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GOVERNMENT ACCOUNTABILITY PROJECT

Institute for Policy Studies

1901 Que Street, N.W., Washington, D.C. 20009

(202) 234-9382

July 25, 1984

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Nunzio J. Palladino, Chairman
Thomas Roberts, Commissioner
James Asselstine, Commissioner
Frederick Bernthal, Commissioner
Lando Zech, Commissioner
1717 H Street, N.W.
Washington, D.C. 20555

Re: Diablo Canyon Nuclear Power Plant, Units 1 and 2
Docket Numbers 50-275 and 50-323 /66

Dear Commissioners:

On behalf of the San Luis Obispo, California Mothers for Peace (Mothers), this letter is to withdraw the Diablo Canyon allegations against the Nuclear Regulatory Commission (NRC) staff, summarized in my Report of Interview with Office of Inspector and Auditor (OIA) attorney Ronald Smith. The reason for this action is simple: The Mothers don't cooperate with coverups. It has become painfully obvious that the methodology for the investigation is designed to predetermine the results. The basis for this disappointing assessment is as follows:

1) Mr. Smith informed me that his only concern is whether any staff misrepresentations on Diablo Canyon were intentional. That reduces his effort to an exercise of finger-pointing, at best. The point of the allegations is that the system broke down; the staff presented a materially inaccurate, incomplete record to the Commission in the weeks prior to a licensing vote. It is of little solace to the residents potentially endangered by the plant, if the evidence was suppressed merely due to incompetence rather than to criminal intent.

2) Mr. Smith explained that the allegations are vague and imprecise. That is curious, since he drafted them during approximately a ten hour interview, in which he either did not record the details or relegated them to "background" status. Even more curiously, he refused to speak with the whistleblowers who have first hand knowledge. They could have helped to provide the unidentified, further details he claims to lack, if he had let them.

3) Mr. Smith has accepted the staff's predictable denials of wrongdoing at face value. He further informed me that the staff's denials are sufficient grounds to dismiss all allegations as unfounded. The problem is that in at least some cases the staff's denials constitute further false statements. For example, the staff took credit for interviews with whistleblowers who have never met the staff. Unfortunately, Mr. Smith

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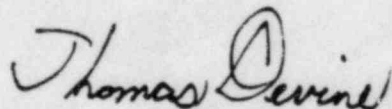
informed me that the staff's answers are entitled to a "presumption of regularity." In practice, that means he will not receive evidence of irregularity from eyewitnesses. His conclusions will be whatever the staff had told him.

4) Mr. Smith reassured me that if the staff's answers are false, at least they will be pinned down and GAP can "really get them" in the next OIA investigation. The problem is that by then the system will have failed; a major licensing decision will have been made on the basis of material false statements from the staff. Neither the Mothers nor GAP are interested in "getting them next time"; we are not trying to write a book about the Diablo Canyon coverup. We want an accurate record before the Commission votes on the commercial license. OIA has missed the point.

Mr. Smith complained that the Mothers want an "inquisition." That is incorrect; the Mothers only want an investigation. OIA will not talk to the complaining witnesses. As a result, OIA has failed the minimum standards for any government investigation.

What happened with OIA at Diablo Canyon is the same phenomenon that occurred after the Three Mile Island cleanup debacle. It also explains why the scandals at the NRC keep recurring -- there is no legitimate system of checks and balances at this agency. Obviously the public cannot stop the Commission from assigning its internal watchdog to defend the staff, instead of to investigate it. But there should be no pretense that this is occurring at the request of the public. This is the opposite of what the Mothers requested in their petition.

Sincerely,

A handwritten signature in cursive script that reads "Thomas Devine".

Thomas Devine
Counsel, Mothers for Peace