

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

March 29, 1990

MEMORANDUM FOR: William C. Parler, General Counsel

FROM: Samuel J. Chilk, Secretary

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/DISCUSSION
AND VOTE, 3:30 P.M., THURSDAY, MARCH 22,
1990, COMMISSIONERS' CONFERENCE ROOM, ONE
WHITE FLINT NORTH, ROCKVILLE, MARYLAND
(OPEN TO PUBLIC ATTENDANCE)

- i. SECY-90-069 - Fitness for Duty Rule Stay Request Filed by
Several Diablo Canyon Employees

The Commission, by a 5-0 vote,* approved an order responding to a February 2, 1990 motion requesting a partial stay of the Commission's Final Rule and Statement of Policy Concerning Fitness-for-Duty Programs as applied to certain employees at the Pacific Gas and Electric Company's Diablo Canyon Nuclear Power Plant. The order denies the motion as essentially moot since the Court of Appeals for the Ninth Circuit has already denied a stay pending appeal.

(Subsequently, on March 22, 1990, the Secretary signed the order.)

cc: Chairman Carr
Commissioner Roberts
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
EDO
GPA
ACRS
PDR - Advance
DCS - P1-24

* Section 201 of the Energy Reorganization Act, 42 U.S.C. Section 5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Remick was not present when this item was affirmed.

Accordingly, the formal vote of the Commission was 4-0 in favor of the decision. Commissioner Remick, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote.