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June 28, 1983

Hon. Thomas S. Moore, Chairman,  
and Members  
Atomic Safety and Licensing Appeal Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555



Dear Chairman Moore and Members of the Board:

Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), U.S. Nuclear Regulatory Commission Docket Nos. 50-275 O.L., 50-323 O.L.

We have received Mr. Norton's June 24, 1983, letter to the board, setting forth a proposed schedule for further proceedings in the reopened hearings on design quality assurance. While Mr. Norton does state that the schedule is the applicant's proposal, the letter suggests that the parties are in general agreement with the proposal except as he notes in his letter. Although we have had discussions with the other parties on the matter and agree on most matters, there are differences between the position of the Governor and that of PG&E that are not identified in Mr. Norton's letter.

In general, we have no objection to the applicant's proposed schedule except as follows:

Filing of Contentions. The disagreement between the parties on the filing of contentions is not, as the letter states, over whether they shall first be circulated among the parties or filed with the board,<sup>1/</sup> but over the events that follow their filing. PG&E proposes that contentions be filed on July 1 and that "submittals" (which

<sup>1/</sup> Mr. Norton's letter correctly states our original preference that proposed contentions be negotiated among the parties before filing with the board. That preference was based on a belief, which PG&E apparently shared, that there would be little disagreement on the contentions. Subsequent conversations have disabused us of that belief.

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we assume to be the objections of the other parties) be filed July 14, with no further filings by any party.

This board's April 21, 1983, order reopening the record on design quality assurance provided for contentions to be filed at the close of discovery. We are prepared to depart from that provision in the interest of expediting the proceeding -- with the understanding, already confirmed by the other parties, that contentions may be added as a result of discovery. But any substitute schedule should insure that we have the opportunity to respond to objections to our contentions. While some of the objections may be the product of foreseeable disagreements among the parties, which might be addressed in a document tendered with the contentions, it seems virtually certain that we will be unable to anticipate all objections. The PG&E proposed schedule would therefore leave us without an opportunity to respond to objections.

Accordingly, we propose that any schedule the board adopts that provides for the early filing of contentions insure that the party tendering the contentions have an opportunity to respond to the objections. We would need no more than seven days from the filing of the last objection to the filing of our response, plus the normal time for service, with some accommodation should the time to respond come during the hearing in San Luis Obispo on construction quality assurance.

Commencement of the Hearing. PG&E's proposes hearings from September 13 to September 23.<sup>2/</sup> That period includes Yom Kippur, which begins Friday night, September 16. This effectively prevents two of our three attorneys from participating in the hearing Friday afternoon and Saturday. While we are prepared to proceed with the single counsel if the board so orders, we suggest that the hearing commence one week later, on September 19.

We believe these matters can be accommodated without unduly

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<sup>2/</sup> We also assume that test estimated duration of the hearing is, like in federal court, an estimate, which is subject to expansion or contraction by the board according to the legitimate demands of the proceeding.

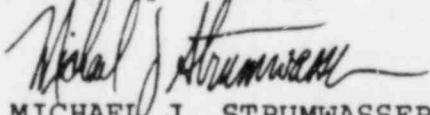
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inconveniencing the parties and without materially affecting  
the operating schedule for the power plant.

Thank you for your consideration of this letter.

Very truly yours,

JOHN K. VAN DE KAMP  
Attorney General

A handwritten signature in dark ink, appearing to read "Michael J. Strumwasser", is written over the typed name.

MICHAEL J. STRUMWASSER  
Special Counsel to the Attorney General

cc: Service list  
(Express mail to Appeal Board and counsel)