

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

In the Matter of)
PACIFIC GAS AND ELECTRIC COMPANY)
(Diablo Canyon Unit 2))

7-19-71.

Docket No. 50-323

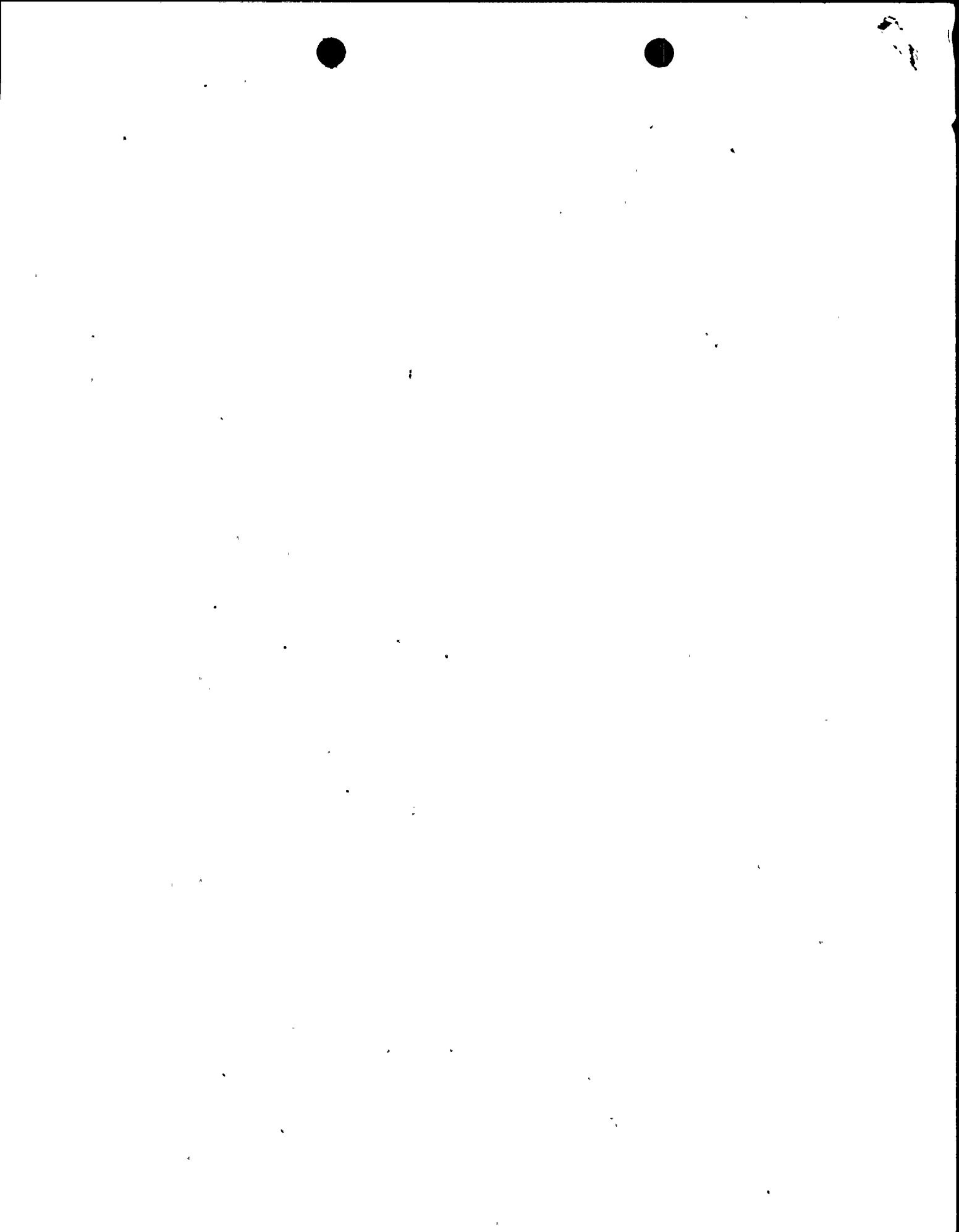
ANSWER OF PACIFIC GAS AND ELECTRIC COMPANY TO
"SUPPLEMENTAL MOTION FOR RECONSIDERATION IN-
CLUDING AFFIDAVIT [SIC] AND MEMORANDUM TO THE
ATOMIC SAFETY AND LICENSING APPEAL BOARD" FILED
BY SCENIC SHORELINE PRESERVATION CONFERENCE, INC.

Pacific Gas and Electric Company (PGandE) opposes
the pleading filed by Scenic Shoreline Preservation Conference,
Inc. (Conference), titled as specified above and dated July 9,
1971, on the following grounds:

1. For the reasons outlined in PGandE's answer to the
similar pleading filed by Conference and dated July 2, 1971,
Conference's pleading is too late and should be ignored or
denied (10 CFR 2.771).

2. The data relied upon by Conference as cited in the
affidavit attached to Conference's pleading have been available
for some time. For example, reference 1. in the affidavit is
dated March 13, 1971. It is improper for Conference to come
in at this late date with material four months old and expect
the hearing record to be reopened to consider it.

3. The record in this proceeding dates back to December 5,



1969 and includes among other things at least ten separate motions and petitions filed by Conference seeking to reopen the hearing record. Orderly administrative practice requires that there be a finality to administrative action. During the approximately three year period between issuance of the construction permit and the operating license there can be expected to be a number of developments as the final design of the Unit is perfected, the state of the art advances, and new data are available. The San Fernando earthquake of 1971 is one such development. These developments properly are matters for study by the applicant and also by the AEC staff in its final review of the application prior to the issuance of an operating license or as a part of its continuing post-license surveillance. Any such development which has an influence on the design of a facility can be analyzed in the Final Safety Analysis Report or as a post-license change under 10 CFR 50.59. The public hearing record should not be continuously reopened to consider these developments. This would constitute an abuse of the hearing process.

Because of the shortness of time to answer under the Commission's rules, PGandE requests an additional seven days (to July 26, 1971) to permit its consultants to review



Conference's latest pleading to see if any further response
on behalf of PGandE is warranted.

Respectfully submitted,

FREDERICK T. SEARLS
JOHN C. MORRISSEY
PHILIP A. CRANE, JR.

Attorneys for
PACIFIC GAS AND ELECTRIC COMPANY

By

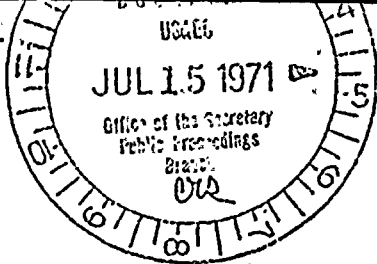
Philip A. Crane, Jr.
Philip A. Crane, Jr.

Dated: July 19, 1971

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MAIL & RECORDS SECTION



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50-323

UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

PACIFIC GAS AND ELECTRIC COMPANY
(Diablo Canyon Unit 2)

Docket No. 50-323

7-9-71

ANSWER OF AEC REGULATORY STAFF TO PETITION FOR RECONSIDERATION
OF INTERVENOR SCENIC SHORELINE PRESERVATION CONFERENCE

On July 2, 1971, the intervenor Scenic Shoreline Preservation Conference, Inc. (Conference) filed a petition for reconsideration of the "Decision" of the Atomic Safety and Licensing Appeal Board (Appeal Board) in this matter, dated June 14, 1971. An earlier motion requesting the Commission to review the Appeal Board's "Decision" was filed by the Conference on June 23, 1971, and answers thereto in opposition to the granting of the motion were filed by the applicant and the AEC regulatory staff (staff) on June 29, 1971 and July 6, 1971, respectively.

The Conference in the instant petition requests the Appeal Board to reconsider its "Decision," dated June 14, 1971, "for all the reasons originally listed in our exceptions to the initial decision," and lists several of these reasons. The Conference's earlier motion for Commission review was to similar effect.

We believe that, for the reasons set forth in our brief in opposition to Conference's exceptions to the Initial Decision, the Appeal Board was correct in denying the Conference's exceptions.

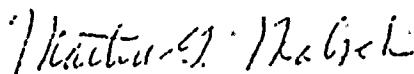
hearing



The instant petition offers no arguments beyond those already made in its exceptions to the Initial Decision and considered by the Appeal Board in issuing its "Decision." The vague reference to "[a]dditional testimony which our organization wishes to submit for the record" as confirming some of its arguments does not, in our view, present a reasonable basis for reopening the record at this late date.

For the reasons set forth above, the staff believes that the instant petition should be denied.^{1/}

Respectfully submitted,



Martin G. Malsch
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland,
this 9th day of July, 1971.

^{1/} We would note that since the petition was not filed within 10 days after the date of the Appeal Board's "Decision" in this matter, it does not appear to be timely filed pursuant to 10 CFR § 2.771.

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