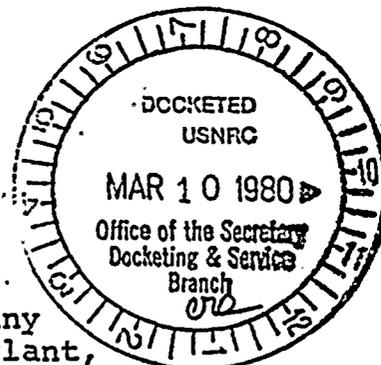




UNITED STATES
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING APPEAL PANEL
WASHINGTON, D.C. 20555

March 6, 1980

Ms. Tracey Hopkins
c/o S.U.N.
P. O. Box 772
Ojai, California 93023



Re: Pacific Gas and Electric Company
(Diablo Canyon Nuclear Power Plant,
Units 1 and 2)
Docket Nos. 50-275 and 50-323

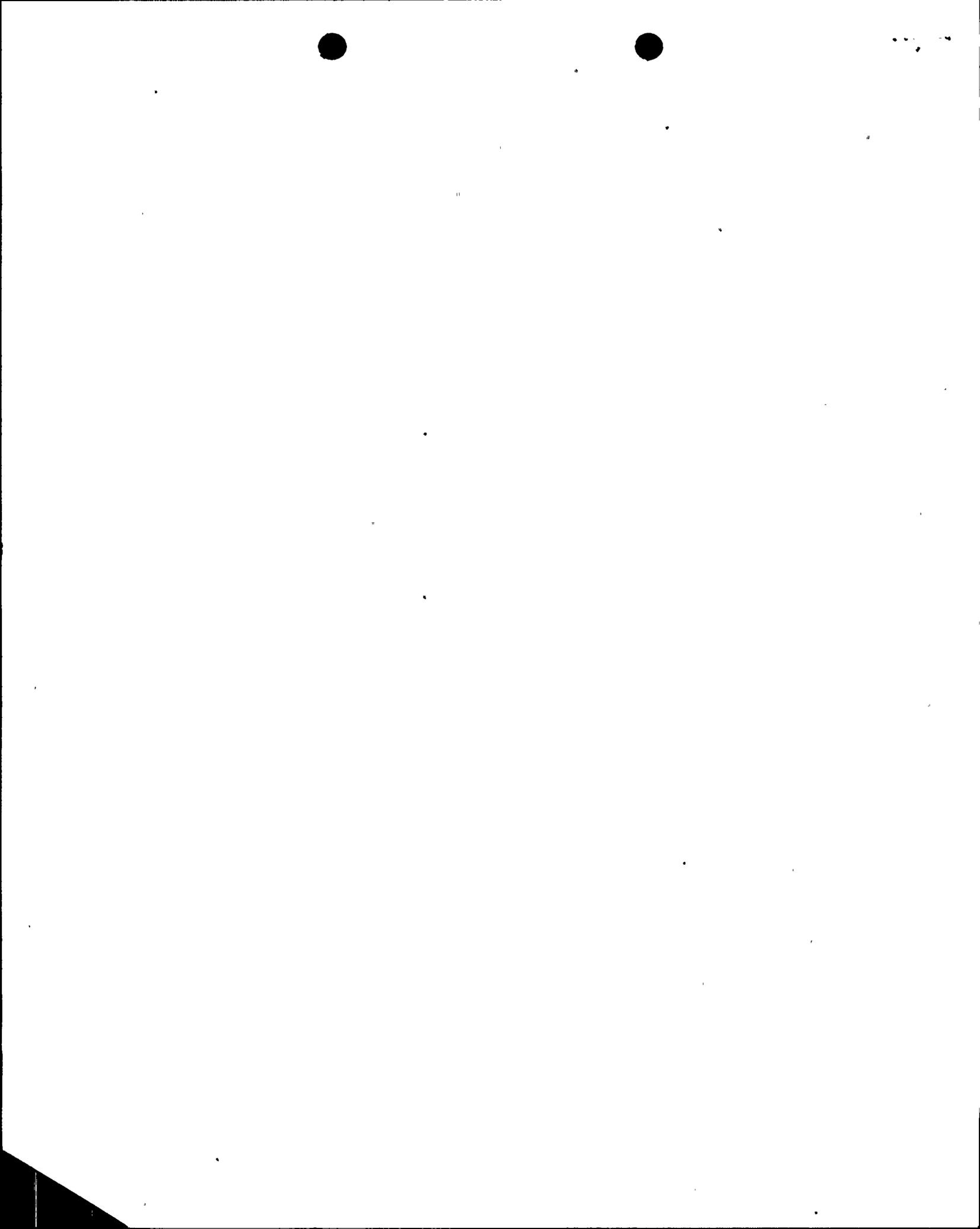
Dear Ms. Hopkins:

Mr. Salzman, the Chairman of the Appeal Board assigned to this case, has received your letter of February 28, 1980, and its enclosures. These express your organization's opposition to Pacific Gas and Electric Company's Diablo Canyon Nuclear Power Plant and ask that it not be licensed to operate.

The Chairman has instructed me to inform you that, as a matter of law, the decision whether to license the nuclear facility must rest entirely on the evidence introduced into the record at the hearing before the Licensing Board. Consequently, your letter and the material that accompanied it may not be taken into account in making that decision. Moreover, as you may not be aware, Commission regulations prohibit the Board members from entertaining off-the-record, ex parte communications, like your letter, that deal with matters at issue in a contested proceeding. See Title 10 of the Code of Federal Regulations, section 2.780, a copy of which is enclosed for your information. As that regulation requires, a copy of your letter and its accompanying papers will be placed in the Commission's public document room and served on the parties to the proceeding.

Your interest in the proceeding is understandable. However, I am sure that a moment's reflection will lead you to appreciate why off-the-record, ex parte attempts by any side to influence those who must decide these matters is simply not permissible and must be disregarded.

8008260654

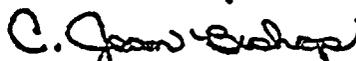


Ms. Tracey Hopkins

- 2 -

For your further information, the Appeal Board announced last month that oral argument of the appeal on the seismic questions would be held in San Luis Obispo, the Board members having to be there on other business at that time in any event. It will begin at 9:30 a.m. on April 3rd in Room 302 of the Old County Courthouse. You, and other members of the public, are welcome to attend for the purpose of observing the argument.

Very truly yours,



C. Jean Bishop
Secretary to the
Appeal Board

Enclosure

cc: All parties
Public document room



(g) Extend time for Commission review on its own motion of a Director's denial under 10 CFR 2.206(c).

(Sec. 102, 83 Stat. 853; 42 U.S.C. 4332)
[39 FR 24219, July 1, 1974, as amended at 43 FR 22346, May 25, 1978]

EX PARTE COMMUNICATIONS

§ 2.780 Ex parte communications.

(a) Except as provided in paragraph (e) of this section, neither (1) Commissioners, members of their immediate staffs, or other NRC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions will request or entertain off the record except from each other, nor (2) any party to a proceeding for the issuance, denial, amendment, transfer, renewal, modification, suspension, or revocation of a license or permit, or any officer, employee, representative, or any other person directly or indirectly acting in behalf thereof, shall submit off the record to Commissioners or such staff members, officials, and employees, any evidence, explanation, analysis, or advice, whether written or oral, regarding any substantive matter at issue in a proceeding on the record then pending before the NRC for the issuance, denial, amendment, transfer, renewal, modification, suspension, or revocation of a license or permit. For the purposes of this section, the term "proceeding on the record then pending before the NRC" shall include any application or matter which has been noticed for hearing or concerning which a hearing has been requested pursuant to this part.

(b) Copies of written communications covered by paragraph (a) of this section shall be placed in the NRC public document room and served by the Secretary on the communicator and the parties to the proceeding involved.

(c) A Commissioner, member of his immediate staff, or other NRC official or employee advising the Commissioners in the exercise of their quasi-judicial functions, to whom is attempted any oral communication concerning any substantive matter at issue in a proceeding on the record as described in paragraph (a) of this section, will

decline to listen to such communication and will explain that the matter is pending for determination. If unsuccessful in preventing such communication, the recipient thereof will advise the communicator that a written summary of the conversation will be delivered to the NRC public document room and a copy served by the Secretary of the Commission on the communicator and the parties to the proceeding involved. The recipient of the oral communication thereupon will make a fair, written summary of such communication and deliver such summary to the NRC public document room and serve copies thereof upon the communicator and the parties to the proceeding involved.

(d) This section does not apply to communications authorized by paragraph (e) of this section, to the disposition of ex parte matters authorized by law, or to communications requested by the Commission concerning:

- (1) Its proprietary functions;
- (2) General health and safety problems and responsibilities of the Commission; or
- (3) The status of proceedings.

(e) In any adjudication for the determination of an application for initial licensing, other than a contested proceeding, Commissioners, members of their immediate staffs and other NRC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions may consult the staff, and the staff may communicate with Commissioners, members of their immediate staffs and other NRC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions.

(f) The provisions and limitations of this section applicable to Commissioners, members of their immediate staffs, and other NRC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions are applicable to members of the Atomic Safety and Licensing Appeal Board, members of their immediate staffs, and other NRC officials and employees who advise members of the Appeal Board in the exercise of their quasi-judicial functions.

