

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE NUCLEAR REGULATORY COMMISSION

In the matter of)	
)	
PACIFIC GAS AND ELECTRIC)	Docket Nos. 50-275
COMPANY)	50-323
)	
(Diablo Canyon Nuclear Power)	
Plant, Units 1 and 2))	
)	

AFFIDAVIT OF JAMES L. McDERMOTT II

State of California)	
)	ss
County of San Luis Obispo)	
City of San Luis Obispo)	

The above being duly sworn deposes and says:

My name is James L. McDermott II. On January 8, 1985 the NRC staff interviewed me to close out four allegations. In the process, the staff revealed that it had mischaracterized two out of the four charges, violated its own internal rules, ignored relevant portions of 10 CFR 50, Appendix B, and accepted licensee responses uncritically that were based on material false statements. As a result, I have 15 new allegations, which are listed below:

1. The NRC staff mischaracterized allegation #262 as "Pullman management instructs inspectors to violate contract specifications by stamping on the weld because it was not prohibited", when in reality my point was that of two Pullman related engineering specifications, one did prohibit weld stamping and

the other did not, but when I had tried to alert management to the potentially destructive inconsistencies, the Pullman quality assurance/quality control (QA/QC) manager stopped me on the basis of the procedural loophole (February 25, 1984 Affidavit, @ Page 5 and Exhibit 7).

2. The NRC failure to properly define my allegation is due to the staff's failure to send a letter or other communication confirming that it accurately understood the charge, contrary to internal NRC rules.

3. I protest that the staff failed to discuss -- either in its inspection report or our closeout interview -- a significant portion of allegation #262 -- whether Pullman's management acted properly by vetoing my challenge of procedural inconsistencies as to weld stamping, which is contrary to well-known practices of sound construction, merely because the Pullman procedures do not discuss the subject.

4. The staff's failure to followup meaningfully explains why on January 8, 1985, after Region V had closed out the allegation, that Inspector Dennis Kirsch told me in the closeout interview that he was ignorant of whether my concern involved paperwork or any particular weld; since my allegation involved both and during our interview I offered to point out a specific example on a plant tour.

5. The NRC staff improperly wasted my time by calling me for a January 8, 1985 closeout interview on allegation #278 -- stainless steel tool control -- when the staff was unprepared to

inform me why the NRC had accepted PGandE's response to the issue.

6. The NRC staff prematurely closed out allegation #278, since in June and October 1984 I alleged that the licensee's response was based on material false statements, and the Office Of Investigations has not yet finished its probe.

7. The NRC staff improperly failed to examine a major portion of my allegation on tool control -- why Pullman waited over a year to act on the Deficient Condition Notice that I authored on the misconduct I had observed.

8. The NRC staff wasted my time by calling me to a closeout meeting on allegation #279 -- concerning the removal of a hold tag -- by "explaining" its reason for rejecting the charge through reading from an Inspection and Enforcement Report that already had been published and then refusing to answer substantive questions about holes and ambiguities in the inspection report.

9. The staff resolution of allegation #279 permits management to remove hold tags entirely that are allegedly overbroad, which is improper, since it means that corrective action against illegal conditions can be thwarted as well with impunity merely because part of the work covered by the hold tag is acceptable.

10. The staff mischaracterized the underlying quality dispute behind the retaliation charge in allegation #280 by saying that I had challenged the inaccessibility of a weld; since I had not raised that issue at all but rather had challenged unacceptable

surface preparation through reliance on a totally inadequate tool called a peanut grinder, and failure to use the recommended surface preparation methods listed in the procedure.

11. The weld process sheet provided by the licensee to the staff on allegation #280 is false according to the staff; since the staff claims in part to have defined my allegation on the basis of the process sheet when improper weld preparation rather than inaccessibility was the practice I had challenged at the site.

12. The staff's failure to define allegation #280 properly in part is due to its failure to send a letter or otherwise communicate with me to assure that it properly understood the allegation and its basis.

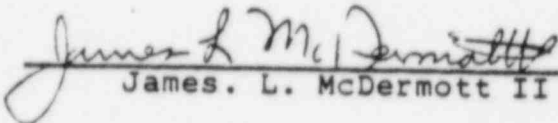
13. The staff's review of the dispute underlying allegation #280 was incomplete, since it only looked at paperwork on one weld out of the approximately dozen welds where I had found the surface preparation inadequate (February 25, 1984, Affidavit @ Pages 9 and 10, and Exhibits 14 and 15).

14. The staff improperly published an inspection report on allegation #280, which charged retaliation; since under the NRC's internal rules reprisal issues are under the jurisdiction of the Office of Investigations, which operates independently from the staff and has not yet issued its findings on the charge.

15. I protest that the NRC staff has only interviewed me to followup or have closeout interviews on a small percentage of my

total allegations, and has skipped dozens of the most significant issues, including the training inadequacies I challenged just before my July layoff^{June}.

I have read the above five page affidavit and it is true, accurate and complete to the best of my knowledge and belief.


James. L. McDermott II

STATE OF CALIFORNIA
COUNTY OF San Luis Obispo

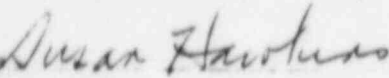
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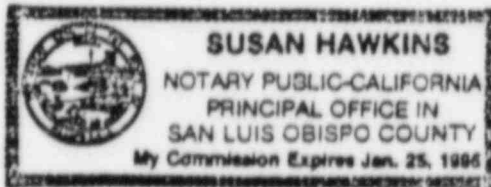
before me, the undersigned, a Notary Public in and for
said State, personally appeared JAMES L. McDERMOTT II

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same.

WITNESS my hand and official seal:

Signature





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