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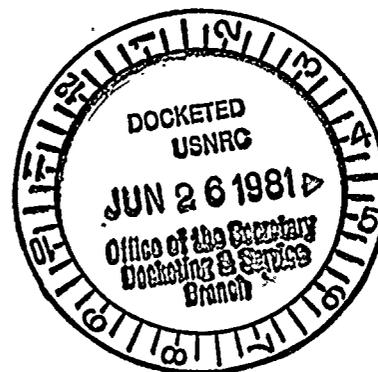
UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
<u>PACIFIC GAS AND ELECTRIC COMPANY</u>)	Docket No. 50-275
)	Docket No. 50-323
Diablo Canyon Nuclear Power Plant)	(Low Power
Units Nos. 1 and 2)	Test Proceedings)

APPLICANT PACIFIC GAS AND ELECTRIC COMPANY'S
REPLY TO INTERVENORS' PROPOSED FINDINGS OF
FACT AND CONCLUSIONS OF LAW

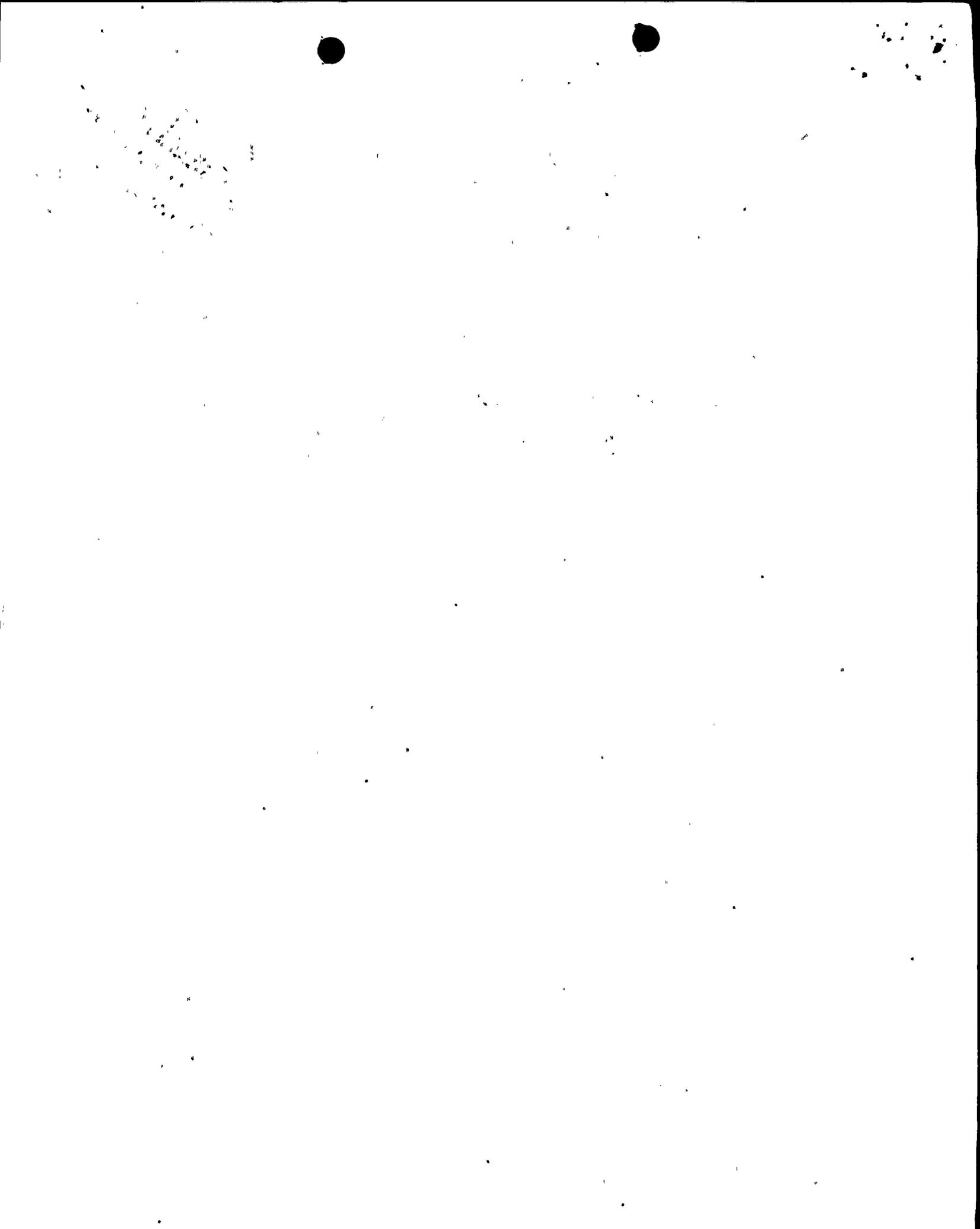


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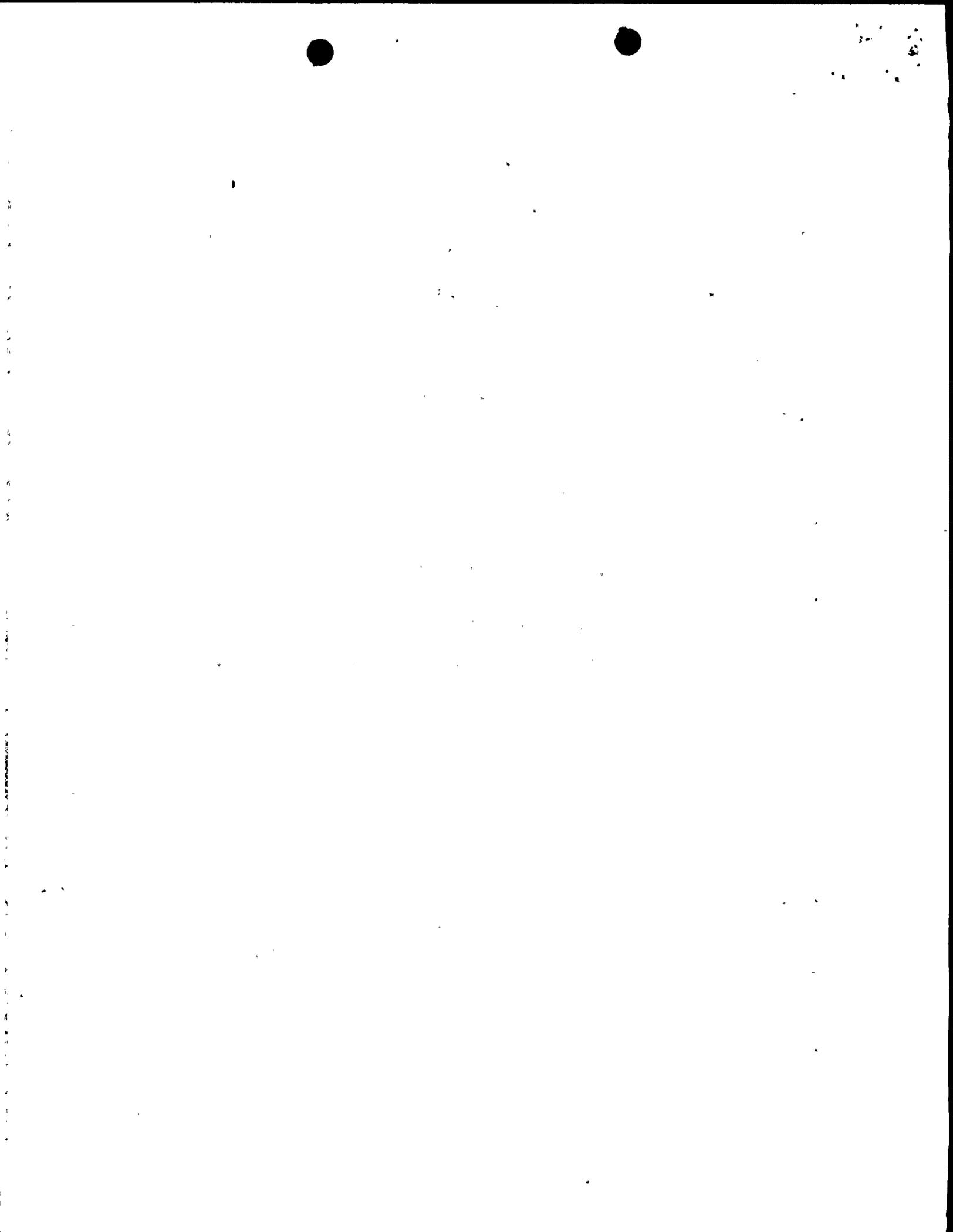
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9)
10 Diablo Canyon Nuclear Power Plant) (Low Power
11 Units Nos. 1 and 2) Test Proceedings)

12 REPLY OF APPLICANT PACIFIC GAS AND
13 ELECTRIC COMPANY TO PROPOSED FINDINGS OF
14 FACT AND CONCLUSIONS OF LAW OF INTER-
15 VENORS GOVERNOR BROWN AND JOINT INTER-
16 VENORS ON FUEL LOAD AND LOW POWER
17 TESTING HEARING.

18 After hearings on Pacific Gas and Electric
19 Company's (PGandE) Motion to Load Fuel and Conduct Low Power
20 Testing were held from May 19 through May 22, 1981, PGandE
21 filed its Proposed Findings of Fact and Conclusions of Law
22 on June 1, 1981. On June 16, 1981 the Joint Intervenors and
23 Intervenor Governor Brown (collectively "Intervenors") filed
24 their respective Proposed Findings and Conclusions.
25 Pursuant to section 2.754(a)(3) of 10 C.F.R., PGandE hereby
26 replies to the Intervenors' filings.

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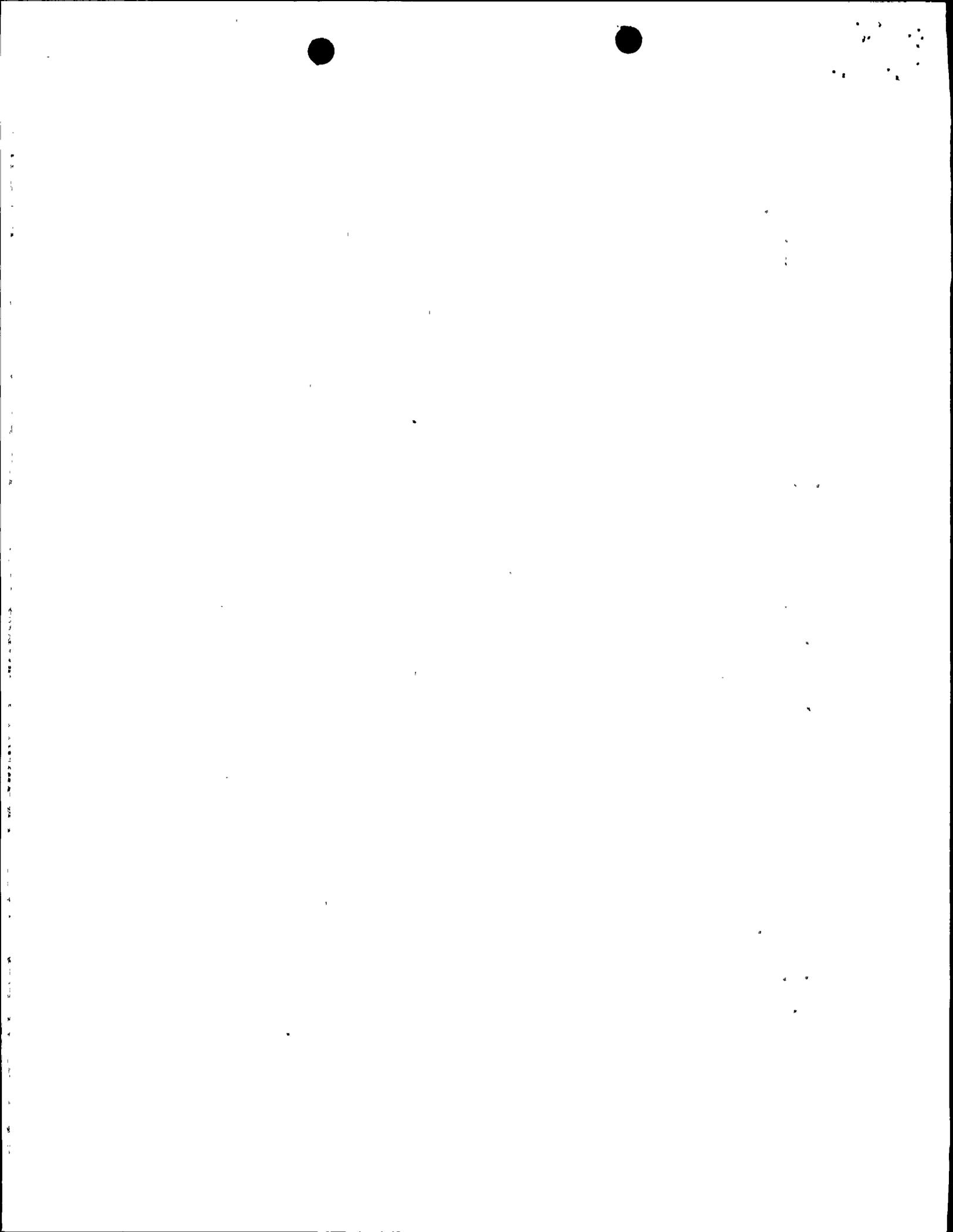


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EMERGENCY PLANNING FOR LOW POWER

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2
3 Intervenors have jointly argued the position that
4 no operating license for a nuclear power plant can be
5 granted absent compliance with the provisions of 10 C.F.R.
6 Part 50. They perceive no real difference between full
7 power and low power operation as related to emergency
8 planning requirements. Joint Intervenors demand practically
9 literal compliance with all the planning standards of 10
10 C.F.R. Part 50 and NUREG-0654. The Governor, however, has
11 finally and completely gone over the edge into the abyss of
12 hyperbole. The Governor's proposed findings and conclusions
13 of law misstate the record, ignore material evidence, invent
14 evidence which can neither be found in the record nor the
15 furthest reaches of a reasonable mind and myopically
16 miscontrue applicable law. The reason the Governor has
17 resorted to such tactics is clear. The Governor and Joint
18 Intervenors were unable to present significant relevant and
19 material evidence at the hearing. 1/ Intervenors were
20 unable to effectively cross-examine witnesses put forth by
21 PGandE or the NRC Staff. The evidence adduced at the
22 hearing fully and completely supports PGandE's request for a
23 license to load fuel and conduct tests at low power.

24
25 1/ Governor Brown presented but three witnesses (Messrs.
26 Paulus and Jorgenson and Dr. Mitchell) while Joint
Intervenors presented none.



1 Governor Brown's almost unbelievable tirade, mischaracter-
2 ization of the record, and misstatement of the law only
3 serves to buttress that fact.

4
5 A. Applicable Law Allows Fuel Load and Low
6 Power Testing Without Compliance With 10
7 C.F.R. §§50.33(g) and 50.47(a) and (b).

8 Intervenors argue that full compliance, without
9 exception, with requirements of 10 C.F.R. §§50.33(g) and
10 50.47(a) and (b) is necessary before fuel load and low power
11 testing. ^{2/} [B.B., pp. 10-27; J.I.P.F., pp. 6-11]. They go
12 to great lengths arguing that PGandE is attempting to
13 rewrite or ignore completely the requirements of §50.47. In
14 point of fact, PGandE is merely following the explicit
15 language of §50.47(c)(1) in seeking relief from the
16 requirements of §50.47(b).

17 10 C.F.R. §50.47(c)(1) provides that:

18 "No operating license for a nuclear
19 power reactor will be issued unless
20 a finding is made by NRC that the
21 state of onsite and offsite
22 emergency preparedness provides
23 reasonable assurance that adequate
24 protective measures can and will be
25 taken in the event of a
26 radiological emergency."

27 ///

28 ^{2/} Governor Brown's Brief (hereinafter "B.B.") at 4
29 through 7 and Joint Intervenors' Proposed Findings
30 (hereinafter "J.I.P.F.") at 9 through 11. Citations to
31 the record in this Reply will be in the same form as
32 PGandE's initial Proposed Findings in this matter.



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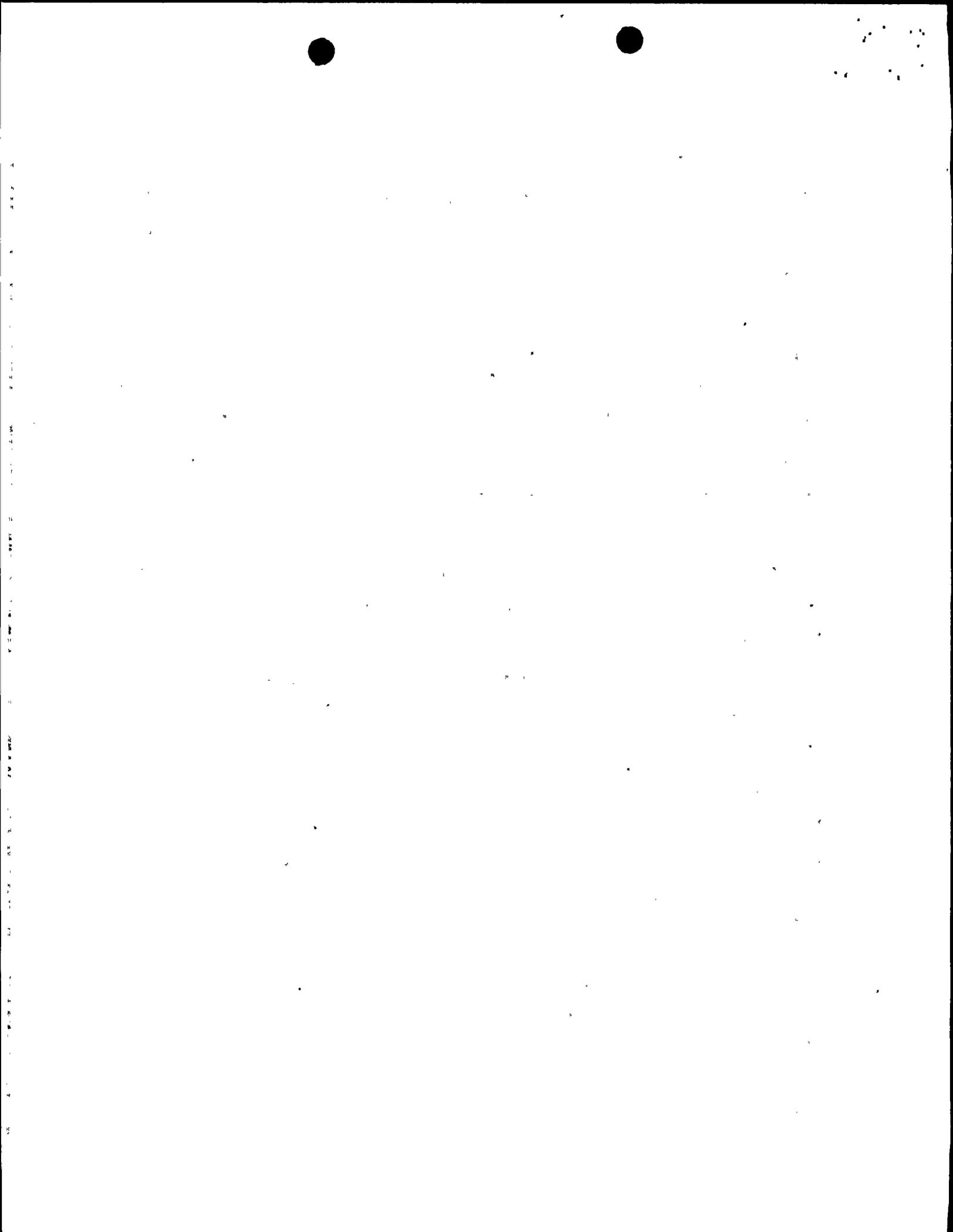
1 The above-quoted language reiterates the basic statutory
2 requirement of the Atomic Energy Act (42 U.S.C. 2133) that
3 there be reasonable assurance of the protection of the
4 public health and safety in the operation of nuclear
5 facilities.

6 The regulation then lists the 16 planning
7 standards which must be met in order to ensure an adequate
8 level of onsite and offsite emergency preparedness. 3/
9 However, the regulation goes on to state that ". . . failure
10 to meet the standards set forth in paragraph (b) . . . may
11 result in the Commission declining to issue an operating
12 license." (emphasis supplied). Furthermore, an applicant
13 ". . . will have an opportunity to demonstrate to the
14 satisfaction of the Commission that deficiencies in the
15 plans are not significant for the plant in
16 question. . . ." 4/ This language clearly contemplates an
17 applicant presenting evidence that the nature and extent of
18 the proposed activity for which authority is being sought
19 does not require strict compliance with these standards.
20 Moreover, the regulation states an applicant will be given
21 the opportunity to show that ". . . adequate interim
22 compensating actions have been or will be taken. . . ." 5/

23 _____
24 3/ 10 C.F.R. §50.47(b).

25 4/ 10 C.F.R. §50.47(c)(1).

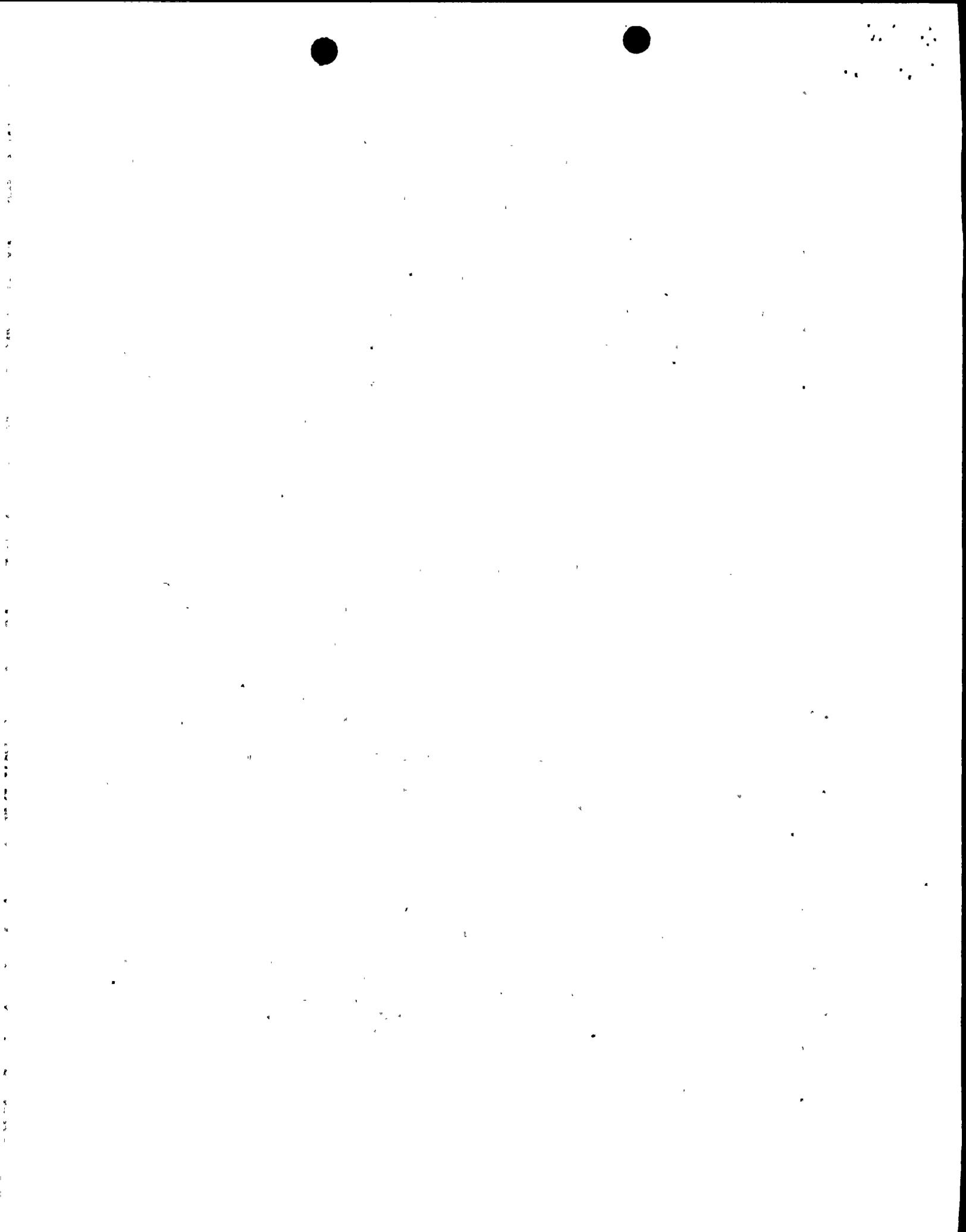
26 5/ Ibid.



1 The import of the regulatory language cited above
2 is that an applicant may make an appropriate showing that
3 something less than literal compliance with these standards
4 will suffice to allow the issuance of even a full power
5 operating license. PGandE contends that if compliance with
6 the standards of 50.47(b) is not required for a full power
7 license, by a parity of reasoning an applicant for a low
8 power test license need not meet all these requirements.
9 Based upon this legal premise and the evidence adduced at
10 the hearing, PGandE believes that it is entitled to a low
11 power license. PGandE's position in this regard is
12 supported by the NRC Staff and FEMA. 6/

13 Indeed, the logic and practicality of this inter-
14 pretation are reinforced by language in Appendix E of 10
15 C.F.R. Part 50. For example, in section F (Training) of
16 Appendix E there is a general requirement for a full scale
17 exercise of onsite and offsite emergency plans. Part of
18 that provision requires a test exercise at a site for which
19 ///

20
21 6/ Governor Brown and Joint Intervenors evidenced con-
22 siderable doubt at the hearing whether FEMA's finding
23 that the state of offsite emergency response planning
24 for low power testing was still valid. That concern
25 was resolved when the Staff furnished to the Board
26 under applicable procedures copies of correspondence
received after the hearings closed that reaffirmed
FEMA's determination that there exists adequate offsite
emergency response planning for low power testing. See
Board Notification No. 81-11 "Board Notification -
Emergency Preparedness - Full Power Operation, Diablo
Canyon, Units 1 and 2 (May 29, 1981).



1 an initial operating license is being considered. However,
2 the mandated exercise need only take place ". . ., within
3 one year before the issuance of the operating license for
4 full power. . ." (emphasis supplied). There is no explicit
5 requirement in Appendix E for any exercise prior to low
6 power testing. Moreover, recent policy statements issued
7 by the Commission explicitly recognize that for low power
8 testing an applicant need not meet all the full power
9 requirements. 8/

10 Governor Brown then belabors the legal effect of
11 SECY 81-188 - Emergency Preparedness upon the requirements
12 of 10 C.F.R. §50.47(b). At the hearing and in various
13 memoranda, Governor Brown urged that all requirements of 10
14 C.F.R. §50.47 had to be met before a low power license could
15 be issued. In partial support of this position he relied on
16 the provisions of NUREG-0737, Enclosure 2, Item III.A.2.
17 which indicated that compliance with Appendix E. 10 C.F.R.
18 Part 50 was a fuel load requirement. SECY 81-188, however,
19 changed the implementation date of Item III.A.2. of
20 NUREG-0737 from a fuel load to a full power requirement and,
21 ///

22 _____
23 7/ See U.S. Nuclear Regulatory Commission "Further Com-
24 mission Guidance for Power Reactor Operating Licenses -
25 Statement of Policy, fn. 9," 45 Fed. Reg. 41736
26 (June 20, 1980) and U.S. Nuclear Regulatory Commission
"Further Commission Guidance for Power Reactor Operat-
ing Licenses - Revised Statement of Policy, fn. 9,"
Fed. Reg. 85236 (December 24, 1980).



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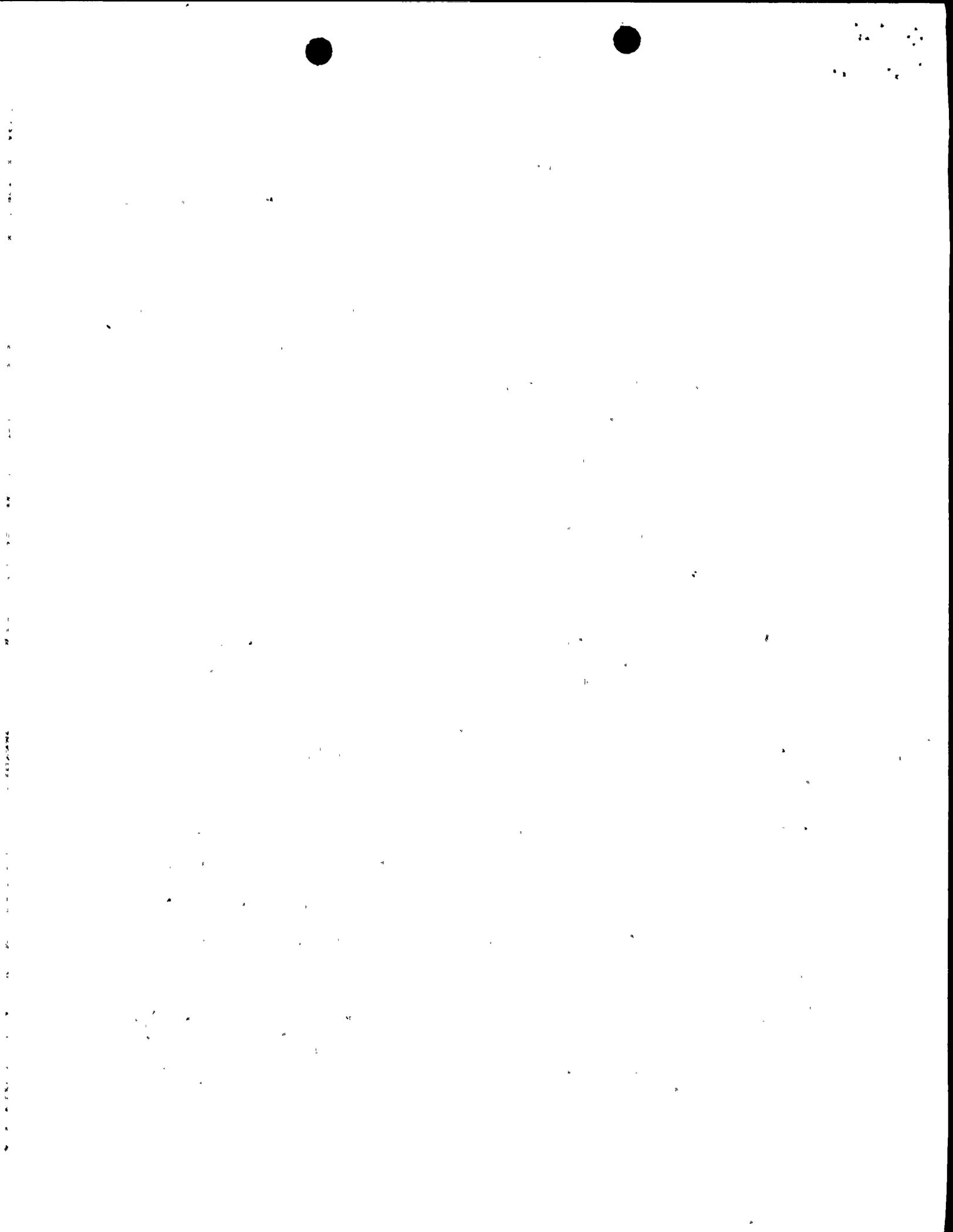
1 in effect, gave explicit support to the provisions of 10
2 C.F.R. §50.47(c)(1). Hence, SECY 81-188 does not seek to
3 amend section 50.47(c)(1), as alleged by the Governor. To
4 the contrary, it affirms its validity and, in the context of
5 low power testing, gives guidance to the Licensing Boards
6 that compliance with the provisions of section 50.47(b) is
7 not required. 8/ Thus, PGandE need only have presented
8 evidence to demonstrate that the existing emergency
9 preparedness would provide reasonable assurance that
10 ". . .adequate protective measures can and will be taken in
11 the event of a radiological emergency" during low power
12 testing.

13
14 B. The Risk of Significant Consequences At
15 Low Power Is Such That Emergency
16 Preparedness Need Only Be Considered
Within the LPZ (6 Miles)

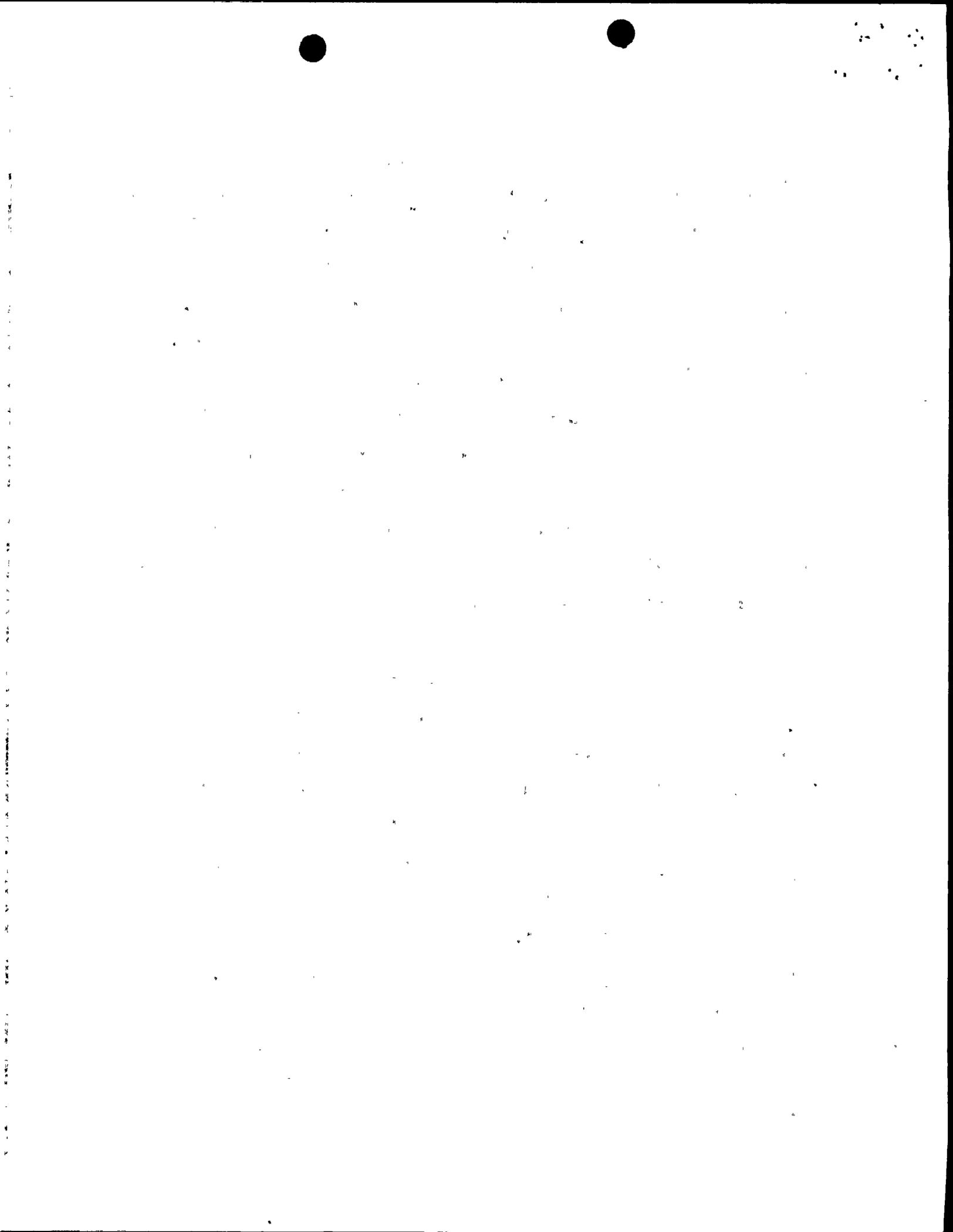
17 (i) Intervenor Governor Brown's Argu-
18 ment Concerning Probability, Con-
sequence, and Risk.

19 While Governor Brown argues speciously as to what
20 is required under the law, he engages in pure sophistry in
21 arguing that the same level of emergency preparedness is
22 necessary for fuel load and low power testing as is required,
23

24 8/ Manifestly an agency or commission can issue interpre-
25 tations of its rules and regulations for the benefit of
26 the public and other interested persons to guide them
in proceedings pending before said agency or commis-
sion. See Udall v. Tallman, 380 U.S. 1,16(1965).



1 for full power operation. [B.B., pp. 15-27]. The
2 underlying (and stated) premise of the Governor's argument
3 is that decisions on emergency planning cannot be based in
4 any way upon "risk" or "probability" of accidents and their
5 consequences, but must somehow consider only "consequences."
6 While Governor Brown introduces "evidence" not in the record
7 by arguing what he wishes the facts were, he fails
8 completely to grasp the meaning of the undisputed fact that
9 "probability" and "consequences" are not separable [Tr.
10 10709]. He also is apparently unable (or unwilling) to
11 grasp the meaning of the detailed testimony on the
12 relationship between risk, probability and consequences.
13 [Tr. 10706 to 10721; Lauben Testimony testimony following
14 Tr. 11014, p. 3.] If Governor Brown's "argument" is sound
15 and "risk" and "probability" are not a fundamental basis for
16 decision making, then why do the regulations call for 10 and
17 50 mile zones versus 100 and 500 or 1,000 and 5,000 mile
18 zones? The answer is simple. Risk, probability and
19 consequences are inseparable. There is no scientific or
20 legal theory which calls for considering consequences only
21 and ignoring the probability and risk factors. For example,
22 the low fission product inventory at low power reduces the
23 consequences of any accident and reduces the probability of
24 an accident, thus reducing the risk. The lower fission
25 product inventory creates less heat, thereby giving more
26 time for corrective action, the amount of heat affects the

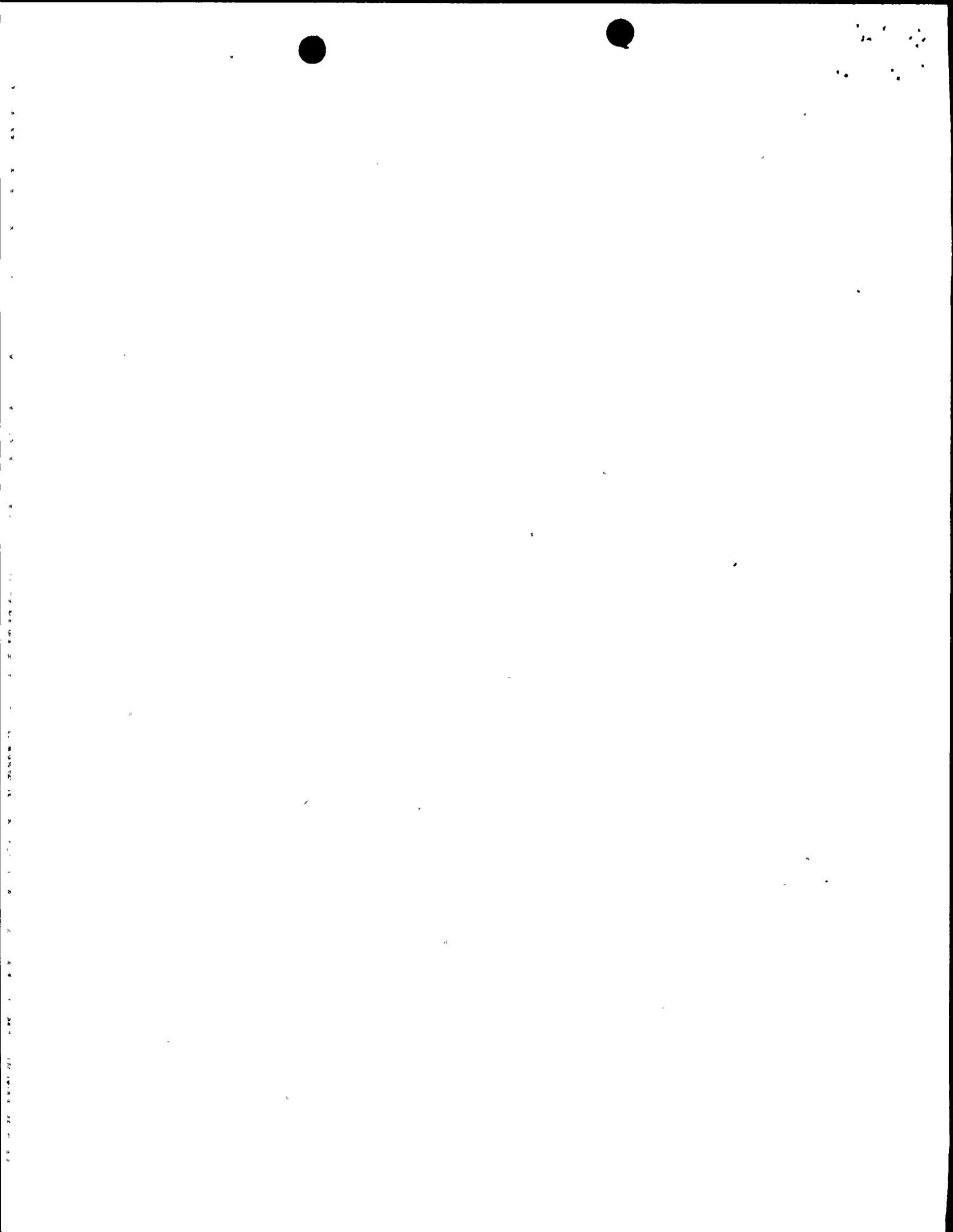


1 plume, and the lower inventory obviously reduces the
2 potential consequence [Tr. 10740-10741].

3 The Governor alleges that PGandE claims no need
4 for emergency planning on the basis that an accident will
5 not happen. [B.B., p. 26] This allegation is totally false
6 and obviously ignores the Brunot testimony. [Brunot
7 Testimony following Tr. p. 10595 and p. 10884] and the
8 record as a whole.

9 The Governor argues that the mere existence any-
10 where of a dangerous substance constitutes an unacceptable
11 risk. [B.B., pp. 21, 23.] The Governor totally ignores
12 information regarding the nature of the substance, its form,
13 condition, dilution factors, the factors involved in its
14 distribution, and the like.

15 The information shown in Table 1 of the Governor's
16 brief [B.B., p. 21], and the use made of it by Governor
17 Brown, is completely fallacious. [B.B., pp. 19-24] In the
18 first place, the references given for the numbers in the
19 Table are either completely false or misleading. Such
20 numbers are neither given in the FSAR nor in the Brunot
21 testimony. The Governor has apparently done his
22 calculations using selected FSAR values as a starting point
23 and ignoring basic principles of chemistry, physics,
24 thermodynamics and safety analysis. He has equated
25 "inventory" with "release" [B.B., p. 23] with no qualms or
26 explanation. Governor Brown blithely alleges that he used



1 "the same methodology" as Dr. Brunot, [B.B., p. 23] an
2 obvious and blatant falsehood. There are so many numerical
3 errors and unfounded extrapolated ratios in Table 1 and the
4 Governor's use of it that the argument should be dismissed
5 immediately as nonsense. No such numbers or methodology
6 exist in the record.

7 Throughout his argument, and in using Table 1, the
8 Governor [B.B., p. 23] relies on what has become known as
9 the "one percent trick." 9/. These statements completely
10 ignore such details as means of distribution, 10/ proximity
11 of the substance, forms of the substance, atmospheric dilu-
12 tion, conservation of mass and energy, potential energy for
13 release, and numerous other events and transformations
14 involved in the evaluation of a real risk.

15 The Governor's non-sensical use of fission product
16 inventories as equivalent to risk is shown most obviously in
17 footnote 13 (p. 21) of his brief where he equates
18 "possession" of I-131 to "inventory" in the core in a

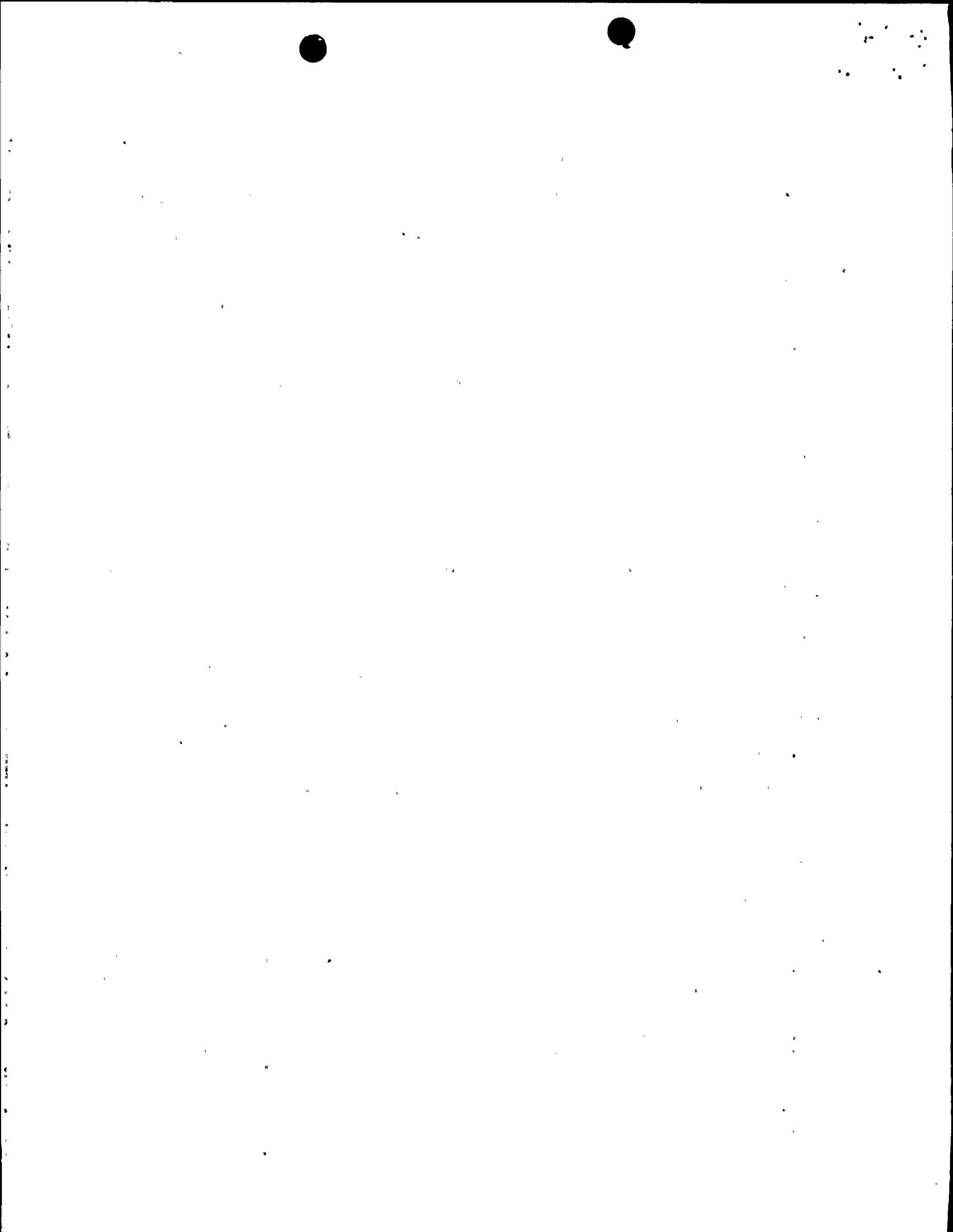
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22 9/. For example: "One percent of the plutonium in exis-
23 tence is enough to kill every man, woman, and child in
24 the City of San Francisco."

25 10/ It has been said that at a single point in time one
26 fertile man has enough spermatozoa to impregnate every
fertile woman on earth. Governor Brown's logic would
make that consequence a very real risk.



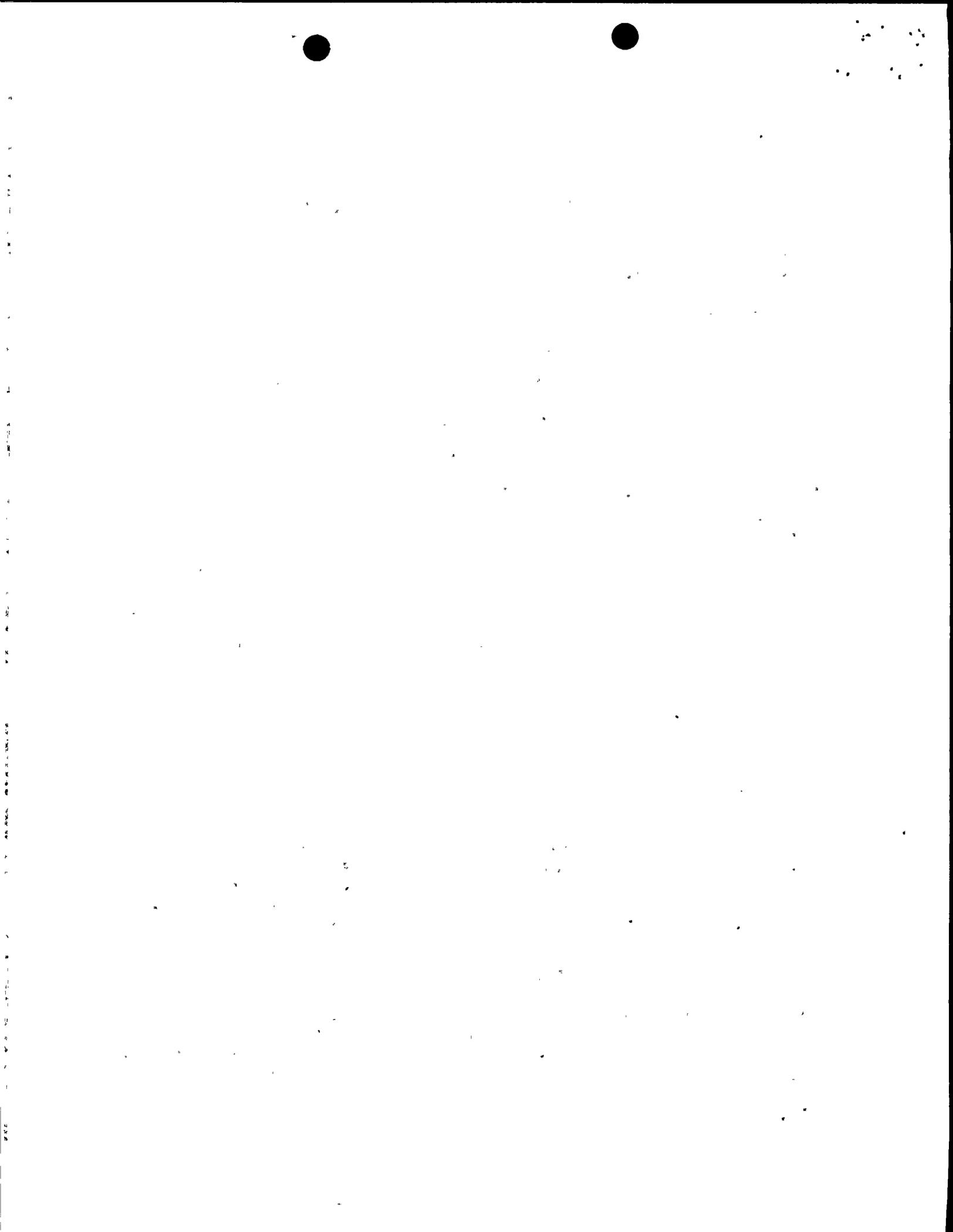
1 bizarre (and totally out of context) definition of "the
2 NRC's recently stated threshold of concern." 11/

3 The Governor also asserts that PGandE considered
4 only accidents within the "Design Basis" [B.B., p. 22] which
5 is also false. The Governor, in so arguing, chose to
6 discuss only one section of Dr. Brunot's testimony while
7 ignoring the rest. The Governor either did not comprehend
8 or ignored the written testimony of Dr. Brunot at pages 19
9 through 21 on Emergency Planning Zones which was based upon
10 the zones recommended in NUREG-0654 and NUREG-0396 which
11 explicitly considered accidents involving core melt and
12 containment failure. [NUREG-0396, pp. I-36 to I-53] In
13 fact, the conclusions of Dr. Brunot on Emergency Planning
14 Zones have taken into consideration such accidents. 12/
15 [Brunot Testimony following Tr. 10595, p. 21.]

16 ///
17 ///
18 ///

19 11/ Such a deception really does not deserve further com-
20 mentary, but it is indeed surprising to find such scare
21 tactics in what is represented as a serious legal
22 brief. It is only hoped that the Governor's argument
on this matter is a result of ignorance and not inten-
tional deception.

23 12/ The Governor felt a need to do an "analysis" and, using
24 the "one percent trick," has presented (using the words
25 "extrapolated" [B.B., p. 23] and "postulated" [B.B.,
26 p. 24] consequences many orders of magnitude beyond
those calculated by the most conservative meltdown
analyses ever before made, all with no foundation
whatsoever in the record.



1 The Governor also alleges that PGandE ignored
2 "consequences," and did not present any "consequence"
3 analysis or results. [B.B., pp. 19, 26.] Governor Brown
4 once again chooses to completely ignore the uncontradicted
5 written testimony of Dr. Brunot. The PGandE testimony
6 presented consequence results for three ranges of accidents.
7 Consequences were presented for the range of Design Basis
8 accidents [Brunot Testimony following Tr. 10595, p. 12], for
9 the range of accidents at Diablo Canyon similar to the TMI
10 accident [Id., p. 18 and Tables II and III], and
11 consequences considered in NUREG-0654 (derived from
12 NUREG-0396) which included core melt and containment failure
13 accidents. [Id., pp. 19-21]. As made abundantly clear in
14 the testimony, PGandE's recommended zone for low power was
15 indeed based upon consideration of accident consequences,
16 not ignoring, as the Governor does, the important
17 relationship between probability and consequence.

18 The Governor asserts that the risk from the Diablo
19 Canyon plant during its low power test program is somehow
20 "equivalent" to any other reactor having a full power rating
21 equal to 5% of Diablo Canyon's full power rating. Governor
22 Brown again ignores or fails to comprehend the PGandE testi-
23 mony. [Brunot Testimony following Tr. 10595, pp. 4-5;
24 Tr. 10887-890.] As shown in the Brunot testimony, the
25 long-lived isotopes build up in proportion to time of
26 operation, and would thus be many times smaller after the



100

1 low power testing period at Diablo Canyon than after a cycle
2 of power operation at full power at a facility having a
3 power rating equal to 5% of Diablo Canyon. The long-lived
4 isotopes are among the principal contributors to ingestion
5 pathways, so that the ingestion zones for planning can be
6 smaller for low power at Diablo Canyon than for a small
7 power reactor operating for a full cycle.

8 The Governor also ignores the PGandE testimony
9 concerning the reduced risk of release from Diablo Canyon
10 when less is demanded from safety systems because of opera-
11 tion at low power. For a smaller reactor operating at full
12 power, safety systems are required to function at full
13 capacity. For this reason, the requirements for a smaller
14 reactor operating at full power are not an equivalent case
15 to Diablo Canyon at low power and much smaller ingestion
16 zones are justified as stated explicitly in the testimony.

17 [Brunot Testimony following Tr. 10595, p. 21; Tr. 11293,
18 11294]

19 (ii) Joint Intervenors' Argument.

20 Like Governor Brown, Joint Intervenors have failed
21 to grasp, or chosen to ignore, much of the testimony adduced
22 at the hearing. Like Governor Brown, Joint Intervenors
23 equate "inventory" to "release" and then turn "release" into
24 "significant health risk," all with no discussion whatever
25 as to the mechanisms of such releases, transport factors,
26 dilution factors, etc., even though such information was

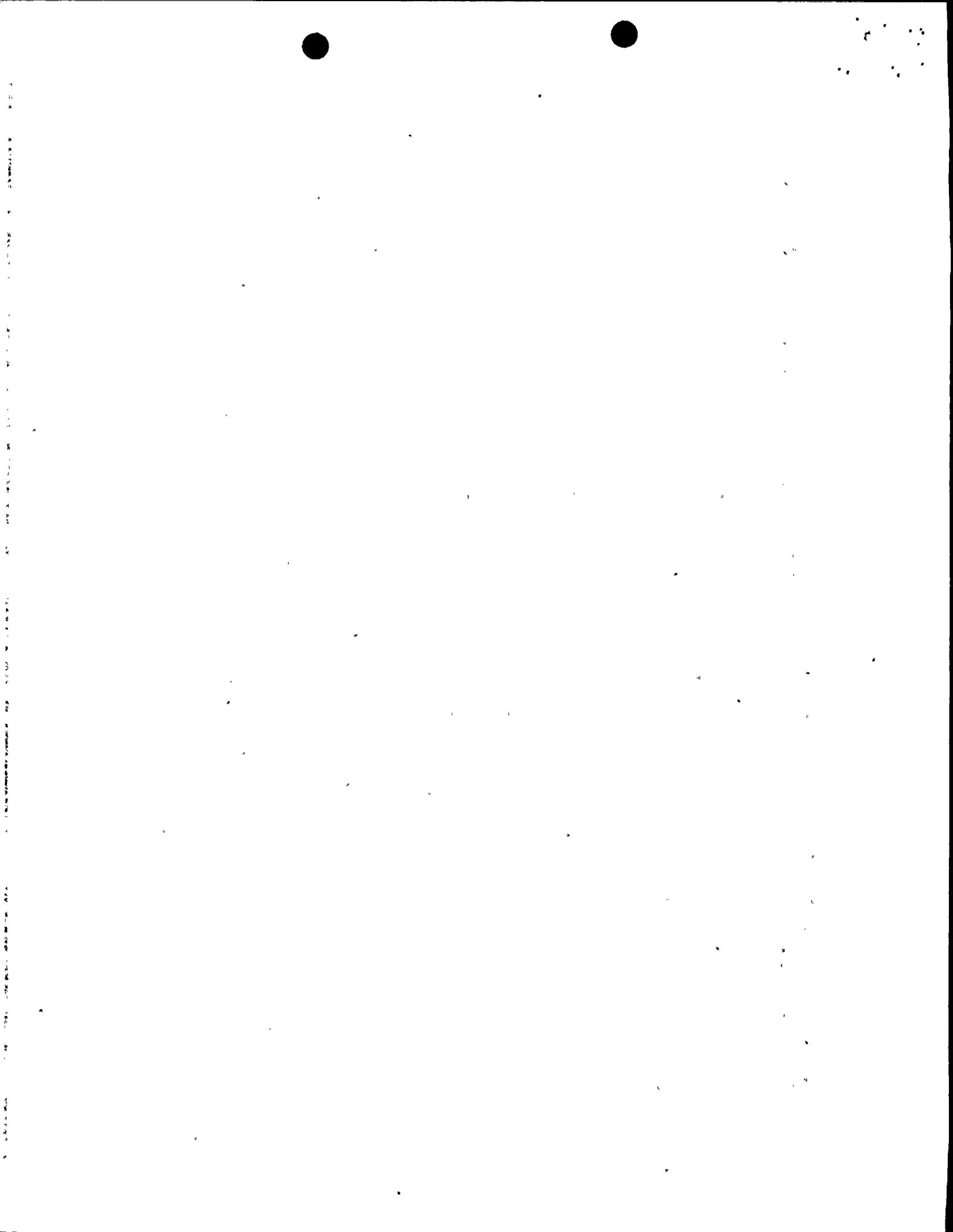


1 presented in the record by competent witnesses. [Brunot
2 Testimony following Tr. 10595 and Shiffer Testimony
3 following Tr. 10604.]

4 Joint Intervenors also play the "one percent
5 trick" by stating that "[e]ven the release of only a small
6 amount of such inventories. . . .". As shown, supra at 10,
7 the trick simply does not work. Again like Governor Brown,
8 the Joint Intervenors argue that low power testing at Diablo
9 is "roughly analogous" to "small water reactors" and thus,
10 by the words in NUREG-0654 and 10 C.F.R. §50.47(c) should
11 have emergency planning zones of 5 and 30 miles. [J.I.P.F.,
12 p. 43.] Like Governor Brown, Joint Intervenors can only
13 "make up" evidence to support such a conclusion.

14 Joint Intervenors also argue that PGandE "did not
15 include or consider an accident sequence involving contain-
16 ment leakage beyond the design basis values." [J.I.P.F.,
17 p. 44.] As is the case with Governor Brown, such a state-
18 ment is simply false. See supra, p. 11.

19 In a rather original view, Joint Intervenors
20 attempt to dismiss PGandE's testimony on risk reduction
21 because it relied, in part, on professional judgment rather
22 than on "precise mathematical calculations." [J.I.P.F.,
23 pp. 45, 49.] Joint Intervenors cannot, even though they
24 try, simply dismiss sworn competent testimony of a qualified
25 expert witness because they have some undefined notion about
26 professional judgment.



1 C. Emergency Planning Requirements - Low
2 Power Testing.

3 1. Governor Brown Proposed Findings.

4 Governor Brown makes several specific assertions
5 on the lack of preparedness both onsite and offsite. With
6 regard to offsite planning, he makes the preposterous
7 statement that there is no county emergency preparedness and
8 that there will be no adequate preparedness until December
9 1981. [B.B. at pp. 35-41.] The Governor is plainly and
10 simply wrong. There is a County Emergency Response Plan
11 presently in effect which was approved by the County Board
12 of Supervisors as admitted by Governor Brown's witness
13 Jorgensen. [Tr. pp. 10970-10973.] That County Emergency
14 Plan contains an Emergency Evacuation Plan for the six mile
15 low population zone ("LPZ") including Montana De Oro State
16 Park. [County Plan, pp. 17-19; County Nuclear Power Plant
17 Emergency Evacuation Plan.]

18 The assertion that witness Jorgensen and Dr.
19 Mtchell are in the best position to demonstrate that there
20 is inadequate offsite emergency preparedness is also not
21 borne out by the record. [B.B. 40.] Mr. Jorgensen, who
22 stated that he was familiar with the County Emergency Plan,
23 especially the evacuation portion, did not even know about
24 the Sheriff's LPZ evacuation implementing procedures. [Tr.
25 pp. 10973-10974.] Moreover, the record does not reflect

26 ///



1 that he attempted to contact the Sheriff to obtain
2 information on the subject before testifying on the matter.

3 Dr. Mitchell, while concerned about several
4 potential problems which might arise, clearly did not say
5 that he did not have sufficient personnel to carry out his
6 radiological monitoring duties. [Tr. 10910-10911.]
7 Moreover, he admitted that there are no bedridden persons
8 living within the LPZ to his knowledge who would require
9 special attention. [Tr. 10963-10964, 10988.]

10 Governor Brown ignores the public information plan
11 re emergency planning that PGandE, in coordination with the
12 Sheriff's Department, committed to furnish residents in the
13 LPZ regarding the low power testing program prior to
14 initiation of low power testing. [Tr. 10842.]

15 Governor Brown complains of supposed problems
16 dealing with emergency capabilities and notification
17 procedures of the County Plan. Suffice it to say the plan
18 provides procedures for accomplishment of all necessary
19 notification and response actions within the LPZ. [County
20 Plan at pp. 15-18; County Nuclear Power Plant Emergency
21 Evacuation Plan, pp. 17-18, 27-47.] Moreover, the County
22 Sheriff stands ready to act pursuant to that plan to
23 evacuate residents and others within the LPZ, should the
24 situation warrant such action. [Tr. 11323-11324.] Governor
25 Brown has engaged in sheer speculation that the
26

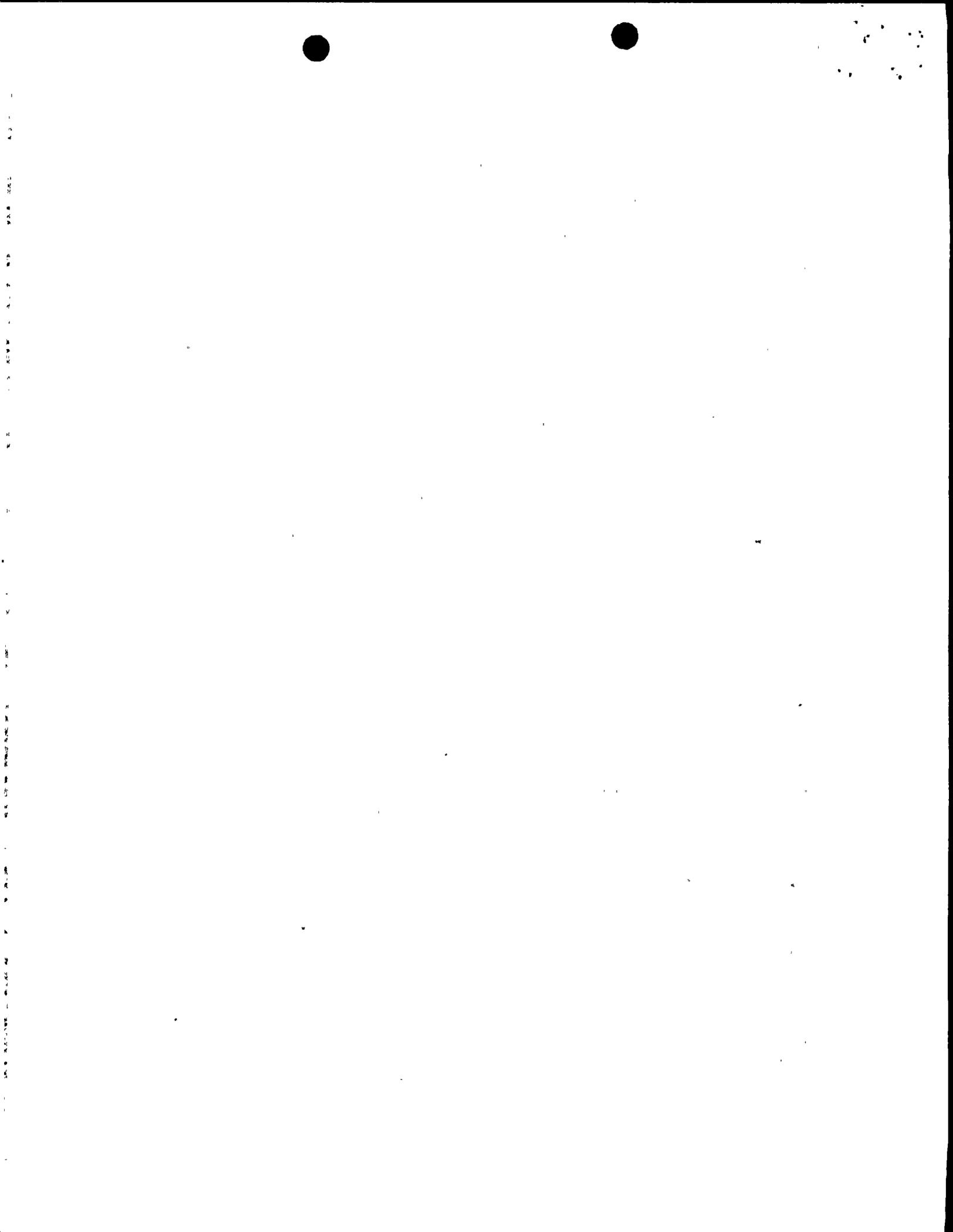


1 Sheriff and the State Parks and Recreation personnel will
2 not or cannot perform their assigned functions especially
3 the evacuation of Montana De Oro State Park.

4 With regard to PGandE's onsite emergency plan,
5 Governor Brown focuses on certain items which he alleges do
6 not conform to the requirements of 10 C.F.R. §50.47(b).
7 [B.B. pp. 62-75.] However, this position is premised on the
8 discredited argument as noted above at pp. 2-6, that all the
9 requirements of 50.47(b) must be met for a low power test
10 license. Governor Brown specifically discusses matters
11 concerning coordinated emergency classification, prompt
12 notification capability, public information program,
13 earthquake complications, 13/ drills and exercises,
14 radiation monitoring network and offsite support for fire
15 control.

16 The Governor simply ignores the written and oral
17 testimony of Mr. Shiffer discussing the present state of
18 preparedness re these items along with the ongoing work
19 related to full power requirements. He ignores or
20 misrepresents the testimony regarding PGandE's extensive
21 radiation monitoring system with the observation that it
22 should be located in different places at or around the LPZ.
23 [Tr. 10758-10785.] He ignores the testimony of his own
24

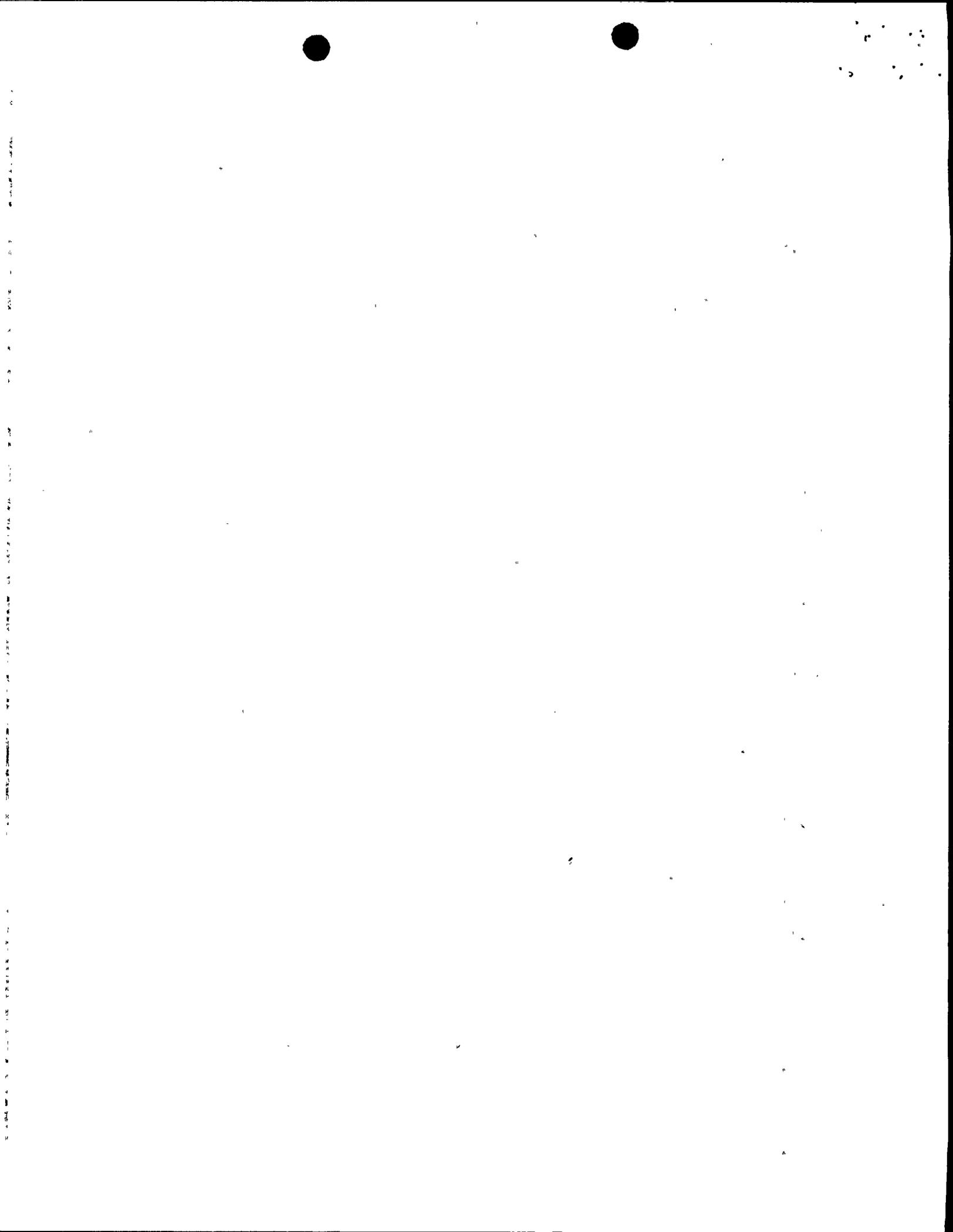
25 13/ The Governor does grudgingly admit that there is a
26 lesser risk at low power than at full power. [B.B.
p. 39, fn. 36.]



1 witness (Paulus) that the concerns of the California
2 Division of Forestry relating to fire support for Diablo
3 Canyon should be resolved by July 1, 1981. [Tr. 10909,
4 10957.] He ignores as noted above PGandE's undertaking to
5 distribute emergency planning information (in consultation
6 with the Sheriff) to the public within the LPZ prior to fuel
7 load. [Tr. 10842.] He ignores the notification methods set
8 forth in the current plan for the LPZ given in the testimony
9 of Mr. Shiffer and Sheriff Whiting. [Shiffer Testimony
10 following Tr. 10604, pp. 33, 38-39, and Tr. 11321-11329;
11 Board Exhibit 5.] He ignores the testimony of Mr. Shiffer
12 and Dr. Mitchell regarding the ongoing radiological
13 monitoring and medical care and assistance training.
14 [Shiffer Testimony following Tr. 10604, pp. 30-32; Tr.
15 10909, 10960-10961.]

16 In sum, the Governor assumes that the Emergency
17 Response personnel in San Luis Obispo County are either
18 ignorant or lazy in terms of performing their assigned
19 tasks. The only explanation can be that the Governor will
20 not concede that much less is required in terms of planning,
21 training and equipment for low power testing. Finally, the
22 testimony adduced at the hearing proves that there is a
23 County Emergency Plan in effect which is capable of
24 implementation and that training and exercises have been and
25 are currently being conducted. Admittedly, the plan is

26 ///



1 being upgraded to meet 10 C.F.R. Part 50 requirements -- but
2 that is for full power operation, not low power operation.

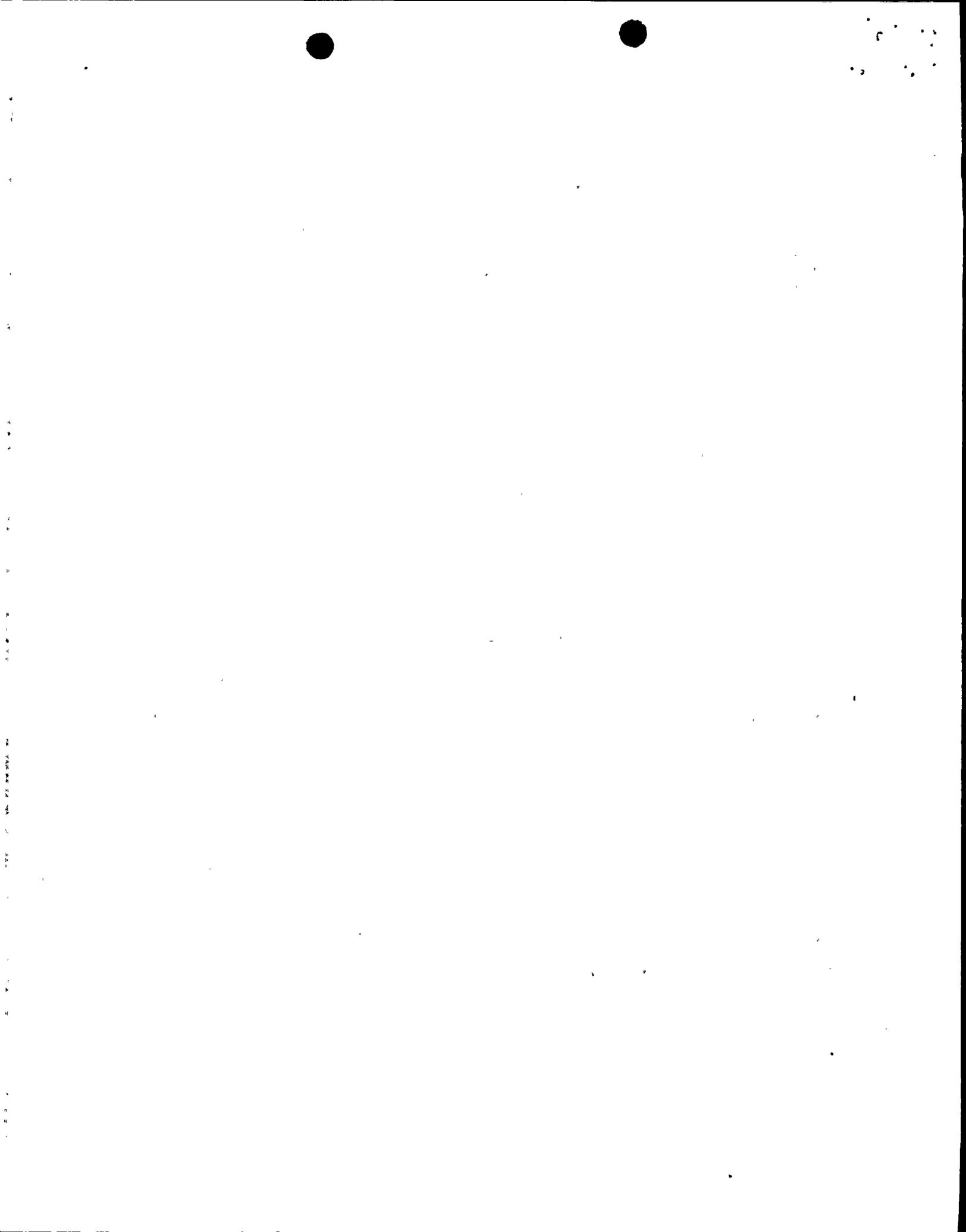
3 2. Joint Intervenors' Proposed Findings

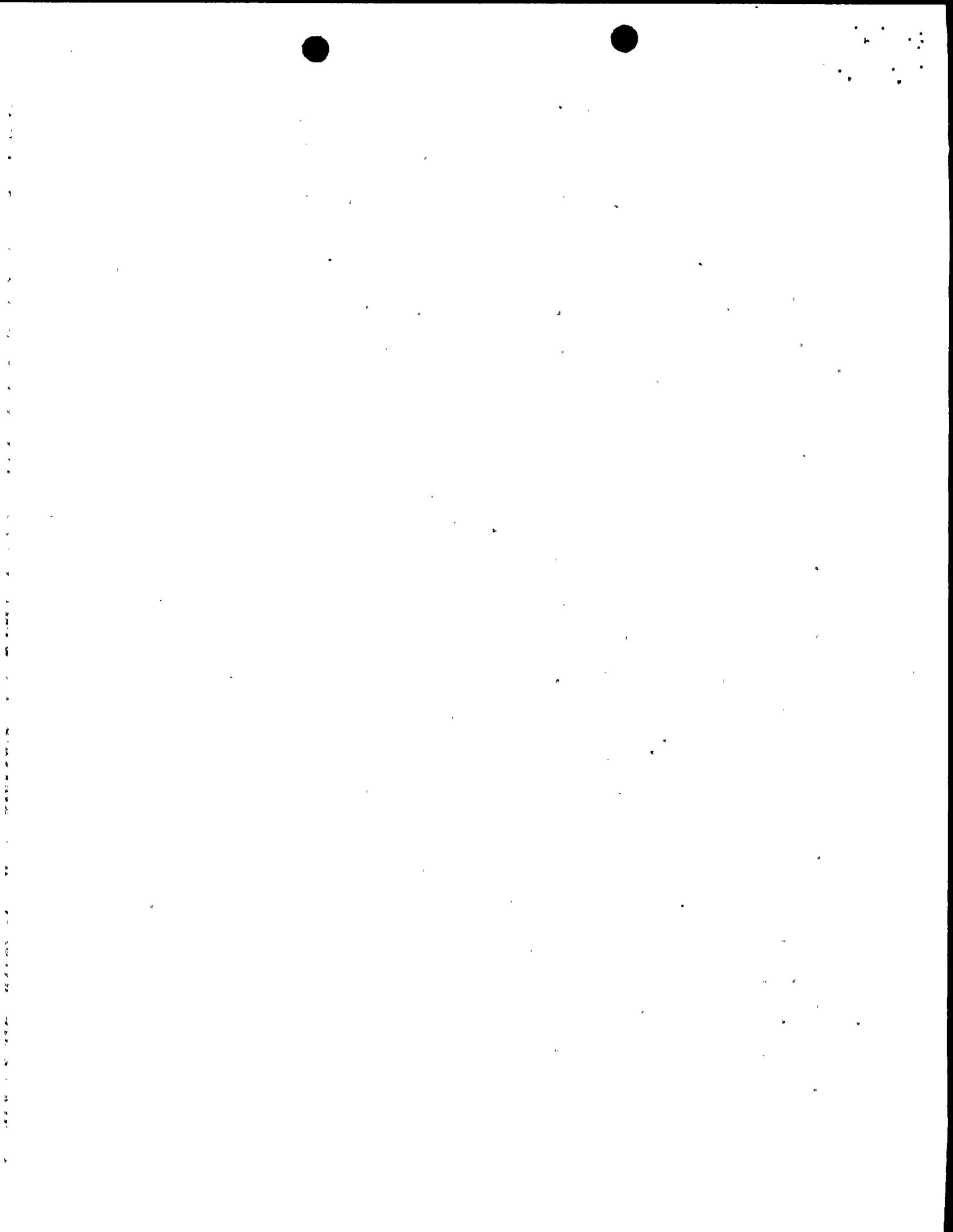
4 Joint Intervenors also raise many of Governor
5 Brown's objections regarding the adequacy of the onsite and
6 offsite emergency plans. [J.I.P.F. pp. 11-38.] Generally,
7 they merely reference the 16 planning standards of 10 C.F.R.
8 50.47(b) and NUREG-0654 and assert that the current plans do
9 not comply with them. In this respect, they adopt the
10 wooden approach of Governor Brown that prior to fuel load
11 all these requirements must be met. They continually state
12 that no evacuation plan is in effect and further that, since
13 no evacuation has been conducted within the LPZ, the plan
14 cannot be implemented. However, nowhere do they cite any
15 authority requiring an actual evacuation of the local
16 population as a precondition to approval of the plan and, in
17 fact, no such authority exists.

18 Joint Intervenors, as did Governor Brown, attack
19 the FEMA approval of emergency preparedness for Diablo
20 Canyon for low power testing as unsupported in the record.
21 [J.I.P.F. pp. 34-38.] The evidence of record, though,
22 clearly reflects that FEMA did approve the adequacy of the
23 State Plan. [Gov. Brown Exhibits 1-6.] 14/

24 ///

25 _____
26 14/ See also discussion in footnote 6, above, regarding
Board Notification 81-11.





1 that the three PORVs stuck completely open and that the
2 block valves failed to close. Similar analyses enveloped
3 the extremely unlikely case that the three pressurizer
4 safety valves were stuck completely open. In all instances,
5 no core uncovering was predicted to occur [Ibid., pp. 7, 8;
6 Tr. 11189-11191]. In short, even if all three of each type
7 of valve were postulated to fail completely open the public
8 health and safety would not be endangered. Thus, completion
9 of additional testing of safety valves, PORVs, and block
10 valves, is not required prior to fuel load, low power test-
11 ing, or full power operation at Diablo Canyon [Ibid., p. 8;
12 Cherny Testimony following Tr. 11216, pp. 13, 14].

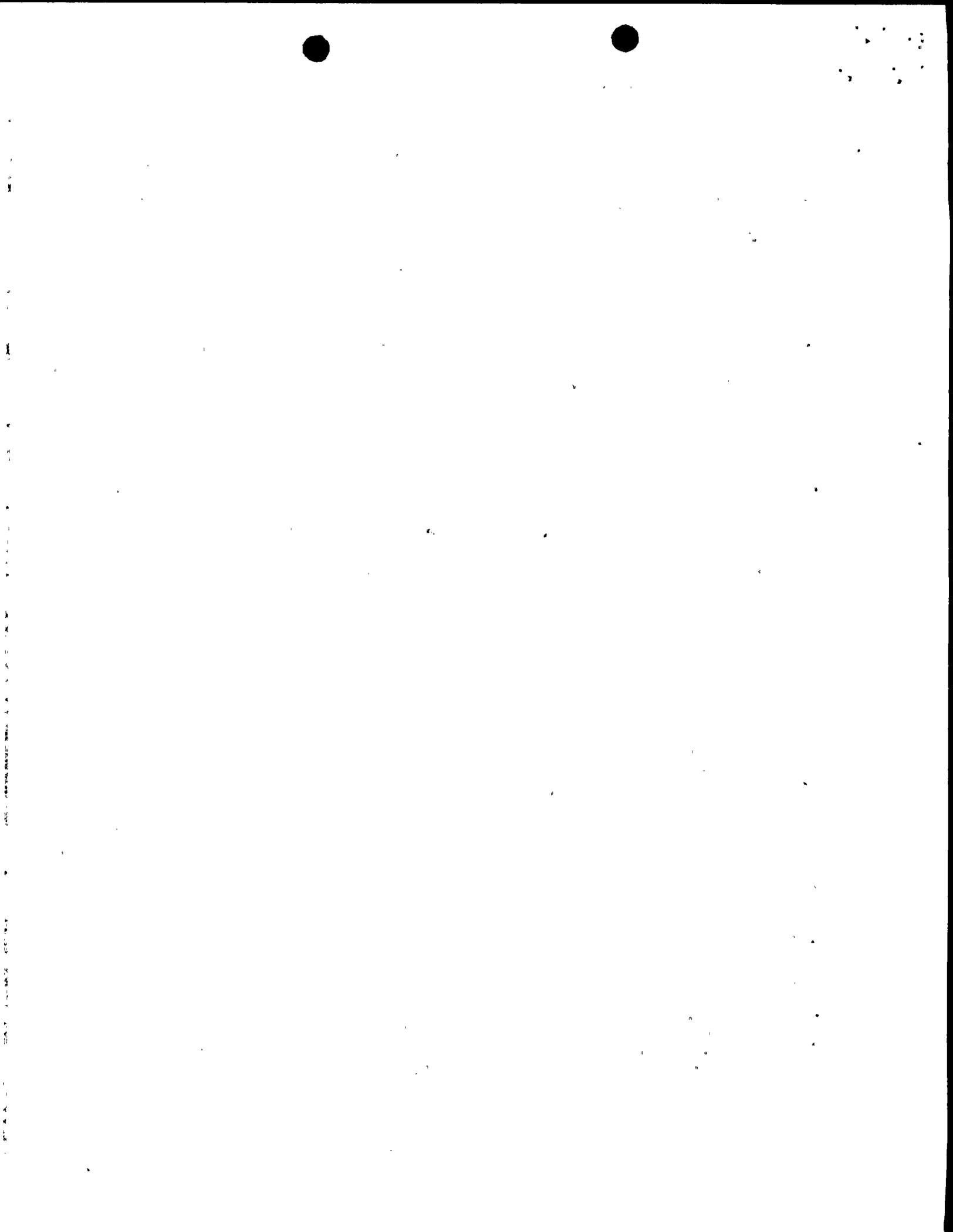
13 b. Westinghouse has conducted a survey of
14 Westinghouse designed operating plants in the United States.
15 This survey covered plants with a total of 181 reactor years
16 of operation through October 1980, and included valves of
17 the type used at Diablo Canyon. No instances of failure of
18 safety, PORV, or block valves were reported by the owners of
19 these plants and none has been reported since the time of
20 the survey [Ibid., pp. 3, 5, 6; Tr. 11189] 15/

21 ///

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24 15/ There has been one instance of a PORV valve failure to
25 close in a foreign plant which was associated with the
26 failure of a yoke. The yoke which failed is not the
same as those used at Diablo Canyon and has no bearing
on the Diablo valves. [Tr. 11185, 11189, 11212].



1 c. The PGandE and NRC witnesses concluded that
2 the safety valves, PORVs, and block valves comply with the
3 applicable regulatory requirements, including GDC's 1, 14,
4 15, and 30 [Gottshall-Muench Testimony following Tr. 11157,
5 p. 7; Cherny Testimony following Tr. 11216, pp. 6, 7.]

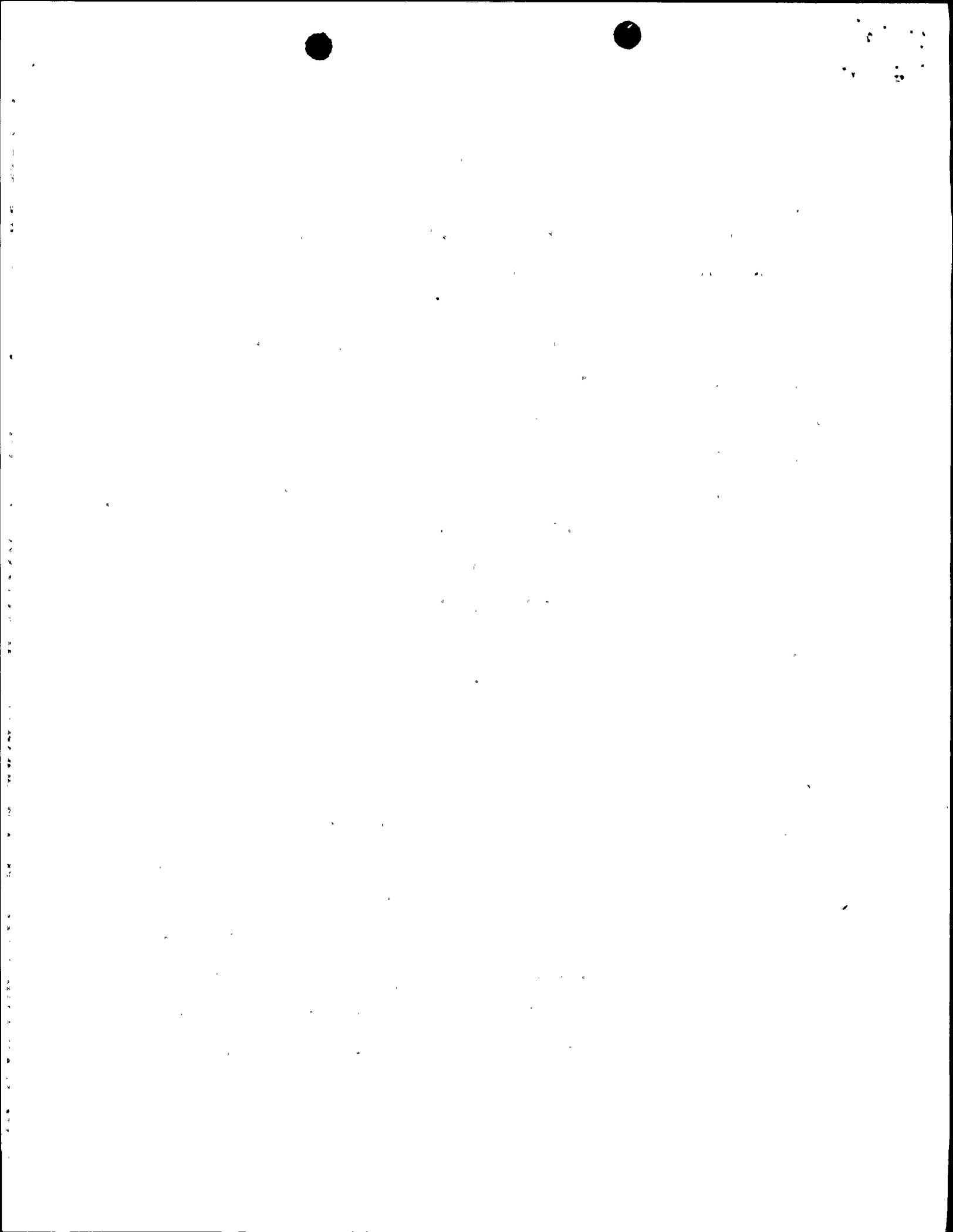
6 d. NUREG-0737 requires that plant specific
7 reports for safety and relief valve qualification need not
8 be filed until October 1, 1981, plant-specific submittals
9 for piping and support evaluations by January 1, 1982, and
10 plant-specific submittals for block valve qualification by
11 July 1, 1982 [II.D.1., p. 3-74].

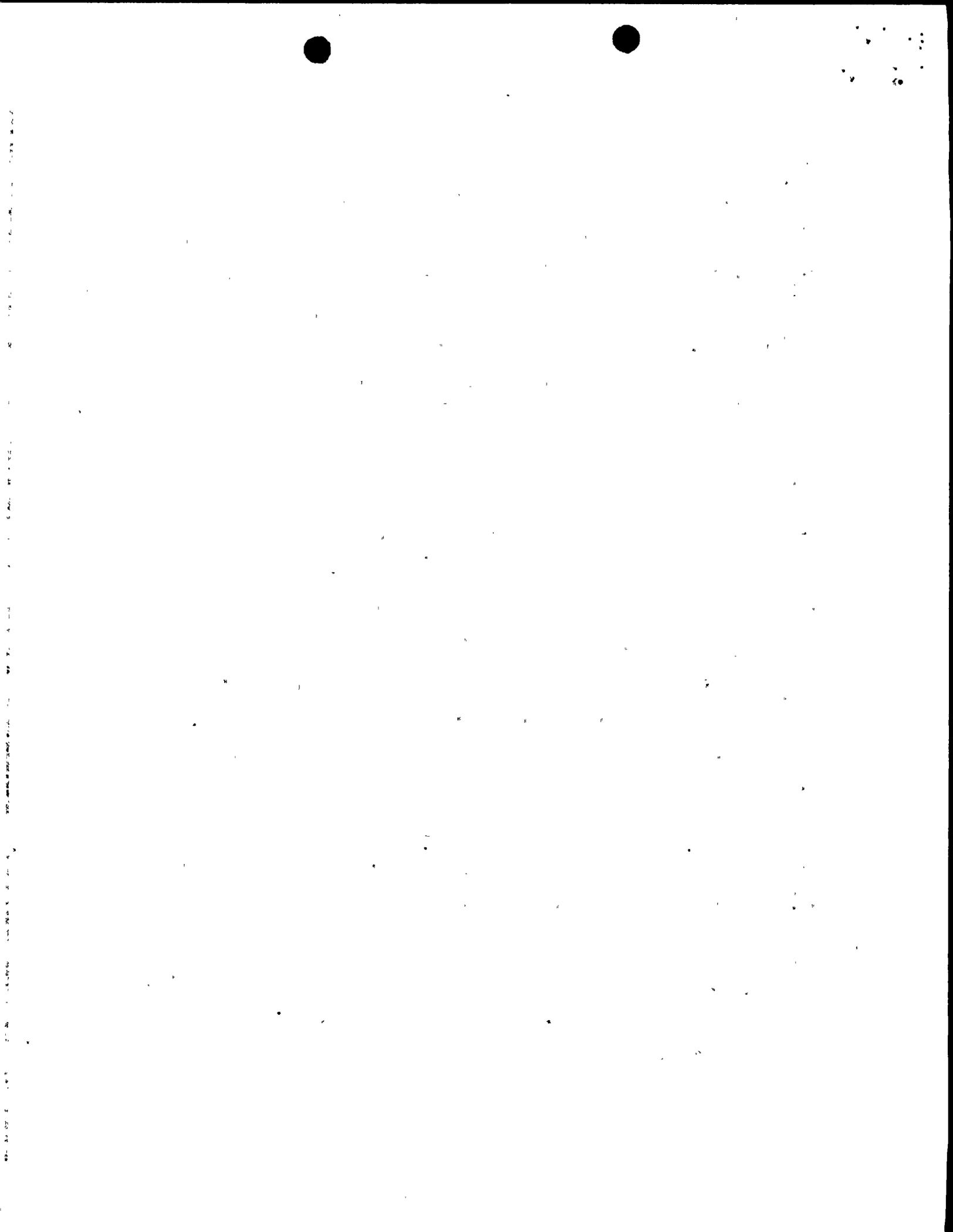
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13 B. Intervenors' Allegations

14 Certain of the various allegations in the B.B. and
15 J.I.P.F. which mischaracterize, distort, or are refuted by
16 the direct testimony are set forth below:

17
18 B.B.

19 a. P. 76, l. 17-19. The testimony [Carey-Auble
20 following Tr. 11159, pp. 7, 8] was not that the three valves
21 failed "at relatively low pressure" but that they "did not
22 fully close on demand." They were subsequently retested
23 with an increased closing thrust and fully closed on demand
24 [Ibid., p. 8]. In any event, these valves were not the type
25 utilized at Diablo Canyon [Ibid.; Cherny Testimony following
26 Tr. 11216, p. 11.]





1 c. Par. 57. The testimony in the record was
2 only that the testing of control circuitry, piping and
3 supports was the responsibility of the utility rather than
4 EPRI or the manufacturer [Tr. 11173, 11174]. There was no
5 testimony that there were significant differences in the
6 EPRI and Diablo Canyon control circuitry, piping and
7 supports. Further, the testimony was that the differences
8 between the EPRI valves and the Diablo Canyon valves were
9 minor and did not affect operability [Tr. 11173]. In any
10 event, NUREG-0737 requires each licensee to submit to NRC a
11 correlation or other evidence

12 "to substantiate that the valves
13 tested in the EPRI . . . test pro-
14 gram demonstrate the function-
 ability of as-installed primary
 relief and safety valves."

15 In addition, the correlation must show, among other things,
16 the test conditions are equivalent to expected operating and
17 accident conditions [NUREG-0737 II.D.I.A.(2), p. 3-73].

18 d. Par. 58. The last sentence mischaracterizes
19 the testimony which was that possibly it is more likely that
20 undersized motor operators will be discovered during worst
21 case conditions [Tr. 11231]. The likelihood was not
22 defined.

23 e. Par. 62. An NRC Staff witness testified that
24 the reactor systems staff personnel believe that the EPRI
25 test program envelopes all of the PWR operating and design
26 basis accident conditions. Utilities need only confirm this

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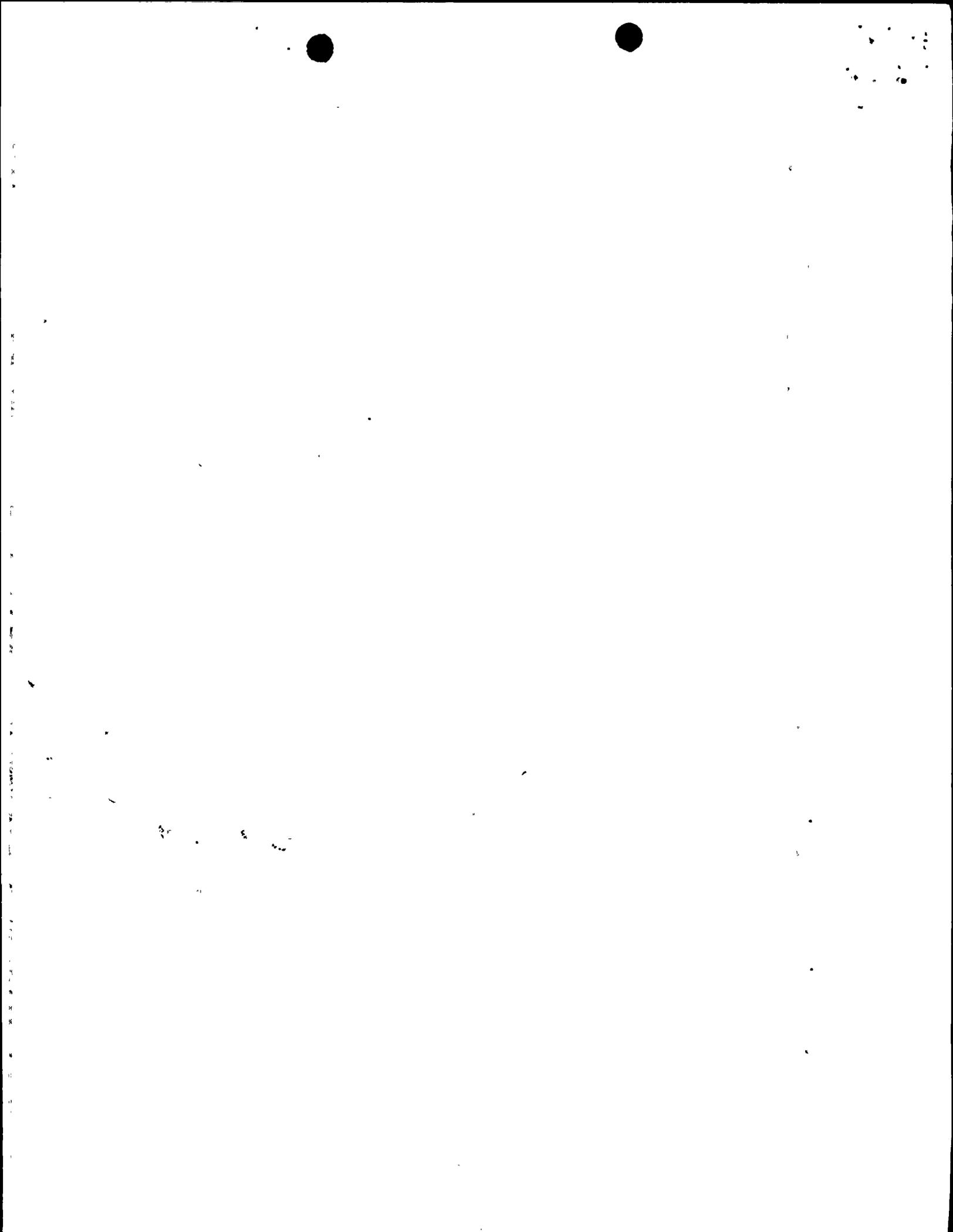
1 fact by filing the correlation required by NUREG-0737
2 [Tr. 11226].

3 f. Par. 63. The EPRI test program includes
4 loadings which result from transition flow from steam to
5 water or solid fluid flow [Cherny testimony following
6 Tr. 11216, pp. 5, 6; Carey-Auble Testimony following Tr.
7 11159, p. 4; Tr. 11168, 11169, 11218, 11219.]

8 g. Par. 64. Although weakening or cracking of
9 the pressure vessel is a safety concern, the witness
10 testified that measures are taken to avoid that consequence.
11 [Tr. 11175].

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III

CONCLUSION

For the foregoing reasons, the Board should not adopt the proposed findings of Joint Intervenors and Governor Brown. PGandE instead respectfully submits that the Board adopt findings and conclusions consistent with those proposed by PGandE.

Respectfully submitted,

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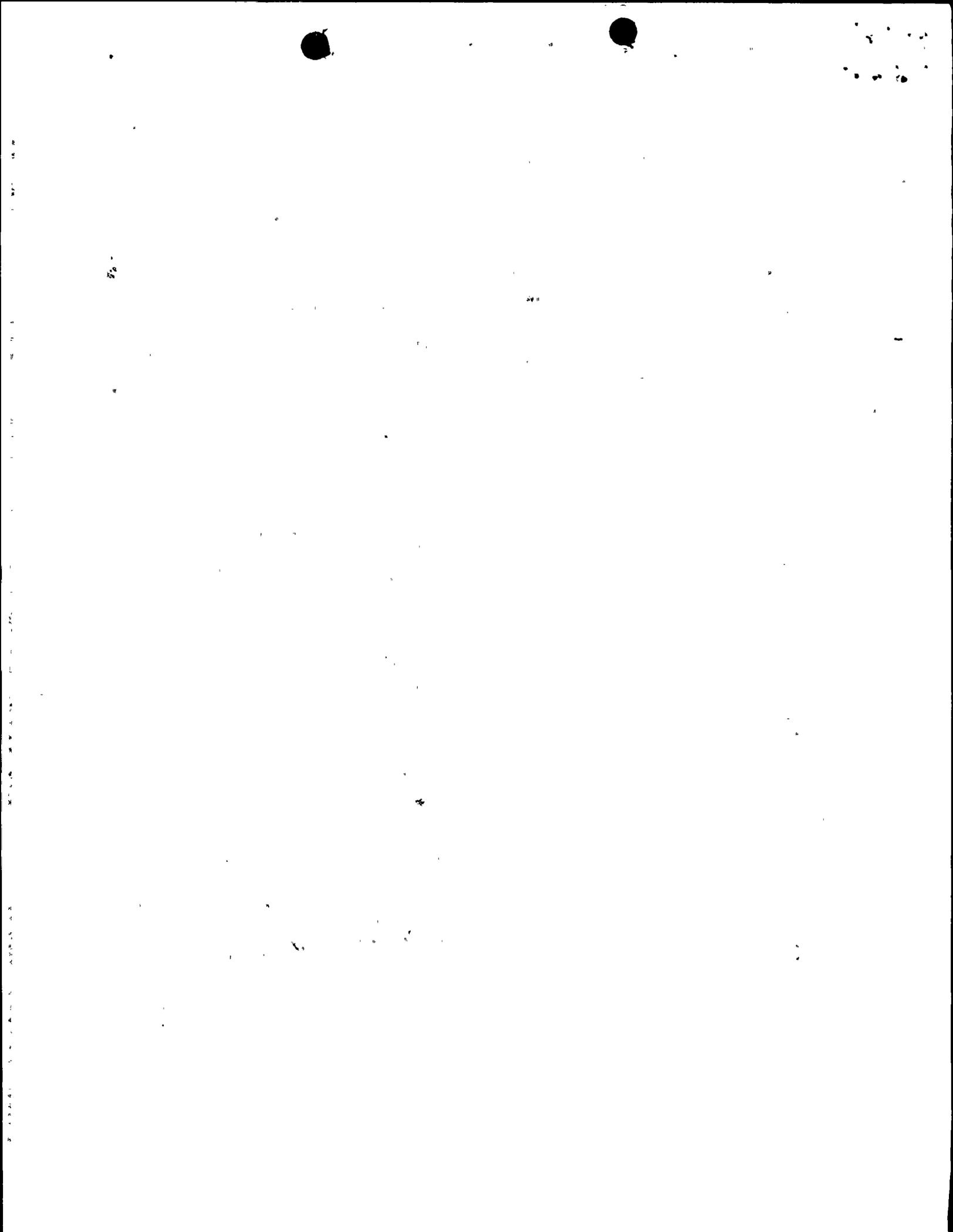
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DATED: June 23, 1981.



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

PACIFIC GAS AND ELECTRIC COMPANY)

Units 1 and 2)

Diablo Canyon Power Plant)

Docket No. 50-275

Docket No. 50-323

(Low Power Test Proceeding)

CERTIFICATE OF SERVICE

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