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# U.S. House of Representatives Committee on Energy and Commerce

Room 2125, Rayburn House Office Building

Washington, D.C. 20515

November 13, 1981

DESIGNATED ORIGINAL

Certified By Jean R. Breen

Honorable Nunzio J. Palladino  
 Chairman  
 U.S. Nuclear Regulatory Commission  
 Washington, D.C. 20555

Dear Mr. Chairman:

In his April 9, 1981 testimony before the House Interior and Insular Affairs Subcommittee on Energy and Environment, Mr. Malcolm Furbush, a Senior Vice President and General Counsel for the Pacific Gas and Electric Company stated that the Diablo Canyon Unit 1 nuclear power reactor was "the most thoroughly studied nuclear powerplant ... in the history of the world." In view of this record, the recent serious disclosures of increasingly serious safety-related seismic design and construction errors at this reactor raise fundamental questions about the utility's quality assurance program. Moreover, the fact that the first error, relating to the supports for the piping in the reactor's cooling system, was discovered just one day after the Commission issued a low-power test license, raises serious questions about the adequacy of the Commission's review and licensing practices. The subsequent discovery of additional safety-related errors, described as potentially more significant than the initial error, elevate the problem from an isolated incident to a pattern of behavior on the part of the licensee which is far below the standard which is expected by the public or which should be accepted by the Commission. As a result, the issue raised by these discoveries is transformed from a simple matter concerning the licensee's quality assurance program to a major and fundamental matter concerning the Commission's ability and willingness to effectively regulate the nuclear industry in a manner which adequately protects the public's health and safety.

The belated disclosures of purportedly minor errors, each of them a surprise to the licensing agency, shows that the NRC can and does license a plant based, to a great extent, on a questionable reliance on the good-faith efforts of the applicant. Although the ultimate seriousness of the recently discovered errors and the implication of such errors on the overall safety of the reactor are yet to be determined, the seriousness of the errors is irrelevant to the fundamental issues raised by their discovery. These are the question of the utility's ability and resolve to administer a quality control program which ensures that the reactor will be designed, constructed and operated in conformity with applicable regulations. More importantly, questions are raised as to the Commission's ability to detect deficiencies

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11/16...to EDO prepare Reply For Commission Review & Signature  
 of: Chm...Date due Commission: Nov. 30...Cpys to: Chm, Cmrs, PE,  
 OGC, SECY, RFA, OCA to Acknowledge...81-2343.

in the utility's program and to respond to such deficiencies in a manner which dissuades repetition and which generates public confidence in the regulator's vigor. We regret to say that, on the basis of the evidence presented to date, the response to both the first and the second issue is disheartening.

For a number of reasons, the significance of the Diablo Canyon situation is greater than the incident itself. First, this is the first real test of the Commission's regulatory performance since your appointment as Chairman and Mr. Roberts' as Commissioner. We regret to say that we derive little comfort from the Commission's acquiescence to the utility's offer to voluntarily delay exercising the authority granted to it by its license and to contract for the performance of an audit of other seismic safety systems. The Commission's continued reliance upon the utility's good intentions to conduct this audit seems doubly misplaced since the issue raised concerns the adequacy of the utility's resolve and capacity to monitor itself and those under its direction and control. The failure of both the NRC and the utility to discover the errors over a period of at least four years eviscerates the credibility of any reanalysis either the agency or the utility now performs or contracts to have performed. As has been pointed out "it is like asking the people who made the mistake and the people who didn't find it before to tell us what else might have gone wrong."<sup>1</sup> Any real or apparent conflict-of-interest publicly perceived will undermine the attempt to restore public confidence in the safety of the plant and the ability of the utility and the Commission to provide for the public safety.

A second factor which magnified the significance of the events at Diablo Canyon concerns the public controversy and demonstrations which have surrounded the licensing of this reactor. The disclosure of these errors has not only resuscitated the protest, but also vindicated the position of those who have argued that the reactor is unsafe and vested these opponents with a degree of credibility that was previously unattainable. Moreover, the credibility of the protestors has been gained at the expense of the Commission which appears incapable of discovering that the wrong blueprints were used in constructing a portion of the plant, and greets such discoveries with apparent nonchalance.

The failure of the Commission to either revoke, suspend, or minimally, add restrictive amendments, to the existing low-power test license in spite of disclosures of errors of apparently increasing significance strains the faith of all but those most devoted to a belief in the Commission's commitment to a vigorous and independent regulatory regime. The Commission's position in this instance is undermined by the Commission staff's public concession that the disclosures were of sufficient magnitude to have prevented the issuance of the license originally. The Commission's failure to initiate formal action against the existing license becomes

1. "Questions at Diablo Canyon," San Jose Mercury News, Oct. 28, 1981.

indefensible when it is admitted that the license should not have been issued in the first place.

The third and perhaps most significant factor regarding the Commission's performance regarding Diablo Canyon concerns provisions in the Nuclear Regulatory Commission's authorization bill which vests the Commission with the authority to issue temporary operating licenses in advance of completion of any hearing required by Sections 189 and 192 of the Atomic Energy Act. Provisions in the recently passed House version of the bill allow a temporary operating license be issued when all the non-hearing provisions of the Act are met - when the reactor is in compliance with all the rules and regulations of the Commission. The Commission's failure to insist that an existing licensee comply with these requirements raises serious questions as to whether the Commission is competent to administer this new authority in a responsible manner with the degree of protection intended by its sponsors. Moreover, in view of its past performance, the deference given the utility in this instance by allowing it to continue to possess a license which should not have been issued in the first instance and by relying upon informal and extra-legal agreements challenge the presumption that the exercise of exclusive federal authority in this area is adequate to protect public health and safety.

The final factor raised by the Diablo Canyon situation regard the Commission's overall concern for quality assurance. A spokesman for PG&E is quoted in the Wall Street Journal as acknowledging that "we had a breakdown in our quality assurance." Diablo Canyon however, is not the only reactor to have experienced such problems recently. Similar situations have occurred at WNPFS Unit 2, Midland 1&2, Marble Hill, Zimmer and So. Texas Project 4. Clearly, there has been a major breakdown in the Commission's overall system of quality control as is evidenced by reactors in different parts of the country facing similar problems. The entire program needs to be reviewed and strengthened.

In regard to the specific problem at the Diablo Canyon power reactor, we are advised that at a November 9, 1981, briefing, both NRC staff and Commissioners recognized the need for an independent audit and a complete reverification of all seismic-related activities performed by subcontractors and the quality control program. In view of this Committee's concern raised by the Diablo disclosures, you are requested to supply the following information:

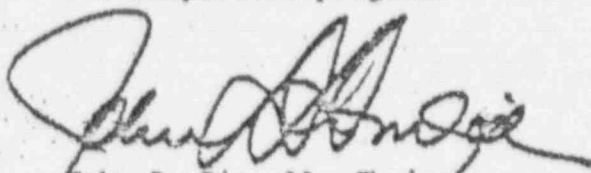
1. Please provide, prior to the issuance of the 50.54(f) letter, the definition of the terms (i) "independent," (ii) "competent," (iii) "integrity," and (iv) "complete."
2. Please provide the criteria to be used in assuring that the proposed audit will be "independent."



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November 13, 1981  
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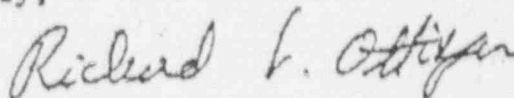
3. In view of the licensee's past performance, and that of its subcontractors, what procedures will be utilized to ensure that there are no conflicts-of-interests in the performance of any required audits?

4. What plans does the NRC have to ensure that a similar situation will not arise at other plants now under construction? What, if any, additional quality control procedures does the NRC propose to institute in its inspection program?



John D. Dingell, Chairman  
Committee on Energy & Commerce

Sincerely,



Richard L. Ottinger, Chairman  
Subcommittee on Energy Conservation  
& Power

Dear Congressmen:

This is in response to your November 13, 1981 letter which expressed your concern over the implications of the recent seismic design errors detected at the Diablo Canyon nuclear plant. I share your concern and can assure you that the implications of these errors have been and will be thoughtfully considered by the Commission.

The timing of the detection of these errors, so soon after authorization for low-power operation, was indeed unfortunate and it is quite understandable that the Congress' and the public's perception of our licensing process has been adversely affected. Had this information been known to the Commission on or prior to September 22, 1981, the facility license would not have been issued until the questions raised by these disclosures had been resolved.

Based on staff review and Commission consideration of these design errors, the Commission on November 19, 1981 suspended PG&E's license to load fuel and conduct tests at up to 5% of rated power pending satisfactory completion of certain actions ordered by the Commission (CLI-81-30 enclosed). These actions include

1. The conduct of an independent design review program of all safety-related activities performed prior to June 1, 1978 under all seismic-related service contracts used in the design of safety-related structures, systems and components.
2. A technical report that fully assesses the basic cause of all design errors identified by this program, the significance of the errors found and their impact on facility design.

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Jean V. Breen

3. PG&E's conclusions of the effectiveness of the design verification program in assuring the adequacy of facility design.
4. A schedule for completing any modifications to the facility that are required as a result of the design verification program.

In addition, the Commission further ordered the Pacific Gas and Electric Company (PG&E) to provide for Commission review and approval.

1. A description and discussion of the corporate qualifications of the company or companies that PG&E would propose to carry out the independent design verification program, including information that demonstrates the independence of these companies.
2. A detailed program plan for conducting the design verification program.

In recognition of the need to assure the credibility of the design verification program, the Commission will decide whether the companies proposed by PG&E are qualified to conduct this program after providing the Governor of California and Joint Intervenors in the pending operating license proceeding 15 days for comment. Also, the Commission will decide on the acceptability of the plan proposed by PG&E to conduct the program, after providing the Governor of California and the Joint Intervenors in the pending operating license proceeding 15 days for comment.

Prior to authorization to proceed with fuel loading, the NRC must be satisfied with the results of the seismic design verification program referred to in paragraph 1, and with any plant modification resulting from that program that may be necessary prior to fuel loading. The NRC may impose additional requirements prior to fuel loading necessary to protect health and safety based upon its review of the program or any of the information provided by PG&E pursuant to paragraph 4. This may include some or all of the requirements specified in the letter to PG&E, dated November 19, 1981.

Responses to each of the four questions in your letter are enclosed in (Enclosure 2).

I assure you that our decision to permit PG&E to proceed with fuel loading will not be made until all the actions contained in the Commission's November 19, 1981 Order are fully satisfied.

Sincerely,

Nunzio J. Palladino  
Chairman

Enclosures:

1. CL1-81-30 dated November 19, 1981
2. Responses to Questions in November 13, 1981 Letter