

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

OFFICE OF NUCLEAR REACTOR REGULATION
Harold R. Denton, Director

In the Matter of)

PACIFIC GAS & ELECTRIC COMPANY)
(Diablo Canyon Nuclear Power Plant,)

Docket Nos. 50-275
50-276

Units 1 & 2))

10 C.F.R. 2.206

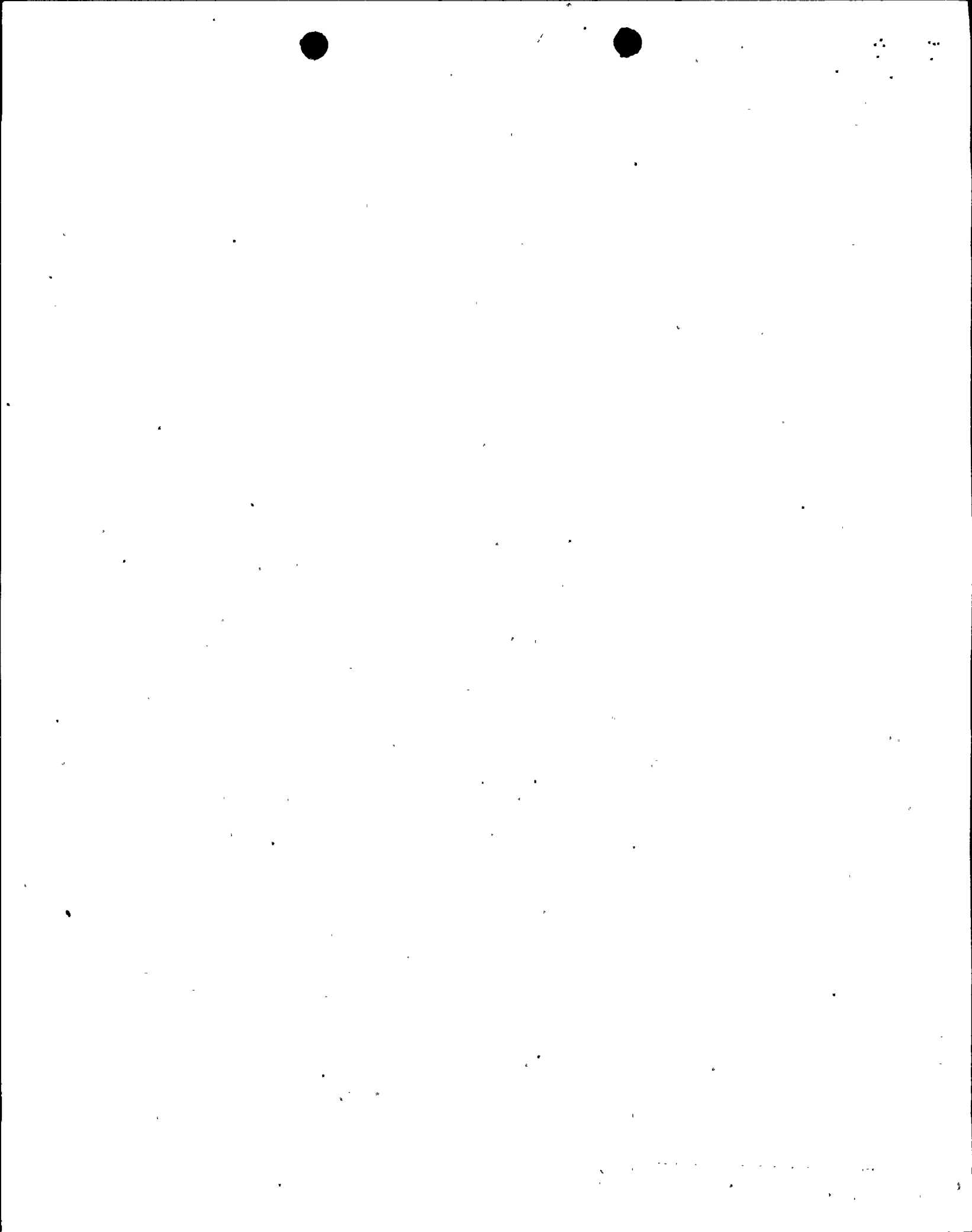
DIRECTOR'S DECISION UNDER 10 C.F.R. 2.206

In a letter dated May 12, 1982, the Joint Intervenors ^{1/} to the Diablo Canyon Nuclear Power Plant licensing proceeding directed a request for action pursuant to 10 C.F.R. 2.206 to the Director of the Office of Nuclear Reactor Regulation. Specifically, Joint Intervenors requested:

"(1) the issuance of an order to show cause why Pacific Gas and Electric Company '(PG&E)' should not be directed to file forthwith the requisite amendments to the pending operating license applications for Diablo Canyon Units in light of the extensive and conceded restructuring by PG&E of the Diablo Canyon Project organization and management; and (2) subsequent to the filing of such amendments, a hearing to determine the consistency of the restructured organization and management with all applicable provisions of the Atomic Energy Act, 42 U.S.C. §§ 2011 et seq. and the Commission's regulations."

They assert that given the breakdown of PG&E's quality assurance program in the past, the extensive restructuring of PG&E and its impact on quality assurance activities must be closely examined to assure that past failures are not repeated. Petition at 5-6.

^{1/} The San Luis Obispo Mothers for Peace, Scenic Shoreline Preservation Conference, Inc., Ecology Action Club, Sandra Silver, Gordon Silver, Elizabeth Apfelberg, and John J. Forster.



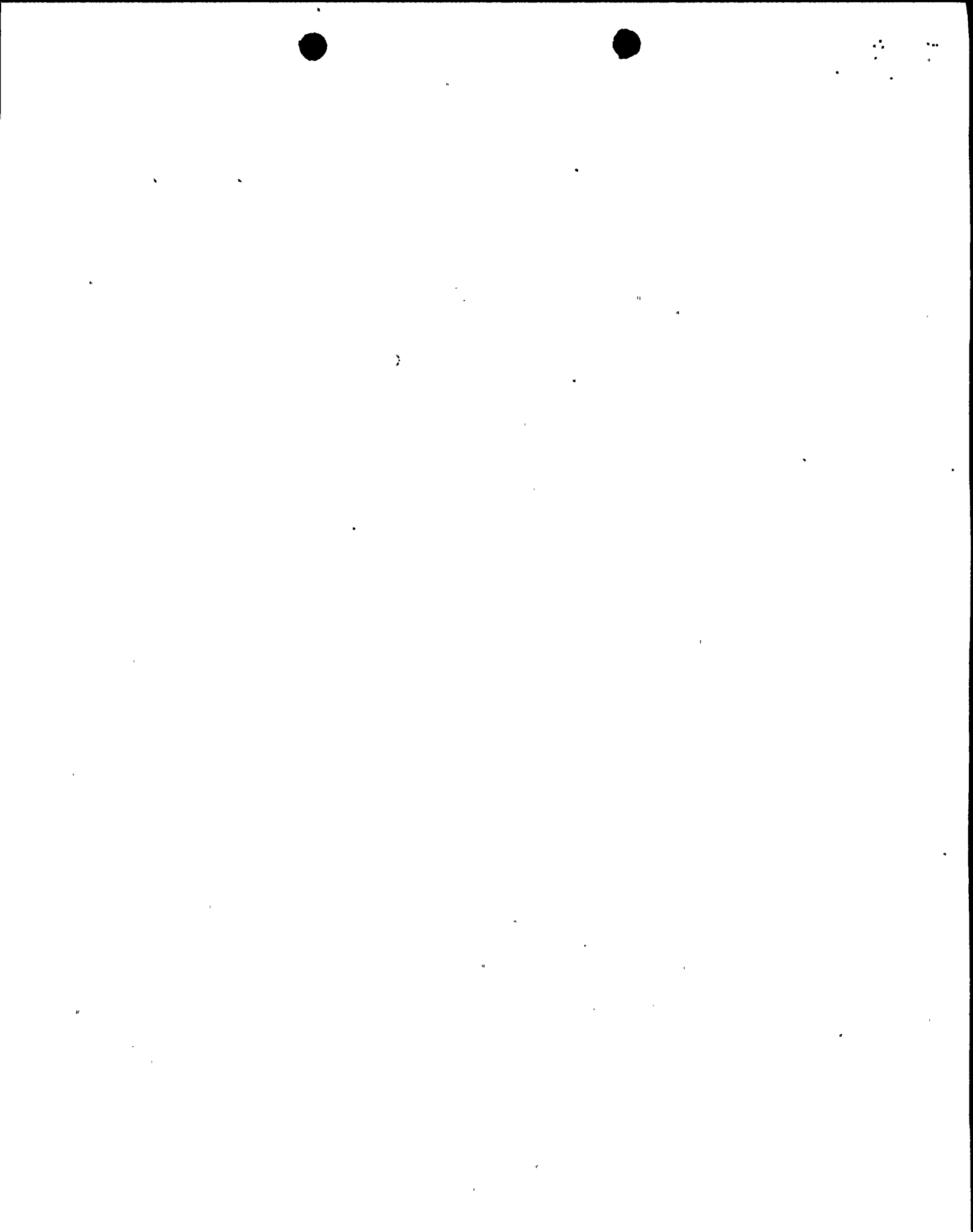
Their request was supplemented by an additional letter, dated May 25, 1982, which asserted that a license amendment application submitted by PG&E on May 10, 1982, requesting certain changes to its technical specifications for Diablo Canyon Unit 1, did not satisfy the Joint Intervenors' concerns. Notice of receipt of the Joint Intervenors' petition was published in the Federal Register on June 22, 1982 (47 FR 26954).

Discussion

-On September 22, 1981, following the Licensing Board's low power decision and Commission review under the immediate effectiveness rule ^{2/} a license was issued to PG&E for fuel loading and low-power testing up to 5% of rated power for the Diablo Canyon Plant Unit 1. Subsequently, on November 19, 1981, the Commission suspended the low-power license pursuant to 10 C.F.R. 2.202, because new information had been developed which raised doubts about the adequacy of PG&E's quality assurance program. ^{3/} The Commission further ordered the

^{2/} Pacific Gas & Electric Co: (Diablo Canyon Nuclear Plant, Units 1 & 2), LBP-81-21, 14 NRC 107 (1981); Pacific Gas & Electric (Diablo Canyon Nuclear Power Plant, Units 1 & 2), CLI-81-22, 14 NRC 598 (1981).

^{3/} Pacific Gas & Electric Company, (Diablo Canyon Nuclear Power Plant, Unit 1), CLI-81-30, 14 NRC 950 (1981).



licensee to conduct an independent design verification program on all safety-related activities performed prior to June 1978 under all seismic service-related contracts. Verification of quality assurance program effectiveness was identified as a major element of the remedial program. That program is now underway.

On March 22, 1982, PG&E announced that the Diablo Canyon Project Organization was being restructured in order to integrate Bechtel Power Corporation as the project manager, with responsibility for completion of the work necessary to:

- 1) Restore the low power license for Unit 1,
- 2) Obtain a full power license for the plant,
- 3) Complete construction of Unit 2, and
- 4) Provide start-up engineering and construction support needed to bring both units into commercial operation.

The role of Bechtel Power Corporation was further clarified in a meeting with NRC personnel on March 25, 1982 and in a letter to the Director of Nuclear Reactor Regulation on April 22, 1982.

For Diablo Canyon Unit 1, Bechtel Power Corporation personnel, as part of the single totally integrated Diablo Canyon Project Organization, will act in support of PG&E personnel to help establish objectives, schedules, programs and to monitor those items. The above activities will be conducted in accordance with the Project Quality Assurance Program. The Project Quality Assurance Program was developed using the previously NRC approved Bechtel Power Corporation Topical Report on Quality Assurance, BQ-TOP-1, modified to conform to the Diablo Canyon

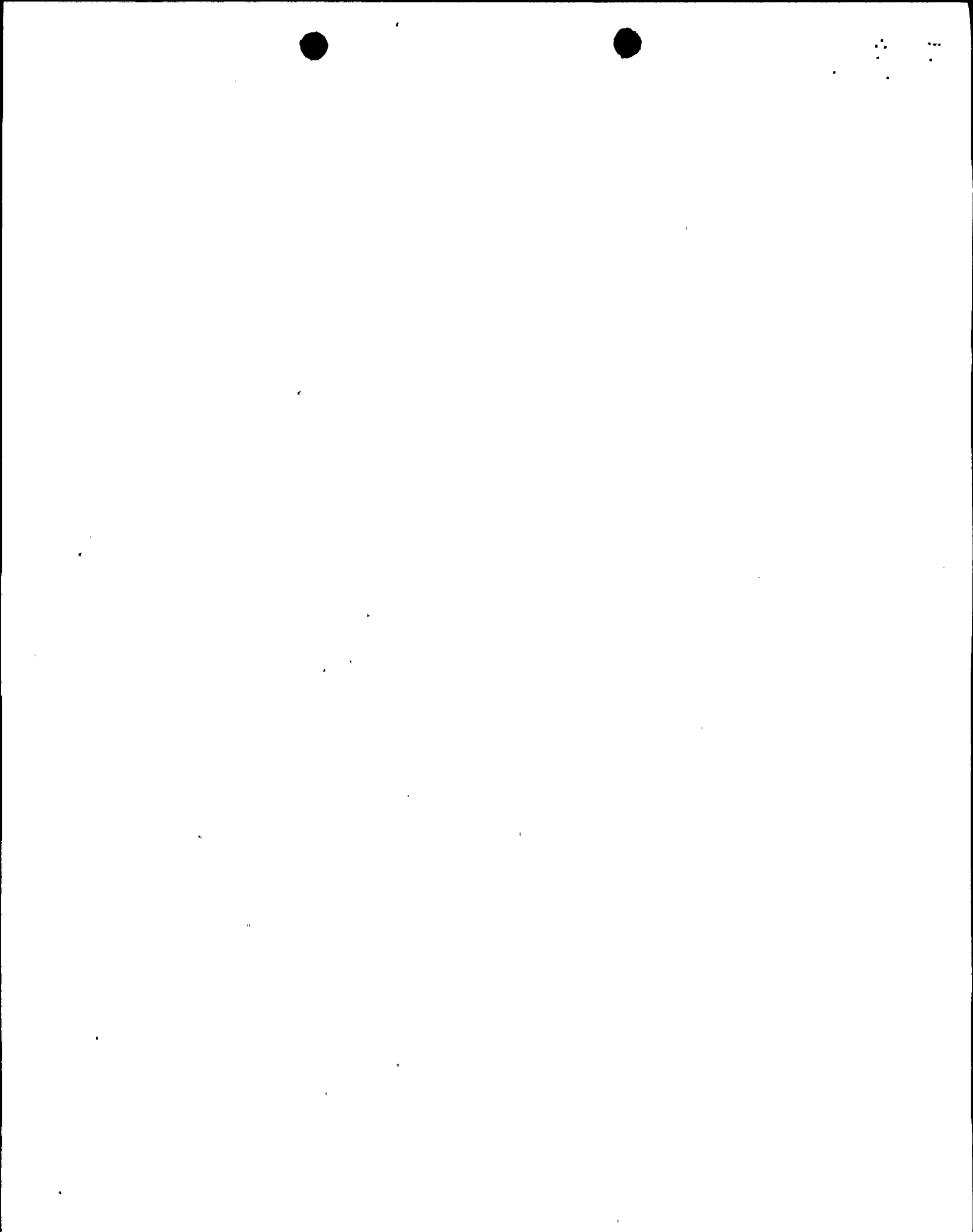


Project Organization. The NRC Staff has reviewed the Project Quality Assurance Program and found it acceptable following receipt of certain additional information contained in the Licensee's letter of August 13, 1982. Bechtel does not plan to do any actual construction work at either Unit 1 or Unit 2, although some design activities involving additional personnel may be performed for Unit 2.

PG&E continues to be in control of the general design and construction of both Units. Consequently, the introduction of Bechtel Power Corporation into the overall Diablo Canyon Project Organization and its related quality assurance program does not represent a significant change to the information supplied by the licensee and reviewed by the NRC concerning the requirements of 10 C.F.R. 50.34(a)(7). Thus, no amendment to the construction permits for the Diablo Canyon facilities is required. ^{4/}

The information required by 10 C.F.R. 50.34(b)(6)(i) & (ii) to be submitted in the Final Safety Analysis Report of the operating license application describes the organizational structure and managerial and administrative controls for the plant during operation. None of the changes described so far by PG&E with respect to Bechtel's participation

^{4/} An amendment to a construction permit is only required if there are changes of significance affecting the principal architectural and engineering design criteria and other bases on which the facility was licensed. See Northern Indiana Public Service Co. (Bailly Generating Station, Nuclear-1), CLI-79-11, 10 NRC 733, 737 (1979), remanded on other grounds, State of Illinois v. NRC, D.C. Cir. No. 81-1131, decided July 1, 1981.

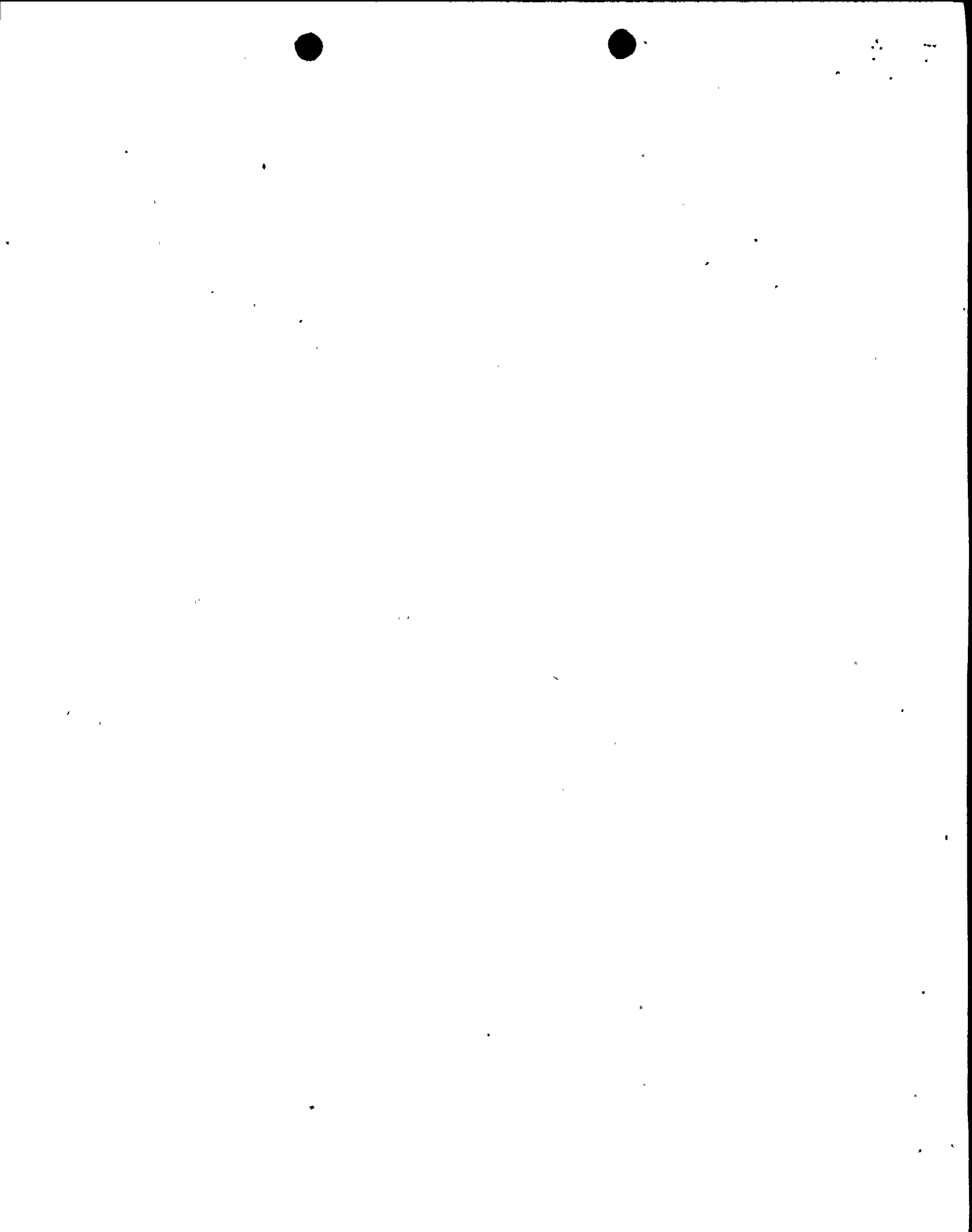


in the Diablo Canyon project alter previously supplied information concerning how the facilities would function as operational plants. ^{5/}

However, even if the NRC Staff believed at this time that more information is needed with respect to the operating license applications, an order to show cause pursuant to 10 C.F.R. 2.202 would be inappropriate. In the course of the review of operating license applications, amendments to the application to supplement or update information previously submitted or to demonstrate compliance with regulatory requirements may be required. A licensee must either provide the amendments voluntarily or in response to Commission requests if consideration of the license application is to continue. As a means of obtaining information for a licensing review, an order pursuant to 10 C.F.R. 2.202 to modify, suspend or revoke a license is unnecessary where no license has issued.

There is an additional reason why I decline to initiate a proceeding with respect to the quality assurance program at the Diablo Canyon project at this time. On June 8, 1982, the Joint Intervenors filed a motion before the Atomic Safety and Licensing Appeal Board requesting that the Board revoke the Diablo Canyon low power operating license, vacate the Licensing Board's conclusions in its July 17, 1981

^{5/} The proposed amendments to technical specifications submitted by PG&E on May 10, 1982 address Technical Specifications which govern the operation of the facility. Thus, Joint Intervenors' concern that these proposed changes are insufficient to address their concerns is misplaced because the technical specifications to be amended do not describe activities at the Unit 1 facility with which Bechtel Power Corporation is involved.



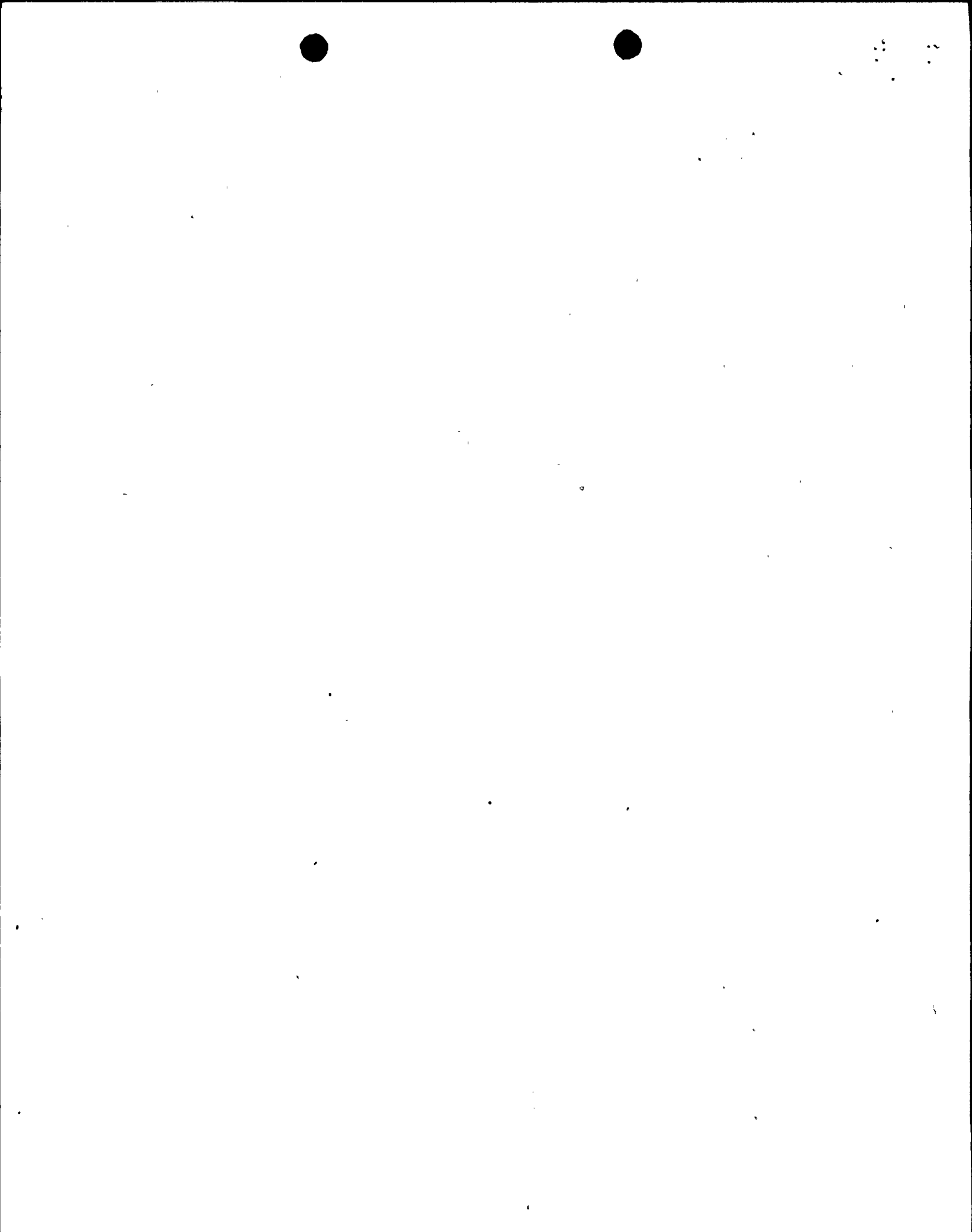
Partial Initial Decision as to quality assurance, and reopen the record to consider the quality assurance and quality control issues. In response to that motion, the Appeal Board on July 16, 1982, certified to the Commission questions concerning the extent of its jurisdiction to consider QA/QC issues at Diablo Canyon. ^{6/}

Thus, the question of the necessity and scope of any further proceedings on the issue of quality assurance at the Diablo Canyon project is before both the Commission and the Appeal Board. In view of the pendency of these matters before the Commission and the Appeal Board, initiation of further proceedings by me would be inappropriate. See Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), CLI-81-6, 13 NRC 443 (1981).

For the reasons set forth above, the Joint Intervenors' request is denied.

A copy of this decision will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulation. As provided in 10 CFR 2.206(c), this decision will constitute the final action of the Commission twenty-five (25) days

^{6/} Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 & 2), ALAB-681, _____ NRC _____ (July 16, 1982).



after the date of issuance, unless the Commission on its own motion institutes the review of this decision within that time.



Harold R. Denton, Director
Office of Nuclear Reactor
Regulation

Dated at Bethesda, Maryland
this 22 day of September 1982.

