skidmore, Shiffer and Kaefer, Tr. 12031-36; Ness
17 Tr. 12473-4.]

18
19 § 10 CFR 50.47(b)(16) - Responsibility for Planning Effort

20 Here, as in the other arguments raised by Joint
21 Intervenor's brief, the references cited to the record
22 either do not support their assertion or the significance of
23 the issue surely does not support a finding of inadequate
24 planning or response capability. Specifically, the record
25 shows that NUREG-0654 criteria are satisfied. [PGandE Ex.
26 85; Skidmore Tr. 12757-58; Sears Tr. 12639-40.] While the

1 transcript reference cited by Joint Intervenor states that
2 SLO County has not committed to fund plan development and
3 review, the record also shows that PGandE has committed to
4 provide such funding for the county and that currently it is
5 provided through State of California legislation. [Skidmore
6 Tr. 11842-3.]

7
8 V

9 CONCLUSION

10 For the foregoing reasons, the Board should not
11 adopt the proposed findings of Joint Intervenor and
12 Governor Brown. PGandE respectfully submits that the Board

13 ///

14 ///

15 ///

1 adopt findings and conclusions consistent with those
2 proposed by PGandE.
3

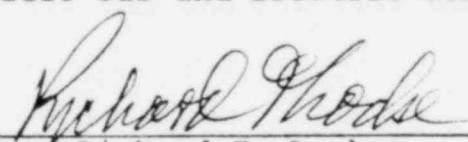
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

PACIFIC GAS AND ELECTRIC COMPANY)

Docket No. 50-275

Docket No. 50-323

Diablo Canyon Nuclear Power Plant,)
Units 1 and 2)

CERTIFICATE OF SERVICE

The foregoing document(s) of Pacific Gas and Electric Company has (have) been served today on the following by deposit in the United States mail, properly stamped and addressed:

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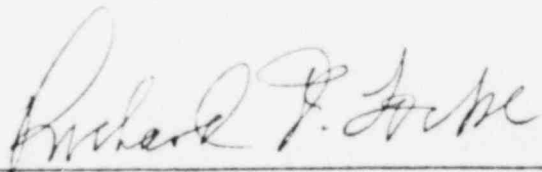
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