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Project On

# LIBERTY AND THE WORKPLACE

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April 20, 2000

**VIA TELECOPIER**

Hon. Richard A. Meserve  
Chairman, Nuclear Regulatory Commission  
Hon. Hubert T. Bell, Jr.  
Inspector General  
One White Flint North Building  
11555 Rockville Pike  
Rockville, Maryland 20850

Re: Investigation of Pacific Gas & Electric  
Diablo Canyon Power Plant

Dear Chairman Meserve and Inspector General Bell:

In my earlier correspondence, I shared our dismay at the unwillingness of your two offices to become involved in investigating the abuse by Pacific Gas & Electric of the fitness-for-duty program in retaliating against Neil Aiken; our disappointment at the gratuitous hostility of your Mr. Travers in response to our well-founded complaints about how your agency was "investigating" this matter; and our disgust at the machinations of Region IV to deprive Mr. Aiken of due process during its "investigation." Your offices' refusal to meet with us and unwillingness to lift a finger to help Mr. Aiken made it quite plain where the allegiances of your agency reside; and make no mistake, it is not with men and women of conscience in the commercial nuclear industry, those with courage enough to step forward and those too terrified to do so.

The evidence of the personal participation of the President and CEO of PG&E, Gordon Smith, in targeting Mr. Aiken for retaliation and in orchestrating it by creating a new and special layer of *ex parte* psychiatric review just for him is now well-documented in the report of DOL. A coalition of public interest organizations devoted to holding PG&E accountable for its vicious actions toward Mr. Aiken, and your agency for letting PG&E get away with it, will be

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approaching Congress in the near future with the aim of commissioning a GAO investigation into this entire affair.

There is one new offense worked by your agency on the public which I wanted to bring to your attention, to be certain we could tell Congress that you'd been given every opportunity to "do the right thing" before we sought redress there.

The New York Times ran an article several weeks ago concerning this affair. Matt Wald, that paper's highly regarded reporter, asked a senior NRC official what actions the NRC intended to take now that the DOL report was public. That official responded, in sum and substance, nothing; because doing so would be "a waste of taxpayer funds."

Let's rewind that tape. The NRC pointedly and repeatedly refused our requests to assist Mr. Aiken, because your agency's mission supposedly was not to help individual employees. Rather, it was to investigate possible threats to public safety, to take remedial actions where necessary, and to levy fines and impose other discipline as appropriate. Your agency's Memorandum of Understanding with the Department of Labor dividing up jurisdiction over matters such these confirms that these matters, and not providing remedies to individuals, are within your agencies' mission.

I would greatly appreciate knowing why it would be "a waste of taxpayer funds" for the NRC to ascertain the role played by the President and CEO of one of the country's largest public utilities in retaliating against a nuclear whistleblower — whose safety issues your agency often validated — to fine PG&E if he was a participant in that retaliation, and to take steps to bar him from the industry you are charged with regulating.

We will be approaching Congress in one to two weeks and begin our campaign to commission a GAO investigation. I am willing to wager that before that time is out, you will still will not have considered reviewing Mr. Smith's personal violations of Mr. Aiken's right of

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free speech — guaranteed under both the California Constitution and the Energy Reorganization Act — worth an investment of time and resources by either of your two offices.

Very truly yours,



Robert C. Seldon

Cc: Neil Aiken  
Paul Blanch  
A. Alene Anderson, Esq.  
James Riccio, Public Citizen  
David Lochbaum, Union of Concerned Scientists