

CENTER FOR LAW
IN THE PUBLIC INTEREST

10951 WEST PICO BOULEVARD

THIRD FLOOR

LOS ANGELES, CALIFORNIA 90064-2166

TELEPHONE: (213) 470-3000

DOCKETED
USNRC

WASHINGTON, D.C. OFFICE

1575 EYE STREET, N.W.

SUITE 650

WASHINGTON, D.C. 20005-1105

TELEPHONE: (202) 371-0199

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

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LEGAL STAFF

NANCY C. CRISMAN*
CARLYLE W. HALL, JR.
BILL LANN LEE
JOHN R. PHILLIPS
KATHERINE P. RANSEL*
JOEL R. REYNOLDS
MARILYN O. TESAURO
FREDRIC D. WOOSHER
NICHOLAS C. YOST

OF COUNSEL

ROBERT BERKE
GEOFFREY COWAN

ADMINISTRATIVE OFFICER

MARSHA H. KWALWASSER

VISITING FELLOWS

LAWRENCE A. GOLDBERG
JOCELYN D. LARKIN
CYNTHIA D. ROBBINS
ETHAN R. SCHULMAN

*ADMITTED IN D.C.,
NOT CALIF.

Nunzio Palladino, Chairman
Victor Gilinsky, Commissioner
Thomas Roberts, Commissioner
James Asselstine, Commissioner
Frederick Bernthal, Commissioner
United States Nuclear Regulatory
Commission
Washington, D.C. 20555

Re: In the Matter of Pacific Gas and Electric
Company (Diablo Canyon Nuclear Power Plant,
Units 1 and 2), Nos. 50-2750L, 50-3730L

Dear Chairman Palladino and Members of the Commission:

Once again, Pacific Gas and Electric Company
("PGandE") has requested this Commission to reinstate PGandE's
suspended license authority for the Diablo Canyon Nuclear Power
Plant, Unit 1 ("Diablo Canyon"), to permit (1) hot system
testing -- modes 3 and 4 -- and (2) low power operation. In
response to the Commission's invitation to comment, the Joint
Intervenors submit this letter in opposition to both
applications by PGandE.^{1/}

^{1/} The Joint Intervenors submitted comments to the
Commission regarding PGandE's request for fuel loading
authorization on September 1, 1983, October 24, 1983, and
November 4, 1983. Because virtually all of the concerns
expressed in those letters are equally applicable to PGandE's
most recent applications, those letters are incorporated herein
by reference.

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8401170322 840113
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I. COMMITMENTS FOR FUEL LOADING

Less than three months ago at the October 28, 1983 briefing, PGandE confidently assured the Commission that the Diablo Canyon Project's ("DCP") efforts during the past two years, together with those of the Independent Design Verification Program ("IDVP"),

demonstrate convincingly that we have spared no effort to assure ourselves, the NRC and the public that Diablo Canyon meets all applicable licensing criteria, and is in every way and every respect safe to operate.^{2/}

* * *

In particular, we concur with the Staff's finding that the IDVP effort provided assurance that any weakness in the execution of quality controls in the design of Diablo Canyon Unit 1 has been identified and accounted for by corrective action.^{3/}

Harold Denton, for the NRC Staff, concurred:

We are looking at . . . really an unprecedented design review. So that's what gives the Staff confidence that it is unlikely based upon the effort that has gone into this project that something will come up that had somehow fallen through this process.^{4/}

Based on these assurances of "no more surprises," PGandE's authorization for fuel loading was issued on November 8, 1983.

^{2/} Meeting Transcript, at 70 (October 28, 1983).

^{3/} Id. at 70-71.

^{4/} Id. at 41.

II. DEVELOPMENTS SINCE NOVEMBER 1983

A. Allegations

As has occurred too often in the past in this proceeding, subsequent developments have belied these assurances so freely offered to the Commission. During the past three months, the NRC Staff has received from past and present Diablo Canyon workers literally scores of allegations, the vast majority of which relate to alleged deficiencies in the design and construction of the plant.^{5/} As summarized by the Staff in SSER 21, these allegations focus on specific examples of problems at Diablo Canyon in actual hardware, procedures, and management attitude.

More important than their individual significance, however, is the fact that collectively they portray a continuing disregard by PGandE and the DCP for legally required quality assurance procedures and practices in design and construction. By their nature and number alone, these allegations suggest that there is significantly more to these charges than a few disgruntled "troublemakers." Indeed, there is a consistency among many that confirms our fear repeatedly voiced to the Commission during the past two years that PGandE has persisted in cutting corners on safety while opting for speed in licensing, all at the predictable expense of quality.

The Joint Intervenor believe that each of these allegations must be addressed and resolved prior to any further licensing action by the Commission. The allegations are too serious and PGandE's record in this proceeding too scarred to permit any further steps toward reactor operation before the

^{5/} According to SSER 21, over 100 allegations have been received by the NRC.

Commission can with confidence make the definitive finding of safety that the law requires. Although the Staff has identified four areas (encompassing approximately 20 of the allegations) that it believes must be resolved prior to criticality, it has also listed five additional unaddressed allegations recently received that involve welding qualifications for the two principal construction contractors, falsification of records, undocumented modifications to small bore pipe supports, and angle members to such supports.^{6/} Because of the potential significance of these additional allegations, we believe that they, too, must be addressed before any further licensing decision by the Commission.

Having said this, the Staff's conduct of the investigation to date has been seriously disappointing in a number of respects. For example, the Staff's "resolution" of Allegation 68 -- the Nuclear Services Corporation ("NSC") audit of Pullman Power Products Co. ("Pullman") -- is nothing more than a whitewash.^{7/} According to SSER 21, the Staff

found no evidence to conclude that there was a programmatic breakdown in Pullman Power

^{6/} SSER 21, at E-16.

^{7/} In approximately 35 pages of findings, NSC found quality assurance failures analogous in scope to those now conceded by PGandE to have characterized its deficient design quality assurance practices, including failures in management assessment, design interface and control, training, certification, procedures, document control, inspections, corrective action, testing, storage and handling, verification of suppliers, identifying nonconformances, audits, and welding control. NSC concluded that prior to 1974, Pullman had essentially no quality assurance program and that from 1974 through the time of the audit in late 1977, the program established was riddled with deficiencies. NSC Audit Report, at 42.

Products quality assurance program nor could the Staff identify any safety concerns with the installed hardware. (SSER 21, at 2-158.)

This remarkable conclusion could only be reached by ignoring the 35 pages of findings set forth in the NSC audit itself and relying totally on the self-serving responses of PGandE and Pullman, which, in fact, the NRC inspector did.^{8/} The sole product of the Staff's "investigation" into the NSC audit is a 4-1/2 page inspection report, prepared on the basis of an investigation totalling 22 hours. Nowhere does the Staff address the individual NSC findings, nor does it explain other than in conclusory terms the substance of its investigation. Significantly, there is no indication anywhere that the Staff contacted -- or even attempted to contact -- NSC or the persons who conducted the audit. Nor apparently did the Staff seek to interview past and present employees of Pullman to corroborate the NSC findings. Indeed, the Staff's "investigation" seems to have begun and ended with a meeting at PGandE. Such superficial treatment of the NSC audit report is a disgrace. If the Staff's "resolution" of this allegation is typical of its investigation of the other allegations, then the Diablo Canyon Allegation Program described in SSER 21 is an empty gesture.

The Staff's discussion of Allegation 94 is equally misleading, albeit more technical. In its disposition, the Staff stated that it is an acceptable practice to use American Society of Mechanical Engineers ("ASME") pipewelding procedures for work on structural steel covered by the American Welding

^{8/} Inspection Report No. 83-34.

Society ("AWS") Code, if the same type of steel, thickness, and filler metal are used. While accurate as far as it goes, the Staff failed to follow through to ensure that the essential conditions are present. First, all essential variables must be identical to transfer ASME procedures to ASW work, not just the three listed. For example, witnesses have told the Staff that at Diablo Canyon the same ASME procedure is being transferred for seven to eight different structural steel joint configurations, some of which bear no resemblance to the original ASME pipeweld joint configuration. Second, witnesses have described in detail the use at Diablo Canyon of ASME procedures for ASW work involving different metals and thicknesses. The Staff's discussion of this allegation simply ignores these obviously material factors in concluding that the allegation is insignificant.

More broadly, the Staff's "resolution" of a number of the allegations indicates that it may be narrowly limiting its investigation to a specific, individual allegation and then concluding that, even if substantiated, the allegation has no safety significance. In so doing, the Staff "misses the forest for the trees," because it fails to assess the cumulative or generic significance of the deficiency. Particularly in the area of quality assurance, errors having only minor consequence when viewed separately may be indicators of a major breakdown of the larger and far more significant process. To fail to consider an individual charge as part of the larger body of allegations virtually guarantees a finding of no safety significance. Thus, the Staff investigation must not end with a determination of the safety significance of the particular violation alleged, but must determine and address the root cause and generic significance of the violation.

Further, the Staff has failed to request assistance from the NRC's Office of Investigation ("OI"), whose responsibility and expertise it is to pursue allegations of the nature in issue here (i.e., falsification of records, destruction of evidence, retaliation, material false statements). Were OI to become involved, some of the flaws in the Staff's investigation to date -- i.e., failure to contact potential witnesses in a timely manner, excessive delays in pursuing allegations, advance warnings to PGandE management of evidence and investigation targets -- might be alleviated. Notably, only last week the U.S. Labor Department completed an investigation of the charge by former Diablo Canyon worker Charles Stokes against PGandE for retaliatory firing. Its conclusion: PGandE is guilty of retaliating against Stokes because of his preparation and pursuit of discrepancy reports relating to the design of Diablo Canyon. To date, the NRC Staff has done little, if anything, even to investigate the charge.

B. Design Hearings

No decision has yet been issued by the Appeal Board based on the reopened hearings on design quality assurance held in November 1983. That decision, which is essential to establish an evidentiary basis for approval of the Diablo Canyon design, is a necessary prerequisite to further licensing action by the Commission. Without attempting to summarize here the Joint Intervenors' extensive proposed findings of fact already filed with the Appeal Board, it is important to note that the PGandE and Staff assurances to the Commission on October 28, 1983 regarding the status of compliance with all licensing criteria at Diablo Canyon did not stand the closer scrutiny permitted by cross-examination.

All parties conceded that numerous Class A or B errors -- violations of the licensing criteria -- remain undetected at Diablo Canyon, both in the unsampled portions of the design and the rework undertaken during the past two years. Dr. Robert Cloud of the IDVP, who sampled the corrective action program, testified that it is very likely that such errors remain in the rework (Tr. D-1543), and PGandE's statistician, Dr. Stanley Kaplan, estimated that 40 Class A or B errors remain undetected in the unsampled nonseismic SS&Cs of Unit 1 (Tr. D-1169). Significantly, the IDVP conceded that its nonseismic sample consisted not of 3 of 10 systems, but only 3 of 21 systems (Krechting, Tr. D-1715), contrary to prior representations to this Commission by PGandE and the Staff. In order to support PGandE's license application in the face of such evidence, the Staff has now adopted a vague and undefined standard of assurance to be provided by the IDVP -- namely, that there remain no "significant deficiencies from licensing criteria." (Knight, Tr. D-2656.)^{9/}

The licensing criteria were established by the Commission pursuant to the Atomic Energy Act as the mandatory standard for issuance of a license. That standard must be enforced, not undermined through an amorphous and subjective determination of "significance." Given this legal requirement, the foregoing consensus that all licensing criteria have not been satisfied at Diablo Canyon establishes that issuance of a license for the facility is premature. Considered together with the recent body of allegations, that conclusion is inescapable.

^{9/} Mr. Knight defined "significant deviations" as violations of licensing criteria that would cause a loss of function of a safety-related structure, system or component. (TR. D-2657.)

C. Construction Quality Assurance

On December 19, 1983, the Appeal Board issued an explanation of reasons for its refusal to reopen the record on the issue of construction quality assurance. As stated in the Joint Intervenor's recently filed Petition for Review of that decision, the Appeal Board's decision in ALAB-756 does nothing to restore confidence that Diablo Canyon has been properly constructed. The Board misstated the standard of review, ignored virtually in total the evidence offered in support of reopening, and adopted wholesale the glib assurances of PGandE and the Staff that any construction quality assurance deficiencies are isolated and insignificant.

The Board dismissed the NSC audit of Pullman in a footnote, relying on the Staff's "investigation"^{10/} and the self-serving PGandE and Pullman analyses of the audit. The Board failed even to address the extensive testimony of quality assurance expert Richard Hubbard in support of reopening the record, concluding instead -- again in a footnote -- that Mr. Hubbard's testimony is "entitled to little weight" and does "nothing to enhance the movants' arguments."^{11/}

It adopted at face value the conclusion of the IDVP that, based on a limited review of two construction contractors, construction is adequate at Diablo Canyon, and it failed to mention the fact that the IDVP discovered discrepancies in 20-40% of the items reviewed. Similarly, based on PGandE and NRC assurances, the extensive evidence of problems in the H.P. Foley quality assurance program were remarkably

^{10/} See discussion supra at 4-5.

^{11/} ALAB-756, at 10 n.10.

transformed, according to the Board, into proof that PGandE had an effective quality assurance program. In so doing, it dismissed evidence of widespread welding deficiencies, procedural violations, excessive work hours, intense pressure by production personnel on quality assurance inspectors, inadequate training and certification of welders and inspectors, and numerous other specific allegations by Foley's former quality control manager.

Both the Joint Intervenors and Governor Deukmejian have requested Commission review of the Appeal Board's decision. The recent allegations with regard to construction activities and program management deficiencies reinforce the evidence of construction flaws that underlie those requests. The Commission should not take further action on PGandE's licensing applications until that evidence has been properly addressed and all concerns resolved.

III. CONCLUSION

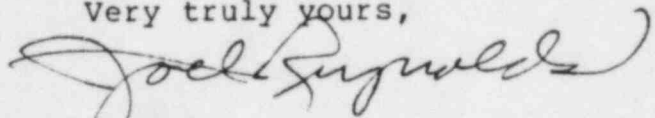
Once again, PGandE's assurances of "no more surprises" have been discredited by the mounting evidence of design and construction problems at Diablo Canyon. This evidence must be thoroughly addressed and any deficiencies corrected before the essential "reasonable assurance" mandated by the Commission's own regulations can be determined. Until those actions have been completed, PGandE's applications for further licensing authority are premature.

The Joint Intervenors' continuing opposition to PGandE's license application must not be dismissed as unreasoned opposition to nuclear power. To the contrary, it is reasoned opposition to licensing of a facility characterized throughout its history by mismanagement and disregard for quality assurance requirements in design and construction. It is, moreover, an

opposition increasingly confirmed by scores of past and present Diablo Canyon workers whose training and livelihood are grounded in the nuclear industry. Their interest in raising safety concerns can only be to ensure that Diablo Canyon is safe. As is evident from the Labor Department's finding last week that PGandE unlawfully retaliated against engineer Charles Stokes, the personal costs associated with raising such concerns may be substantial.

The Joint Intervenors urge you to recognize that the economic interest underlying PGandE's continued pressure for immediate reinstatement of its license is secondary to the Commission's responsibility to ensure safety. Further licensing of Diablo Canyon cannot now be reconciled with that obligation, and, accordingly, PGandE's applications for authority to conduct (1) hot system testing and (2) low power operations must be denied.

Very truly yours,



Joel R. Reynolds
Counsel to the
Joint Intervenors

JRR:cc
cc: Diablo Canyon Service List