

4/11/78

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
PACIFIC GAS AND ELECTRIC COMPANY ) Docket Nos. 50-275 O.L.  
(Diablo Canyon Nuclear Power Plant, ) 50-323 O.L.  
Units No. 1 and 2) )

REPLY OF PACIFIC GAS AND ELECTRIC COMPANY  
TO INTERVENOR'S RESPONSE RE PETITION TO  
ESTABLISH QUALIFICATIONS OF SECURITY  
EXPERTS FOR DISCOVERY

Intervenor SAN LUIS OBISPO MOTHERS FOR PEACE ("SLOMFP") have recently submitted a "response" to PACIFIC GAS AND ELECTRIC COMPANY'S response and supplemental response regarding the qualifications of Dr. Douglas L. De Nike and Dr. Bruce L. Welch. However, SLOMFP's latest filing offers still another putative expert, Richard B. Hubbard.

Intervenor has apparently chosen to ignore the Board's order of November 3, 1977 in two respects. First, the Board ordered that Dr. De Nike was not a qualified expert to proceed with discovery and second, the Board granted sixty days after receipt of the Order for SLOMFP to produce a qualified expert or experts to participate in the discovery process. While all other parties received the November 3 Order within several days, Intervenor alleges they did not receive same until December 6, 1977 and, therefore, did not submit their Petition to Qualify Dr. De Nike and Dr. Welch



until February 1, 1978, and now, under date of March 31, 1978, SLOMFP offers Mr. Hubbard as a qualified expert on certain security contentions. It is respectfully submitted that in addition to the fact that Mr. Hubbard's resume indicates no experience of any kind whatsoever with security matters, the submission of his name at this time is barred by the Board's order of November 3, 1977. Again, for what appears to be the hundredth time, SLOMFP asks this Board to certify Dr. De Nike as a qualified expert in the area of security contentions. Again, no new qualifications are offered for Dr. De Nike and, again, the Board should rule as it has previously.

As respects Dr. Welch, Intervenor has offered a mixture of illogical argument, misleading statements and outright misrepresentation. At page ten of Intervenor's Response, it is argued that Dr. Welch would be a competent witness as "the test is whether he has the education to evaluate the plan in light of existing regulations." That Dr. Welch is an educated man is not disputed by Applicant. Neither is the fact that he is an intelligent man. The illogic of Intervenor's position lies in the fact that Intervenor would have this Board rule that anyone who is intelligent and educated should therefore be qualified as an expert on security plans. The fact that Dr. Welch has no knowledge of applicable rules, regulations, guidelines, and generic materials apparently should have no bearing. Nor should the fact that Dr. Welch has no experience whatsoever with nuclear security or nuclear power plants or even with



security devices of the past twenty years. Intervenor misleads the Board by quoting Dr. Welch as stating that he "can evaluate very quickly in context organization and long range security plans and principles, technologies, very quickly, if that was made available to me." (Response, p. 11) What Intervenor fails to mention is what the "that" is. As set forth in detail in the Supplemental Response of Applicant, pages 5-6, Dr. Welch would require the assistance of NRC people, nuclear engineers, power company people and the manufacturers of security devices to "evaluate very quickly". What Dr. Welch lacks, and what Intervenor attempts to ignore, is the relevant experience to qualify as a security expert in nuclear facilities.

Applicant is, frankly, appalled at the outright misrepresentations contained in Intervenor's latest filing.

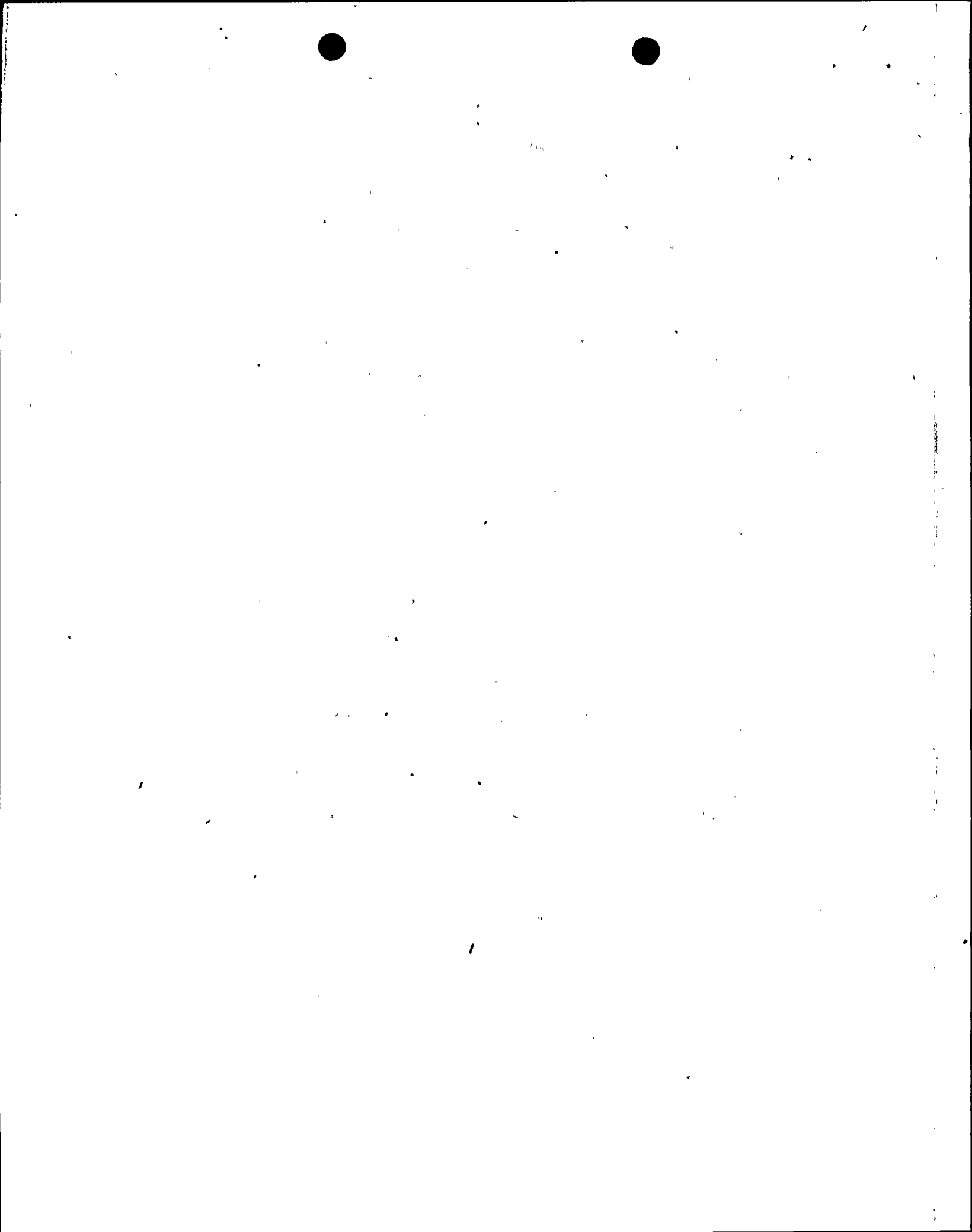
At pages 5 and 6, SLOMFP states:

"SLOMFP cannot determine either from PG&E or the NRC the qualifications it is trying to meet in order to qualify an expert to review the plan. Applicant's and NRC's continued refusal to state the professional qualifications they believe are necessary to review the security plan . . . puts the Intervenor subject to the arbitrary exercise of discretion subject to judicial review."

The above quote, no matter how construed, is totally false.

Mr. Valentine has attached three letters wherein he requested of Applicant information as to what type of person Applicant felt would be qualified as an expert in security matters.

What Mr. Valentine, for whatever reason, chose to ignore and not inform the Board of, was Mr. Crane's letter of February 7, 1977 (copy attached) which stated, inter alia:



"The next question, then, concerns the identity of your expert. As I believe we have made it abundantly clear, we do not think that Dr. De Nike has the requisite qualifications to pass upon the adequacy of site security plans. Our plan was prepared in accordance with Regulatory Guide 1.17 and ANSI N18.17, an examination of which will indicate the type of information which the plan contains and thus areas in which a consultant should have expertise. I have made no survey of the situation to ascertain what experts in this field are available in the Bay Area. I am acquainted with an expert available through the consulting firm of KMC, Inc., 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006, and I enclose a copy of his resume. I do not know whether he would be available, but his resume indicates the type of person we believe to be qualified to examine site security plans."

Mr. Valentine, again for obvious reasons, chose to not inform the Board of a letter sent directly to him by the NRC Staff's attorney, Thomas Englehardt, dated May 6, 1977, which offered the following experts, none of whom Applicant objected to, as persons who might well be willing to act as experts for Intervenor in this matter. Those experts were as follows:

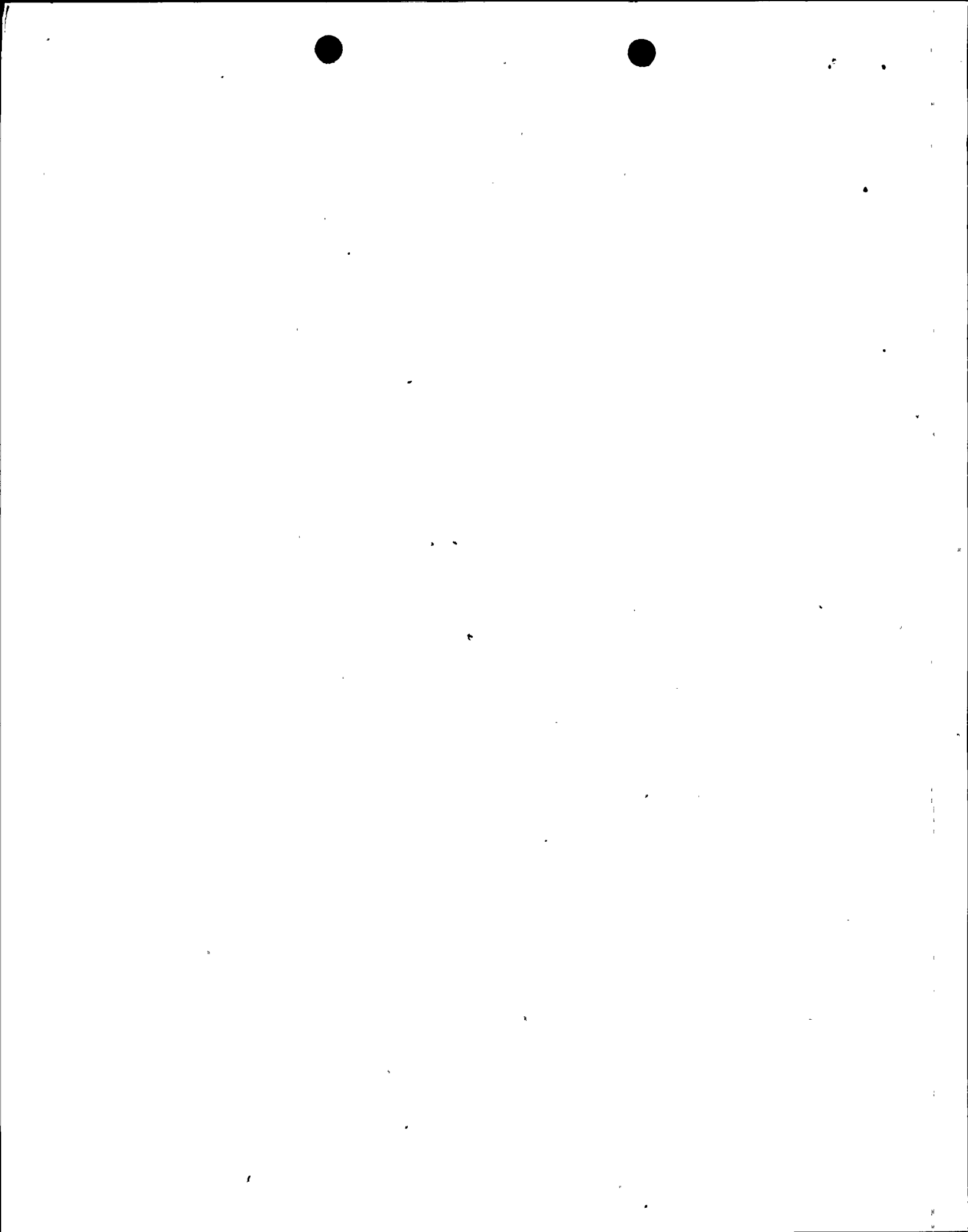
Dr. Martin R. Gustavson  
Assistant Associate Director for  
Military Systems  
University of California  
Lawrence Livermore Lab.

Mr. L. Philip Reinig, President  
Los Alamos Technical Associates, Inc.

Dr. Robert J. Donham, Program Manager  
Los Alamos Technical Associates, Inc.

Mr. Dan D. Darling  
Dan Darling & Associates  
El Segundo, California

The fact that such misrepresentations have been made by





Intervenor would seem to challenge the very credibility of Intervenor's efforts in the area of security matters.

In conclusion, Applicant respectfully submits that this Board should find that Drs. De Nike and Welch are unqualified to enter into discovery of the security plans of Diablo Canyon and that the submission of the similarly unqualified Mr. Hubbard as an expert in security matters is, at best, untimely.

Respectfully submitted,


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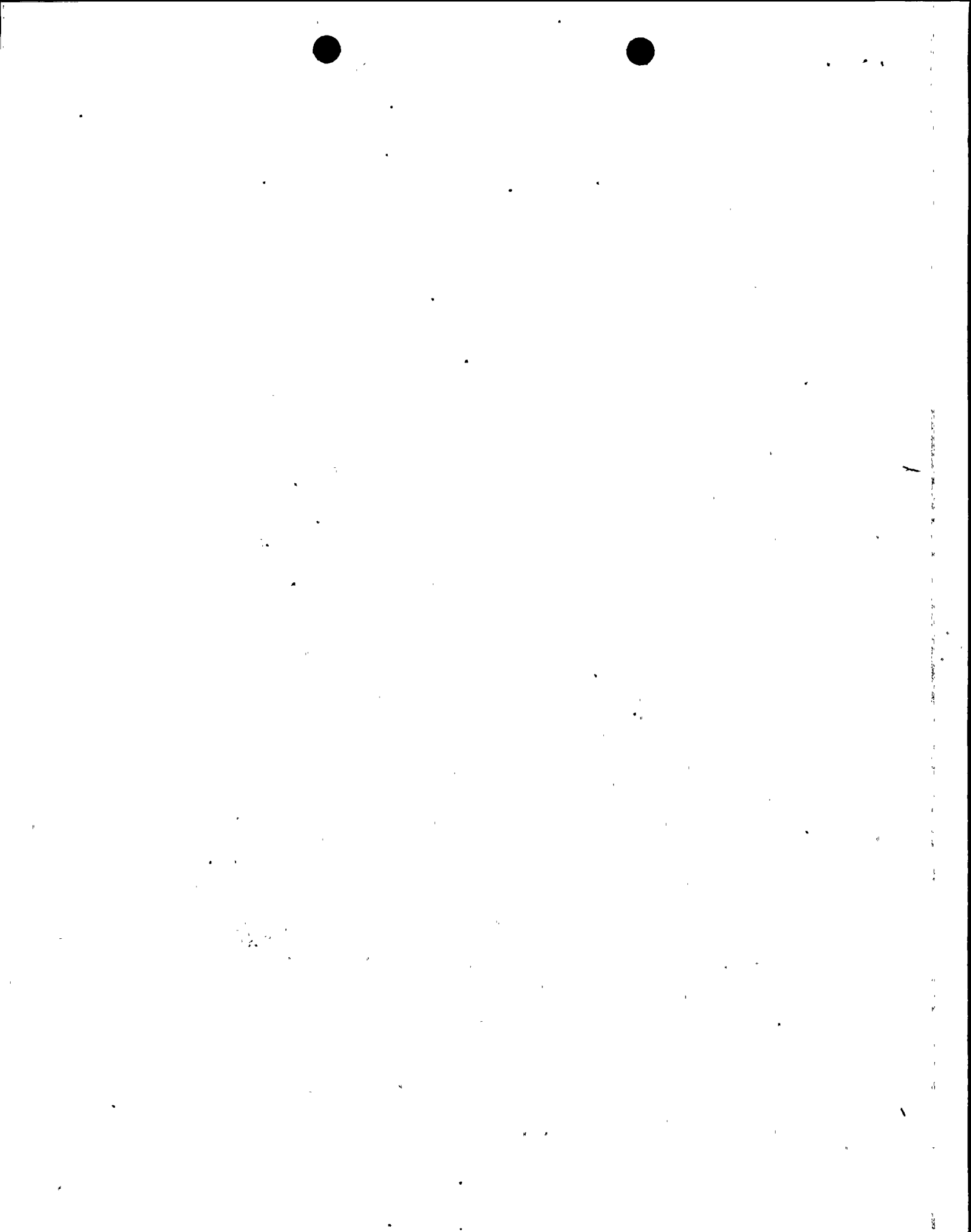
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(602) 264-0033

Attorneys for  
Pacific Gas and Electric Company

By

  
Bruce Norton

DATED: April 11, 1978.



FEB 22 1977

COPY

## PACIFIC GAS AND ELECTRIC COMPANY

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February 17, 1977

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Paul C. Valentine, Esq.  
P. O. Box 210  
Palo Alto, California 94302

Re: Diablo Canyon

Dear Paul:

As I explained over the telephone the other day, I am prepared to release a "sanitized" version of the site security plan for examination by your expert. The expectation would be that the portions of the plan revealed to your expert would be sufficient to permit him to reach a conclusion as to its adequacy, but not be so detailed as to jeopardize security of the plant if they become public.

The next question, then, concerns the identity of your expert. As I believe we have made it abundantly clear, we do not think that Dr. De Nike has the requisite qualifications to pass upon the adequacy of site security plans. Our plan was prepared in accordance with Regulatory Guide 1.17 and ANSI N18.17, an examination of which will indicate the type of information which the plan contains and thus areas in which a consultant should have expertise. I have made no survey of the situation to ascertain what experts in this field are available in the Bay Area. I am acquainted with an expert available through the consulting firm of KMC, Inc., 1747 Pennsylvania Avenue, N.W., Washington, D. C. 20006, and I enclose a copy of his resume. I do not know whether he would be available, but his resume indicates the type of person we believe to be qualified to examine site security plans.

Please let me know the name and qualifications of your expert so that we can proceed. If we are unable to agree on the further steps to be taken we should advise the Appeal Board promptly.

Very truly yours,

Philip A. Crane, Jr.

Enclosure

CC w/enc.: Yale I. Jones, Esq.  
Thomas F. Engelhardt, Esq.

bcc w/enc.: ACGehr, BNorton ✓



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NAME: Lawrence D. Low

EDUCATION:

Mr. Low received an LLB Degree in June, 1941 from National University School of Law (later merged with George Washington University), and is a member of the Bar in the District of Columbia.

EXPERIENCE:

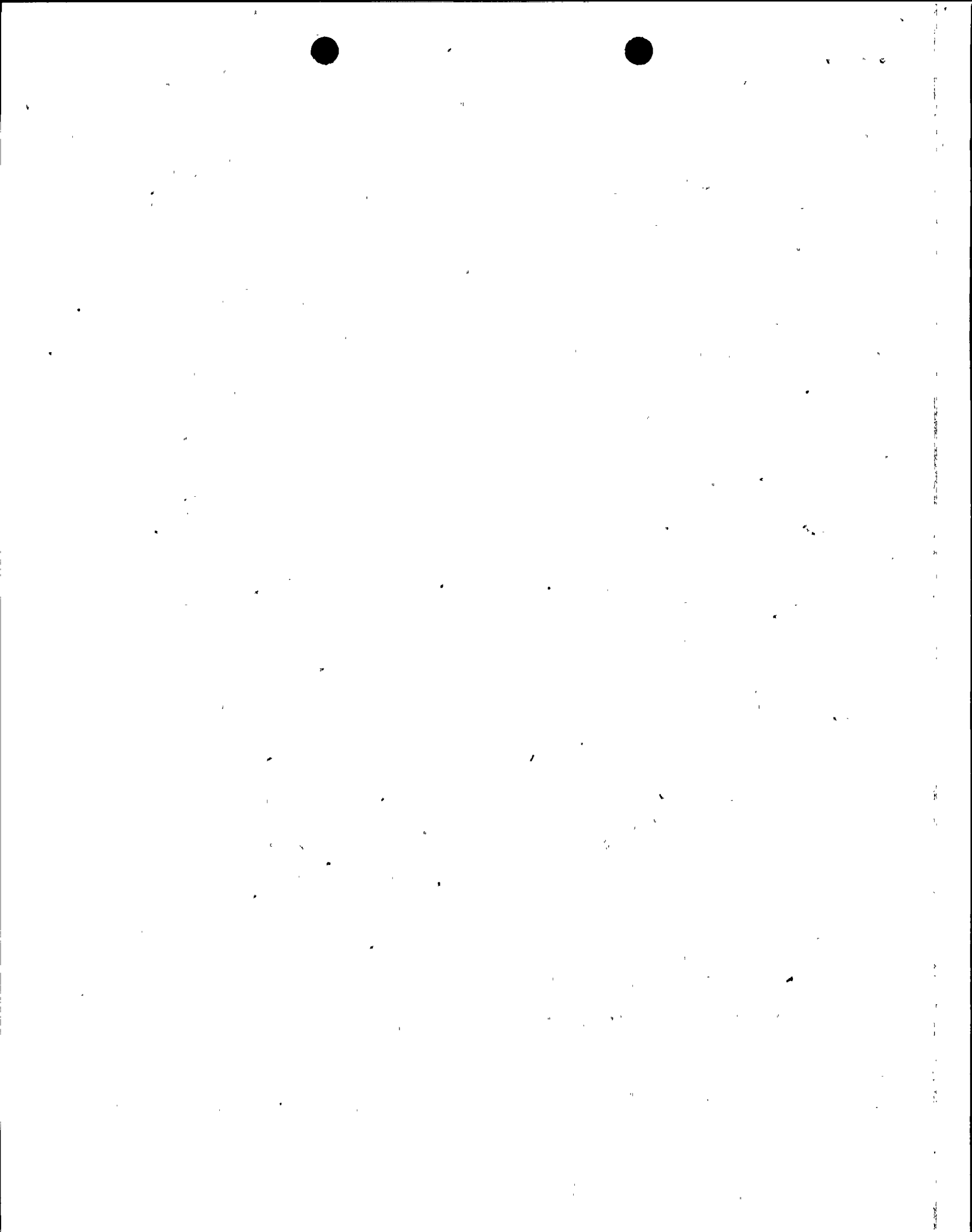
Prior to 1947, Mr. Low was an investigator in the security field and was a security officer in the Federal Government. During World War II, he was a Naval Officer in Intelligence. (Assignment for about one year included evaluation of investigations, including suspect sabotage cases.) Following the War he was active in Naval Intelligence reserve units in Washington, D. C. and Aiken, South Carolina, and currently holds the rank of Captain, USNR-I. (In 1947-48, taught a course in Security. Each class consisted of nine two-hour sessions per calendar quarter with 20-30 officer students. Course taught for two years.)

From 1947 to 1950, Mr. Low was a security officer, and later Assistant Chief, Washington Area Security Office, AEC, Washington, D. C. He and staff prepared initial plans and devised programs to protect AEC Headquarters and contract operations administered directly by Headquarters.

Mr. Low was Director, Division of Security, at the AEC Savannah River Operations Office, Aiken, South Carolina, from the inception of the project in 1950 until January, 1956, during which time the plant became operational. He was responsible for the planning and the implementation of the AEC security program for all aspects of the Savannah River Plant which comprised the design, construction, and operation of five nuclear reactors; two separations plants; and fuel fabrication and related facilities for the production of classified nuclear (weapons) material. This project involved numerous contractors and subcontractors and over 100,000 persons.

Prior to the establishment of the Division of Compliance in 1960, Mr. Low was with the Division of Inspection, first as an Inspection and Investigation Specialist in the compliance area and later as a Branch Chief.

From 1960 to July, 1972, he was Director of the Division of Compliance (renamed Directorate of Regulatory Operations on April 25, 1972) on the AEC regulatory staff. In this position he was responsible for the Commission's programs of licensee inspection and enforcement with respect to nuclear power, test and research reactors under construction and in operation, and all source, special nuclear, and by-product material subject to licensing and control by the AEC.



After his retirement from the AEC in June, 1972, Mr. Low became an industry consultant on industrial security for nuclear facilities. In December, 1973, he joined NuSAC as Vice President, Materials and Plant Protection, directing the company's program of assistance to the nuclear industry.

OTHER PERTINENT INFORMATION:

Mr. Low authored and presented a paper, "Planning a Protection Program", at the Atomic Industrial Forum Workshop on Protection of Special Nuclear Material and Facilities, at Key Largo, Florida, on February 19, 1973. He also authored and presented a paper, "Implementation of 10 CFR Part 73" at the Institute of Nuclear Materials Management 1974 Annual Meeting at Atlanta, Georgia on June 19, 1974.

Mr. Low is listed in Who's Who in America, beginning with Volume 32.





UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )

PACIFIC GAS AND ELECTRIC COMPANY )

(Diablo Canyon Nuclear Power Plant, )  
Units No. 1 and 2) )

) Docket Nos. 50-275 O.L..  
) 50-323 O.L.

CERTIFICATE OF SERVICE

I hereby certify that copies of "REPLY OF PACIFIC GAS AND ELECTRIC COMPANY TO INTERVENOR'S RESPONSE RE PETITION TO ESTABLISH QUALIFICATIONS OF SECURITY EXPERTS FOR DISCOVERY", dated April 11, 1978, have been served on the following by deposit in the United States mail, first class, this 11th day of April, 1978.

Elizabeth S. Bowers, Chairman  
Atomic Safety and Licensing Board  
Panel  
U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Glenn O. Bright  
Atomic Safety and Licensing Board  
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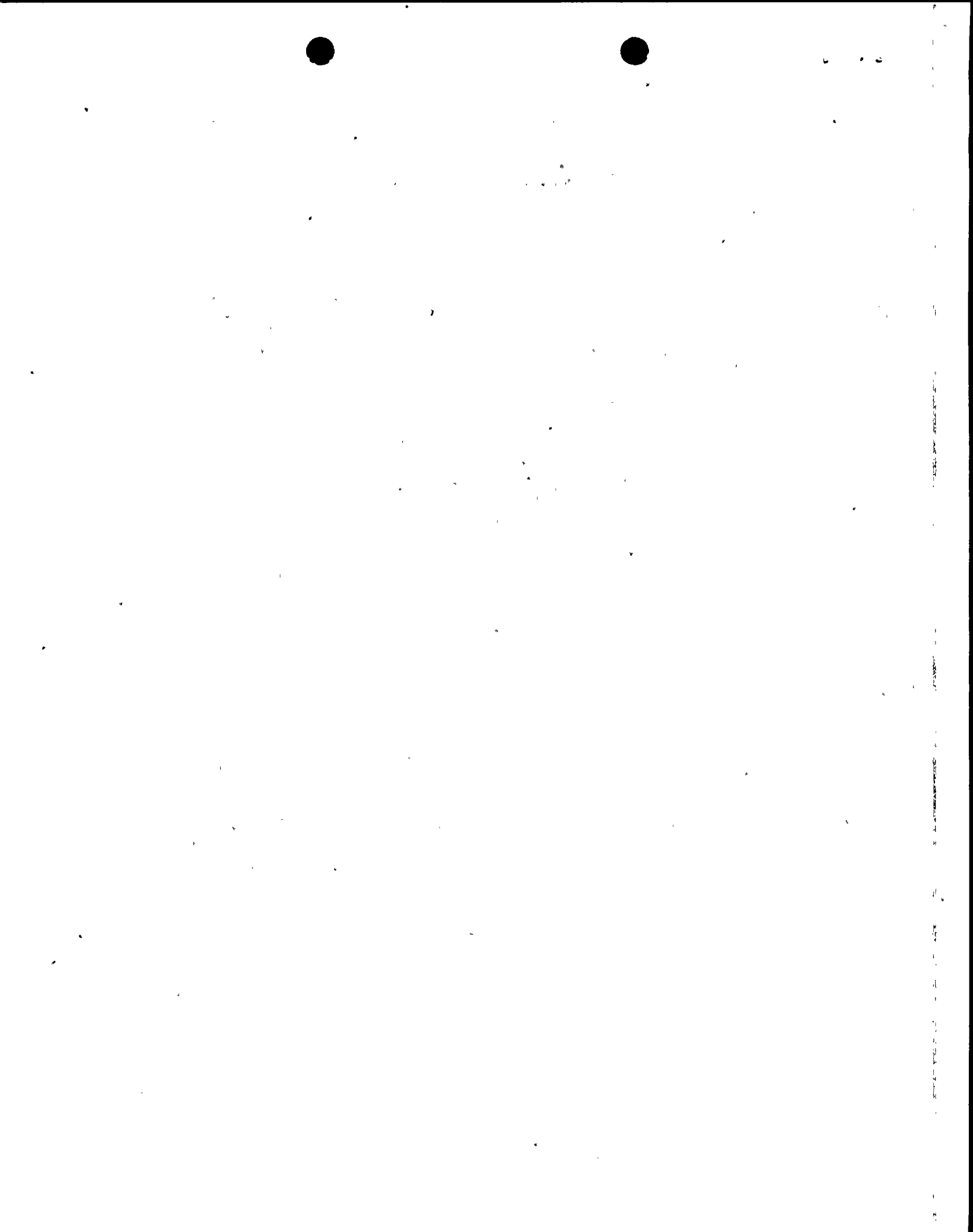
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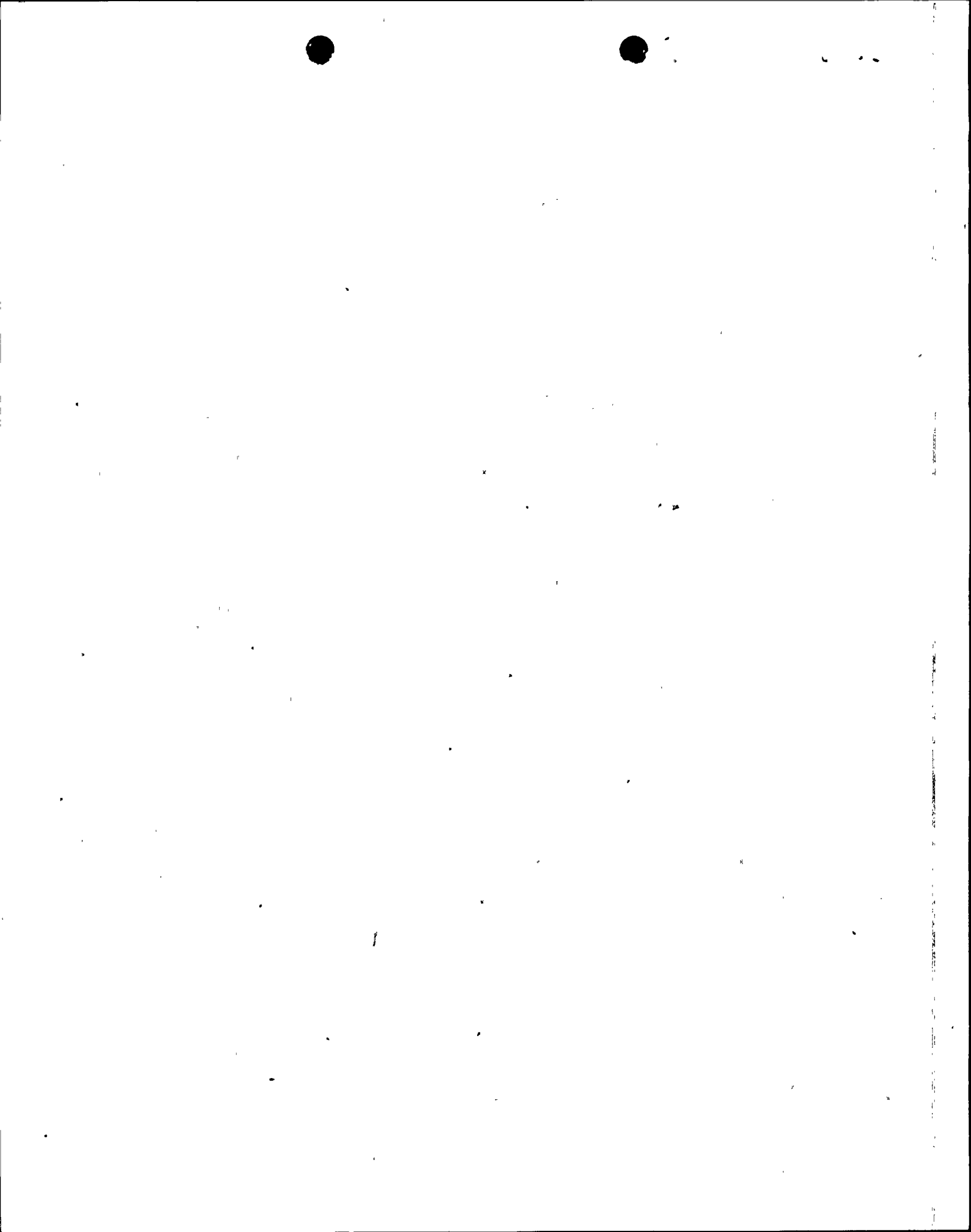
James R. Tourtellotte, Esq.  
L. Dow Davis, Esq.  
Richard Goddard, Esq.  
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BETH 042  
U. S. Nuclear Regulatory Commission

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U. S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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Jessam Rockwell



# COPY

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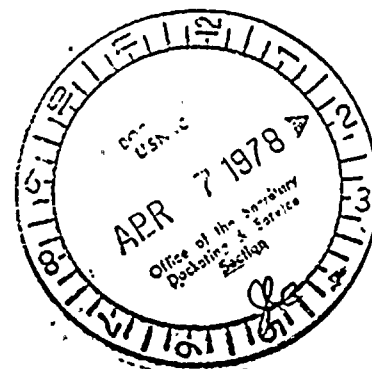
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ATTORNEYS

RELATED CORRESPONDENCE

L. Dow Davis IV  
Office of Executive Legal Director  
BETH 042  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Re: Docket Nos. 50-275-OL  
50-323-OL



Dear Dow:

We have reviewed Mr. Fleischaker's letter to you dated March 20, 1978 setting forth his draft of the proposed contentions. We believe the changes he suggests from the version circulated by you are acceptable.

Very truly yours,

PHILIP A. CRANE, JR.

PAC:nl

cc: Service List

# COPY

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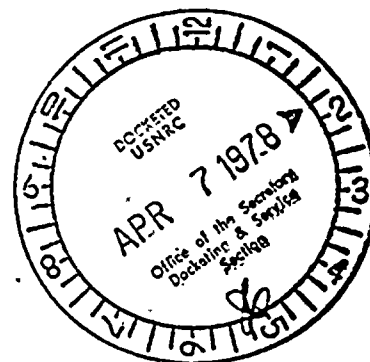
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Chairman  
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U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Re: Docket Nos. 50-275-OL  
50-323-OL



Dear Ms. Bowers:

In your Order dated March 14, 1978 you requested the parties other than the NRC Staff to submit conclusions of law on the environmental issues and transcript corrections. I have reviewed the findings of fact and conclusions of law prepared by the NRC Staff dated April 4, 1977 and I have no additions or changes to suggest to the Staff's proposals.

I have misplaced my copy of the transcript corrections but I expect to be able to mail it in by the end of this week.

Very truly yours,

PHILIP A. CRANE, JR.

PAC:nl

cc: Service List