

April 15, 2003

Bill Lockyer, Attorney General
State of California
Department of Justice
1515 Clay Street, 20th Floor
P. O. Box 70550
Oakland, California 94612

Dear Mr. Lockyer:

I have received your letter of February 28, 2003, addressed to Richard A. Meserve. Dr. Meserve has left the Nuclear Regulatory Commission, and President Bush has designated me as Chairman. You stated your concerns about the independent spent fuel storage installation proposed to be constructed on the site of the Diablo Canyon nuclear power plants. You requested an expansion in scope of a financial qualifications contention accepted by the Atomic Safety and Licensing Board and public hearings on seismic and terrorism-related contentions rejected by the Board.

I am unable to address your concerns as to the seismic and financial qualifications contentions, as the Commission may be called upon to review any final decision of the Licensing Board on the license application. Until then, it is our policy to refrain from comment on issues in pending adjudications which may later come before us for decision. I believe it is important that there be no perception that the Commission has prejudged or has in any other way intruded into the integrity of the NRC's adjudicatory processes.

Regarding the terrorism issues you raised, the other members of the Commission and I gave long and thorough consideration to the adjudicatory decisions cited in the Diablo Canyon proceeding. I would like to emphasize that, consistent with its responsibilities under the Atomic Energy Act of 1954, as amended, the Commission has been reviewing its regulations and programs relating to the security of licensees' facilities and has already instituted enhanced security requirements.

Sincerely,

/RA/

Nils J. Diaz