



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

May 5, 2010

Mr. James R. Becker  
Site Vice President  
Pacific Gas and Electric Company  
Diablo Canyon Power Plant  
Mail Code 104/5/601  
P.O. Box 56  
Avila Beach, CA 93424

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE  
FOR DIABLO CANYON POWER PLANT, UNIT NOS. 1 AND 2 (TAC NOS.  
ME3732 AND ME3733)

Dear Mr. Becker:

By letter dated April 9, 2010 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML101100646), you submitted an affidavit dated April 9, 2010, executed by James R. Becker, Site Vice President, Pacific Gas and Electric Company (PG&E), requesting that the information contained in the following document (Enclosure 1 of the April 9, 2010, letter) be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Part 2, Section 2.390:

Topical Report: "Process Protection System Replacement Diversity & Defense-in-Depth Assessment," Rev 0, March 2010

A nonproprietary copy of this document, provided as Enclosure 3 to the letter dated April 9, 2010, has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the ADAMS Public Electronic Reading Room in ADAMS Accession No. ML101100647.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- (a) The information sought to be protected is not available in public sources or available information has not been previously employed in the same original manner or method to the best of [PG&E's] knowledge or belief.
- (b) Further, this information has substantial commercial value. It consist of technical design details that support a robust design for a digital upgrade of the reactor trip system and engineered safety features actuation system. Use of the technical design details by a competitor would reduce their expenditure of resources in licensing a similar digital upgrade to the reactor trip system and engineered safety features actuation system.

- c) Public disclosure of this confidential information is likely to cause substantial harm to the competitive position of PG&E because it would enable others to use the information to meet NRC requirements for licensing documentation for digital upgrades without purchasing the right to use the information.
- d) The development of the design details for the digital upgrade of the reactor trip system and engineered safety features actuation system is the result of applying the results of many years of experience in an extensive PG&E effort and the expenditure of a considerable sum of money.
- e) In order for competitors of PG&E to duplicate this information, similar technical design details would have to be developed and a significant manpower effort, having the requisite talent and experience, would have to be expended.

We have reviewed your application and the material in accordance with the requirements of 10 CFR 2.390 and, on the basis of the statements in the affidavit, have determined that the submitted information sought to be withheld contains proprietary commercial information and should be withheld from public disclosure.

Therefore, the version of the submitted information marked as proprietary will be withheld from public disclosure pursuant to 10 CFR 2.390(b)(5) and Section 103(b) of the Atomic Energy Act of 1954, as amended.

Withholding from public inspection shall not affect the right, if any, of persons properly and directly concerned to inspect the documents. If the need arises, we may send copies of this information to our consultants working in this area. We will, of course, ensure that the consultants have signed the appropriate agreements for handling proprietary information.

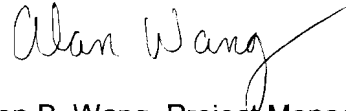
If the basis for withholding this information from public inspection should change in the future such that the information could then be made available for public inspection, you should promptly notify the NRC. You also should understand that the NRC may have cause to review this determination in the future, for example, if the scope of a Freedom of Information Act request includes your information. In all review situations, if the NRC makes a determination adverse to the above, you will be notified in advance of any public disclosure.

J. Becker

- 3 -

If you have any questions regarding this matter, I may be reached at 301-415-1445.

Sincerely,

A handwritten signature in black ink that reads "Alan Wang". The signature is written in a cursive style with a long, sweeping tail on the letter "g".

Alan B. Wang, Project Manager  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

cc: Distribution via Listserv

J. Becker

- 3 -

If you have any questions regarding this matter, I may be reached at 301-415-1445.

Sincerely,

/RA/

Alan B. Wang, Project Manager  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

cc: Distribution via Listserv

DISTRIBUTION:

PUBLIC

LPL4 Reading

RidsAcrsAcnw\_MailCTR Resource

RidsNrrDeEicb Resource

RidsNrrDorlLpl4 Resource

RidsNrrLAJBurkhardt Resource

RidsNrrPMDiabloCanyon Resource

RidsOgcRp Resource

RidsRgn4MailCenter Resource

**ADAMS Accession No. ML101130176**

OFFICE	NRR/LPL4/PM	NRR/LPL4/LA	NRR/DE/EICB/BC	NRR/LPL4/BC	NRR/LPL4/PM
NAME	AWang	JBurkhardt	WKemper	MMarkley CFLyon for	AWang
DATE	4/28/10	4/28/10	5/3/10	5/4/10	5/5/10

**OFFICIAL RECORD COPY**