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TIMOTHY W. GLIDDEN
 REPUBLICAN COUNSEL

January 11, 1983

The Honorable Nunzio Palladino
 Chairman
 United States Nuclear Regulatory Commission
 Washington, D.C. 20555

Dear Mr. Chairman:

In recent weeks I have received a number of letters from persons residing in the vicinity of the Diablo Canyon reactors. These letters express concern that the NRC will allow fuel loading prior without an adequate overall assessment of the plant's safety.

This mail leads me to believe that there is widespread doubt that the Diablo station complies with the Commission's requirements. In view of the need to establish public confidence in whatever decision the Commission makes with regard to this matter, I think it important that the Commission state its response to concerns of the kind that have been brought to my attention.

Among these concerns are that the Commission has approved a licensing schedule that would permit fuel loading prior to completion by PG&E of its review of the plant's seismic design and prior to implementation of all necessary corrective measures that might result from this review. A second concern is that no provision has been made for considering analyses of the seismic design now being prepared by Brookhaven National Laboratory. A third concern is that fuel loading will be allowed before completion of an adequate review of nonseismic safety-related plant elements. Fourth, there is concern that fuel loading will be permitted before results are received from the ongoing audit of the quality assurance program and the implementation of corrective actions, if any, which might be called for as a result of this program.

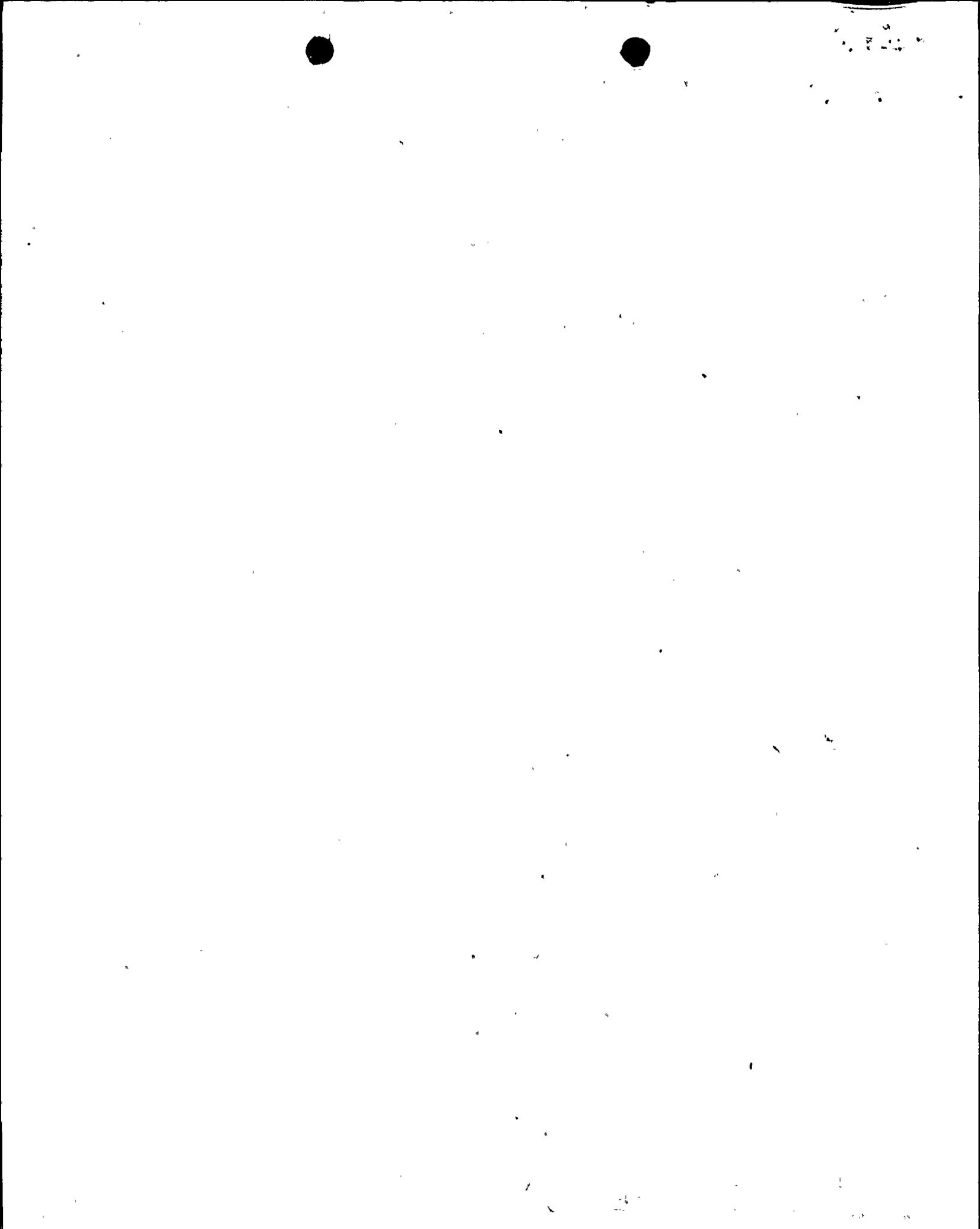
Finally, the intervenors are concerned that fuel loading will be permitted prior to an adequate NRC review of the various seismic and nonseismic safety-related audits, analyses and corrective actions undertaken since late 1981.

Thank you for your assistance.

Sincerely,

M. K. Udall
 MORRIS K. UDALL

8303030355 830217
 PDR COMMS NRCC
 CORRESPONDENCE PDR





CHAIRMAN

UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

February 17, 1983

The Honorable Morris K. Udall, Chairman
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

I am responding to your letter of January 11, 1983 in which you refer to concerns of individuals living in the area near the Diablo Canyon Nuclear Power Station. Your letter raises five specific concerns regarding the requirements which must be satisfied prior to authorization to load fuel. Each of these concerns is addressed in the enclosure.

Let me assure you that under no condition will we authorize the Diablo Canyon facility to begin operation until we have reasonable assurance that the public health and safety is adequately protected. More specifically we will require a high level of confidence that no significant design or construction deficiencies affecting safety at any authorized level of operation exist at the facility before reaching a decision to authorize that level of operation.

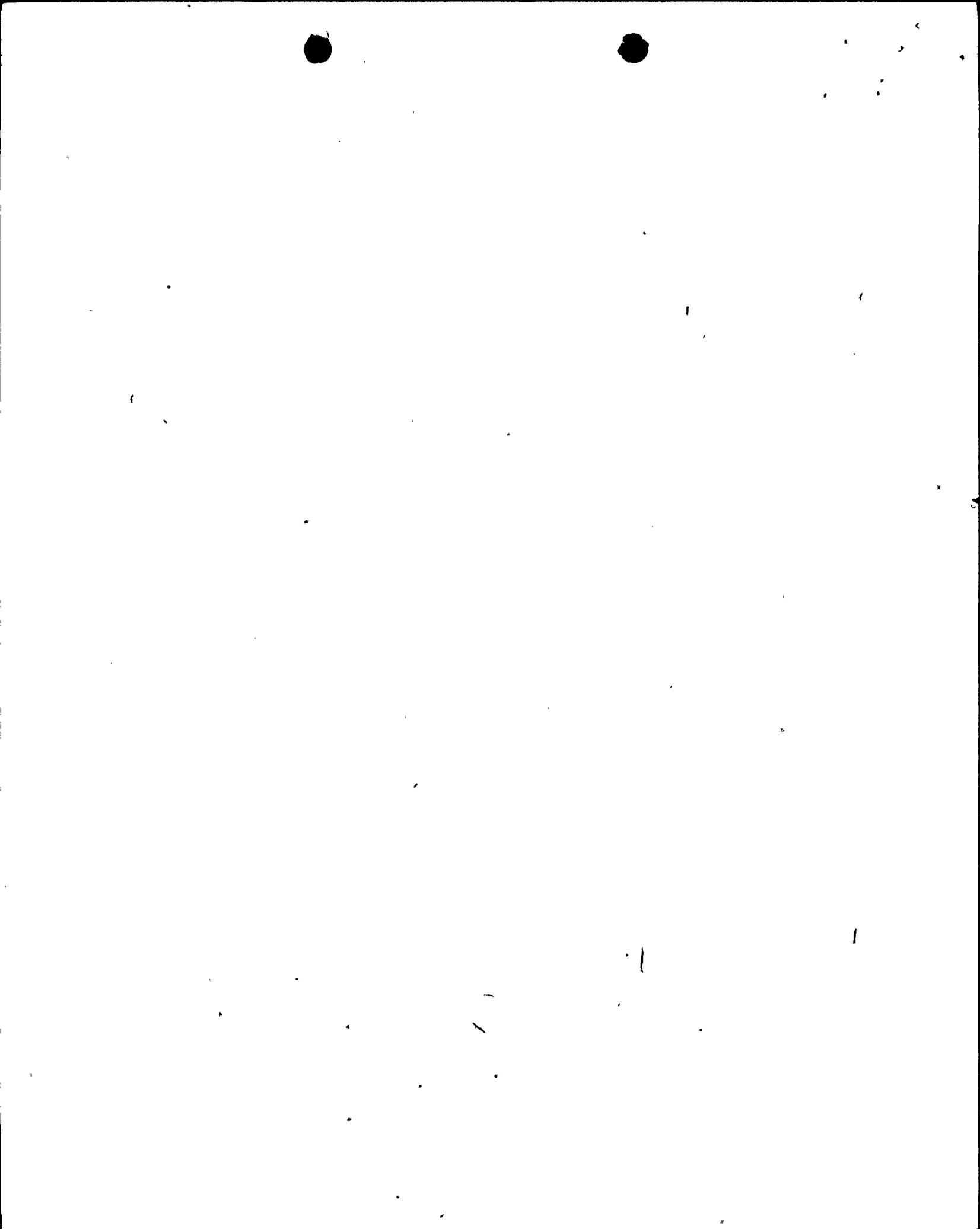
I hope this letter and its enclosure provide information responsive to your concerns.

Sincerely,

Nunzio J. Palladino

Enclosure:
As stated

cc: Manuel Lujan



Enclosure
Response to Five Concerns

The first concern is that "the Commission has approved a licensing schedule that would permit fuel loading prior to completion by PG&E of its review of the plant's seismic design and prior to implementation of all necessary corrective measures that might result from this review." On March 4, 1982 the Commission approved a program plan for Phase I of the Independent Design Verification Program (IDVP). The Phase I activities (described below in our response to the third concern) must be completed prior to reinstatement of the low power license. On December 8, 1982, the Commission approved a plan according to which a decision regarding the low power license reinstatement will take place in two steps. A third step will be the decision regarding issuance of the full power license. Before any decision to permit PG&E to load fuel, all activities prescribed in Step 1 must be completed, and before any decision to permit low power operation (less than 5%), all activities prescribed in Step 2 must be completed. Steps 1, 2, and 3 are listed in the Enclosure of the PG&E submittal of December 2, 1982 (copy attached). While PG&E has proposed specific dates for both steps (March 31, 1983 and May 15, 1983, respectively), we do not consider these dates controlling and will reach decisions only after all necessary review and evaluation has been completed. All modifications to safety-related structures, systems, and components required for any particular mode of operation of the facility must be completed prior to a decision regarding that mode.

The second concern is that "no provision has been made for considering analyses of the seismic design now being prepared by Brookhaven National Laboratory" (BNL). The results of the seismic design analyses that have been ongoing at BNL since late 1981 will be fully taken into consideration in the NRC evaluation and determination regarding the seismic design adequacy of Diablo Canyon Unit 1. The first BNL effort involved the containment annulus structure and selected associated piping systems and was documented in a report. We have requested the IDVP to review this report, consider the results in its own design verification efforts, and provide us with its conclusions. The NRC staff is evaluating the BNL report in parallel and will have the additional benefit of the independent view provided by the IDVP.

In mid 1982 the NRC requested continued participation by BNL to undertake a horizontal seismic analysis of the containment annulus structure, seismic and stress analyses of a buried tank, and additional analyses of piping systems. The purpose of the BNL analyses is to provide the NRC with additional insight as to the character of results obtainable by use of current state-of-the-art analytical techniques without regard to methods or procedures previously approved in the licensing process for Diablo Canyon. These analyses are therefore not intended as a substitute for the design and evaluation efforts now underway nor are they a substitute for the analytical effort being performed by the IDVP. Our experience has been, however, that such analyses often provide insights to assist in our review. The BNL analyses will be sufficiently completed and taken into consideration prior to any decision regarding restoration of the license.



The third concern is that "fuel loading will be allowed before completion of an adequate review of non-seismic safety-related plant elements." The Commission Order of November 19, 1981 (copy attached), which suspended the low power license, sets forth the requirements that must be completed prior to reinstatement of the license. These requirements relate to seismic analyses and design activities performed prior to June 1978 by PG&E and its contractors (i.e., service-related activities) and to the implementation of the quality assurance program for those efforts. The activities associated with the Commission Order have become known as Phase I of the independent design verification effort and, as discussed above, will be completed in two steps. In addition, the NRC Office of Nuclear Reactor Regulation required PG&E in a letter, also dated November 19, 1981, to initiate an independent design verification effort of safety-related structures, systems and components with respect to seismic analyses and design activities performed after 1978 and with respect to non-seismic analyses and design efforts performed by PG&E and its contractors. These efforts have become known as Phase II of the design verification program. By the Commission's approval of the program plan on December 8, 1982, the utility is required to submit a status report on all Phase II activities prior to any decision regarding restoration of the license. Such work must be sufficiently complete to ensure that all major deficiencies were detected.

The design verification efforts for Phase I and Phase II are well underway. The activities that we require now to be completed prior to a fuel load decision exceed those originally specified in our Order. We have expanded the program to include the following additional IDVP activities: (1) audit of the implementation of the Diablo Canyon Project quality assurance program (2) audit of a sample of quality assurance program implementation of construction activities, (3) review of the PG&E/Westinghouse design interface, and (4) verification of the appropriate Hosgri and non-Hosgri spectra.

As explained above, at the time of authorization for fuel loading all efforts required for reinstatement of the license will be completed except for modifications to those structures, systems and components that are not required for Step 1, in order to protect the public health and safety. In addition, the Phase II activities (i.e., non-seismic, safety-related analysis and design) of PG&E and the IDVP will have proceeded to an extent that will allow us to reach a conclusion with respect to any additional design verification that might be required. At this time the IDVP has completed its review of those structures, systems and components that comprise the initial sample to be verified under Phase II. Prior to fuel loading, PG&E and the IDVP will both submit to the NRC a report on the status of their respective Phase II activities. Again, we will require a high degree of assurance, at the time of a decision regarding fuel loading, that any further design verification efforts in the seismic and non-seismic area will not reveal any major deficiency in Diablo Canyon Unit 1.

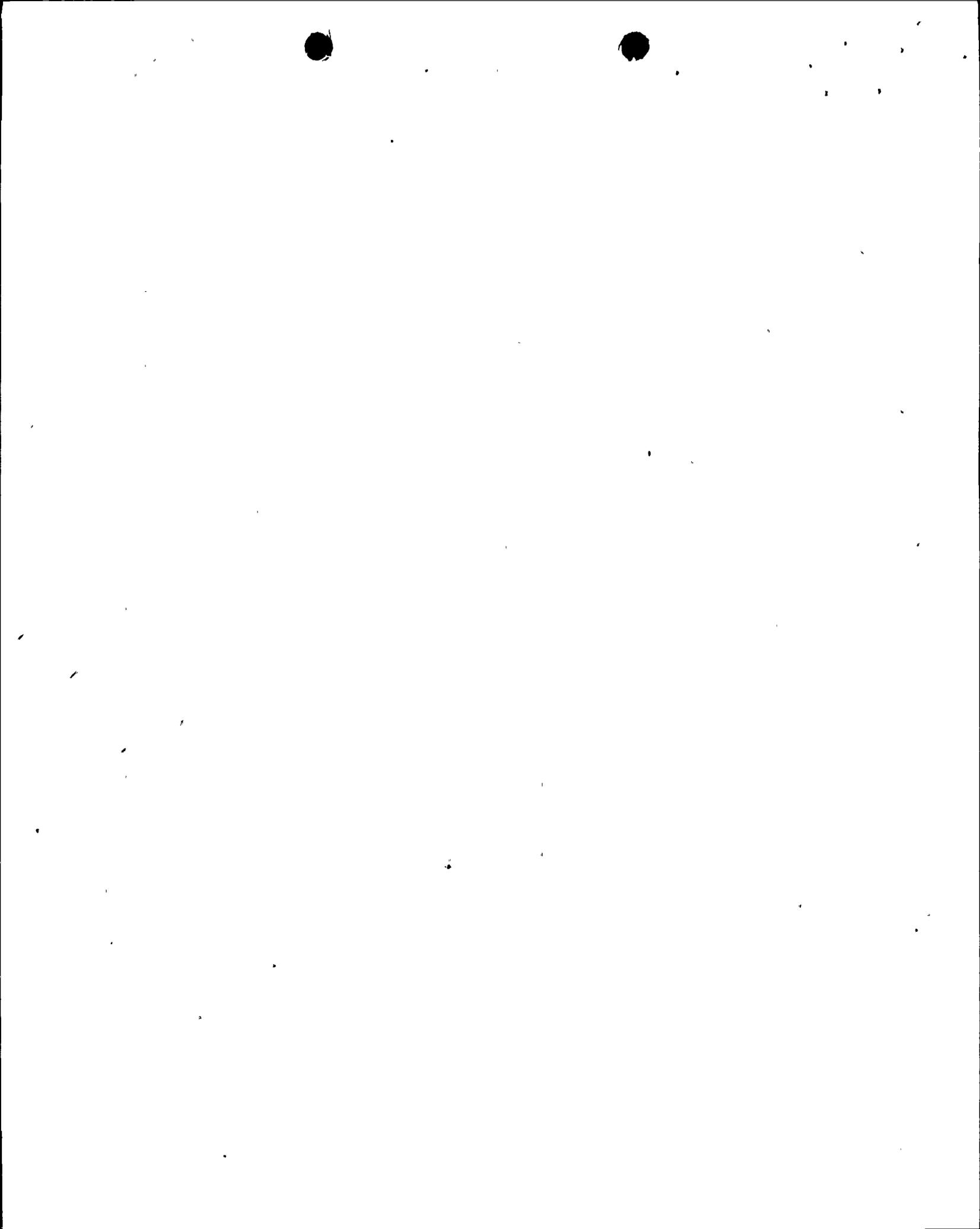


The fourth concern is that "fuel loading will be permitted before results are received from the ongoing audit of the quality assurance program and the implementation of corrective actions, if any, which might be called for as a result of this program." As stated above in response to the first and third concern, an audit of the quality assurance (QA) programs and their implementation by PG&E and its contractors is required as part of the Phase I and Phase II activities. These audits have been completed by the IDVP; interim technical reports have been issued and are currently undergoing NRC review. In addition, the design verification effort has been expanded to include an audit of QA activities regarding the construction of Diablo Canyon Unit 1. This activity is ongoing and a status report will be provided to the NRC as part of the Step 1 requirements. Other audits of QA programs and their implementation include an IDVP QA audit of ongoing PG&E activities, a PG&E internal QA audit of its contractors, and a PG&E QA audit of its own ongoing activities. In addition, the NRC Region V Office has routinely inspected ongoing design verification activities, including the implementation of appropriate QA programs. Most of the above QA audits will be completed prior to fuel loading and reports will be provided to the NRC. We will require that all necessary corrective actions be implemented before fuel load authorization.

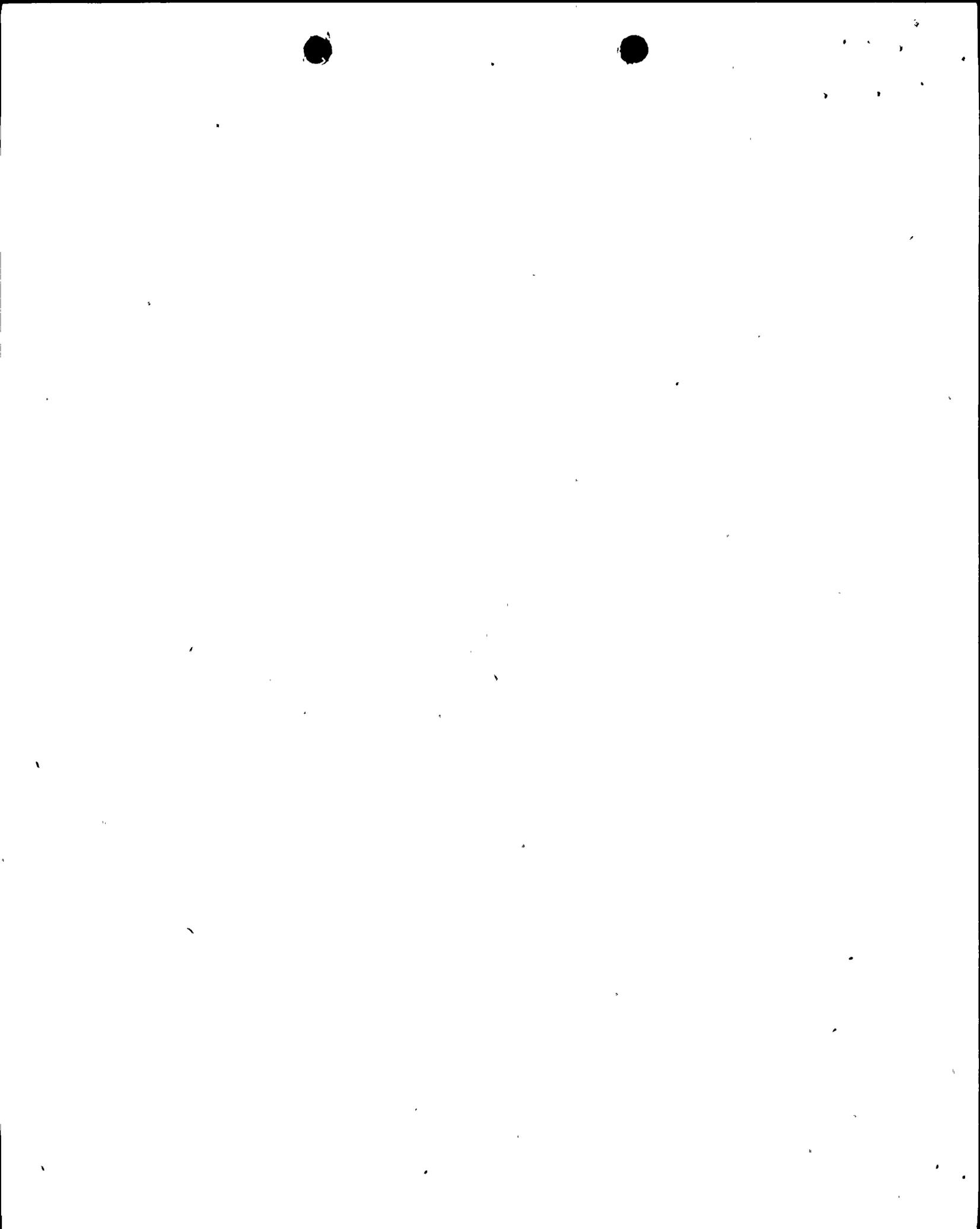
The fifth concern is that "fuel loading will be permitted prior to an adequate NRC review of the various seismic and non-seismic safety-related audits, analyses and corrective actions undertaken since late 1981." The NRC Order of November 19, 1981, clearly sets forth the requirements that must be met and procedures that are to be followed for the authorization of fuel loading. In Section 5 of Attachment 1, the Order states:

"Prior to authorization to proceed with fuel loading the NRC shall be satisfied with the results of the seismic design verification program referred to in paragraph 1, and with any plant modification resulting from that program that may be necessary prior to fuel loading. The NRC may impose additional requirements prior to fuel loading necessary to protect health and safety based upon its review of the program or any of the information provided by PG&E pursuant to paragraph 4. This may include some or all of the requirements specified in the letter to PG&E, dated November 19, 1981."

Our approval of the two-step process for a decision regarding reinstatement of the license does not permit any deviation from these requirements. As stated earlier, the approval is limited to the concept of two steps for decisions regarding reinstatement of the license, but is in no way restricted to the target schedule proposed by PG&E. At this time, PG&E and the IDVP are providing us with much information in the form of semi-monthly reports, interim technical reports, and sections of their final reports



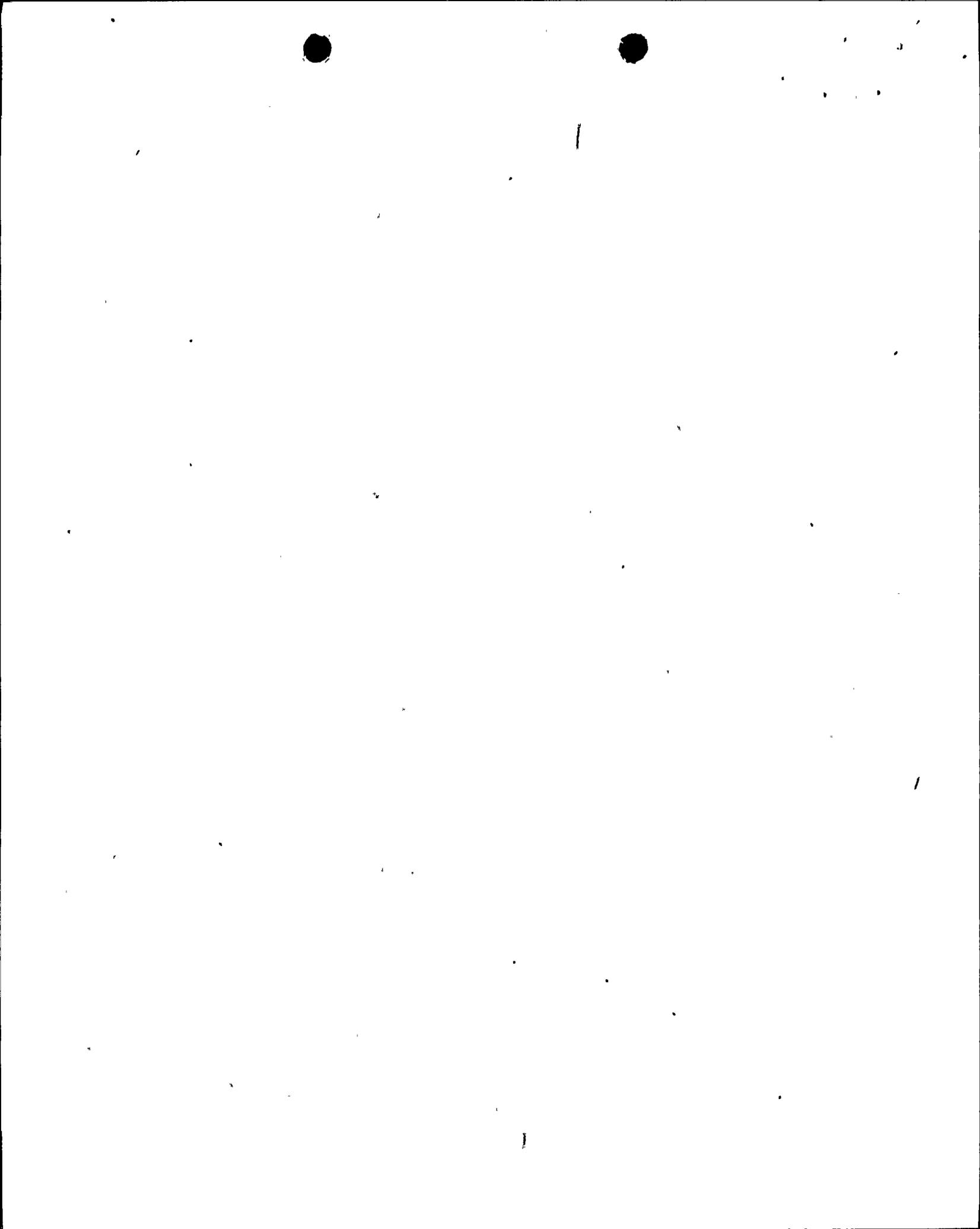
on the various facets of the design verification efforts in Phase I and Phase II. Although we intend to give substantial weight in our decision to the findings, conclusions, and recommendations of Teledyne Engineering Services as the manager of the IDVP, under no condition will we consider the IDVP to take the place of the necessary and adequate NRC review. We will not be restricted in our own review efforts by the specific schedule proposed but will take the time necessary to assure ourselves and the public that there are no deficiencies that would prevent safety-related structures, systems and components from performing their intended safety functions.



ESTIMATED SCHEDULE FOR COMPLETION OF ACTIVITIES REQUIRED
FOR FUEL LOADING, LOW POWER TESTING, AND FULL POWER OPERATION

12/02/82

	<u>ACTIVITY</u>	<u>SCHEDULED COMPLETION DATE</u>	<u>REMARKS</u>
<u>Step I</u> Requirements for Restoration of the Low Power License	1. Project Reports submitted:		
	A. Final Report for Phase I	02/15/83	
	B. Status Report for Phase II	02/15/83	
	C. Supplement for As-builts	03/15/83	
	2. IDVP reports submitted:		(See Note 1)
	A. Status Report for Phase I	03/01/83	
	B. Status Report for Phase II	03/01/83	(See Note 2)
	C. Status Report for ITP QA Program	03/01/83	
	D. Status Report for Construction QA	03/01/83	
	E. Status Report for Non-Hosgrl spectra	03/01/83	
F. Final Report for PG&E/M Interface	03/01/83		
G. Final Report for Hosgrl spectra	03/01/83		
H. Supplement for As-built verification	03/15/83	For fuel load items (Modes 5 & 6) (See Note 3)	
3. NRC Decision for Restoration of the Low Power License	03/31/83		
<u>Step II</u> Requirements for Initial Criticality and Low Power Testing	1. Project Reports submitted:		
	A. Final Phase I Report supplement	04/01/83	
	B. Supplement for As-builts	04/30/83	
	2. IDVP reports submitted:		
	A. Final Report for Phase I,	04/15/83	
	B. Status Report for Phase II	04/15/83	
	C. Supplement for As-built verification	04/30/83	For low power items (Modes 2,3,4,5 & 6) (See Note 4)
3. NRC Decision for Initial Criticality and Low Power Testing	05/15/83		
<u>Step III</u> Requirements for Issuance of a Full Power License	1. Project Reports submitted		
	A. Phase II Report	05/15/83	
	B. Supplement for As-built	06/15/83	
	2. IDVP reports submitted:		
	A. Final Report for Phase II	06/01/83	
	B. Final Report for ITP QA	06/01/83	
	C. Final Report for Construction QA	06/01/83	
	D. Final Report for Non-Hosgrl spectra	06/01/83	
	E. Supplement for As-built Verification	06/15/83	For full power items (Modes 1-6)
	3. NRC Decision for Issuance of a Full Power License	06/30/83	

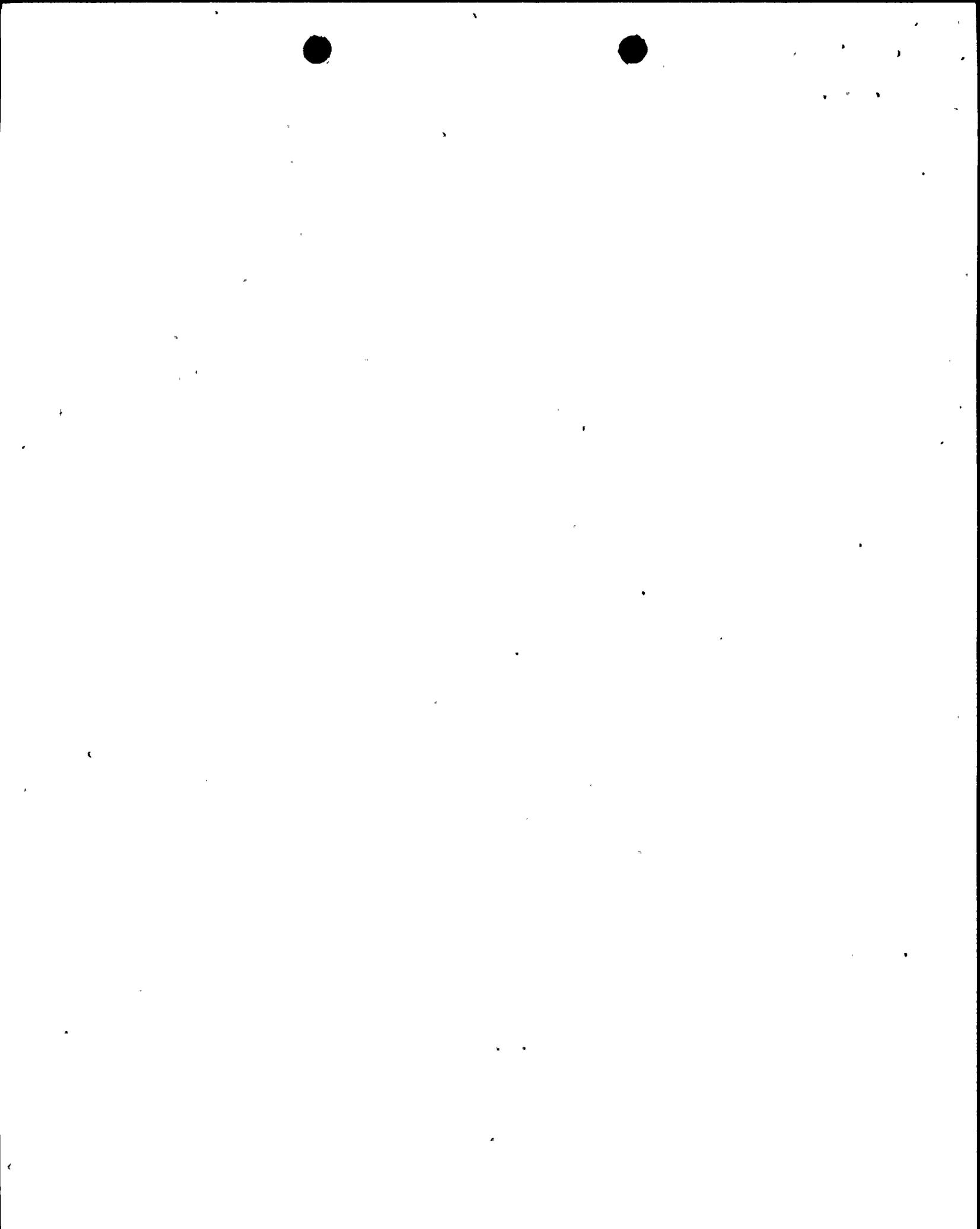


NOTES

- NOTE 1 - IDYP reports may be started approximately mid December, 1982, with further project input in mid January and February. It is anticipated that the reports can be completed within two weeks of receipt of the last project input. The IDYP is in continual contact with the project throughout this period.
- NOTE 2 - Phase II status report will address that Phase II activities are sufficiently complete to provide reasonable assurance that no major deficiencies remain undetected.
- NOTE 3 - Items to be completed after fuel loading:
- o Civil structural final confirmatory load review (supported loads). Primarily Annulus and Class I platforms.
 - o Fuel handling building modifications (Unit 1 only).
 - o Turbine building modification design and construction.
- NOTE 4 - Items to be completed after RCS heatup and low power testing:
- o Turbine building modification design and construction.

Note

This attachment was enclosed in the PG&E submittal of December 2, 1982. It lists the activities of Phase I, Phase II and other efforts that must be completed at the two steps for reinstatement of the low power license and at the issuance of a full power license.



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

81 NOV 19 P6:06

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SECRETARY
OF RECORDS & SERVICE
BRANCH

COMMISSIONERS:

Nunzio J. Palladino, Chairman
Victor Gilinsky
Peter A. Bradford
John F. Ahearne
Thomas M. Roberts

SERVED NOV 20 1981

In the Matter of)

PACIFIC GAS AND ELECTRIC COMPANY)

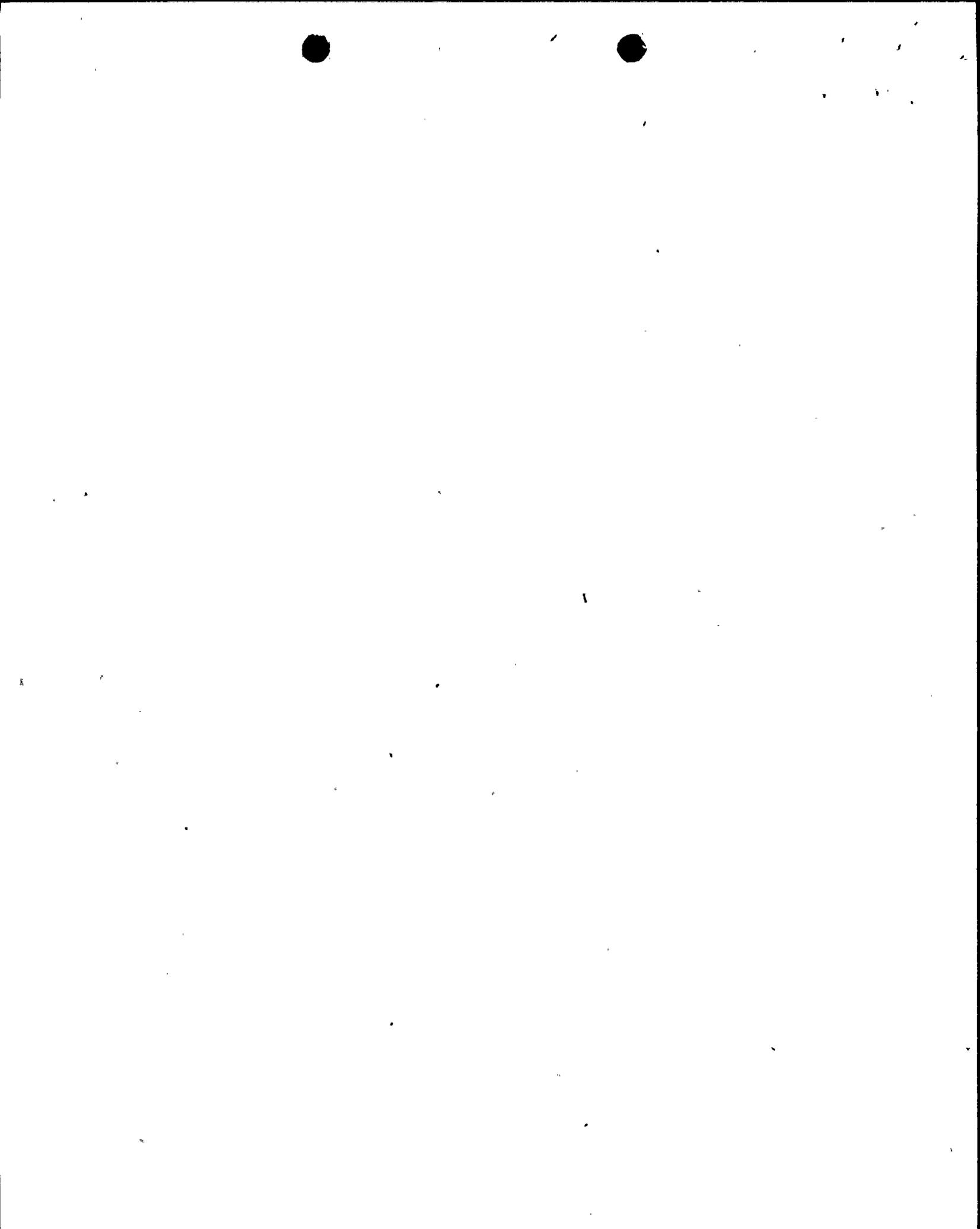
(Diablo Canyon Nuclear)
Power Plant, Unit 1))

Docket No. 50-275 OL

ORDER SUSPENDING LICENSE

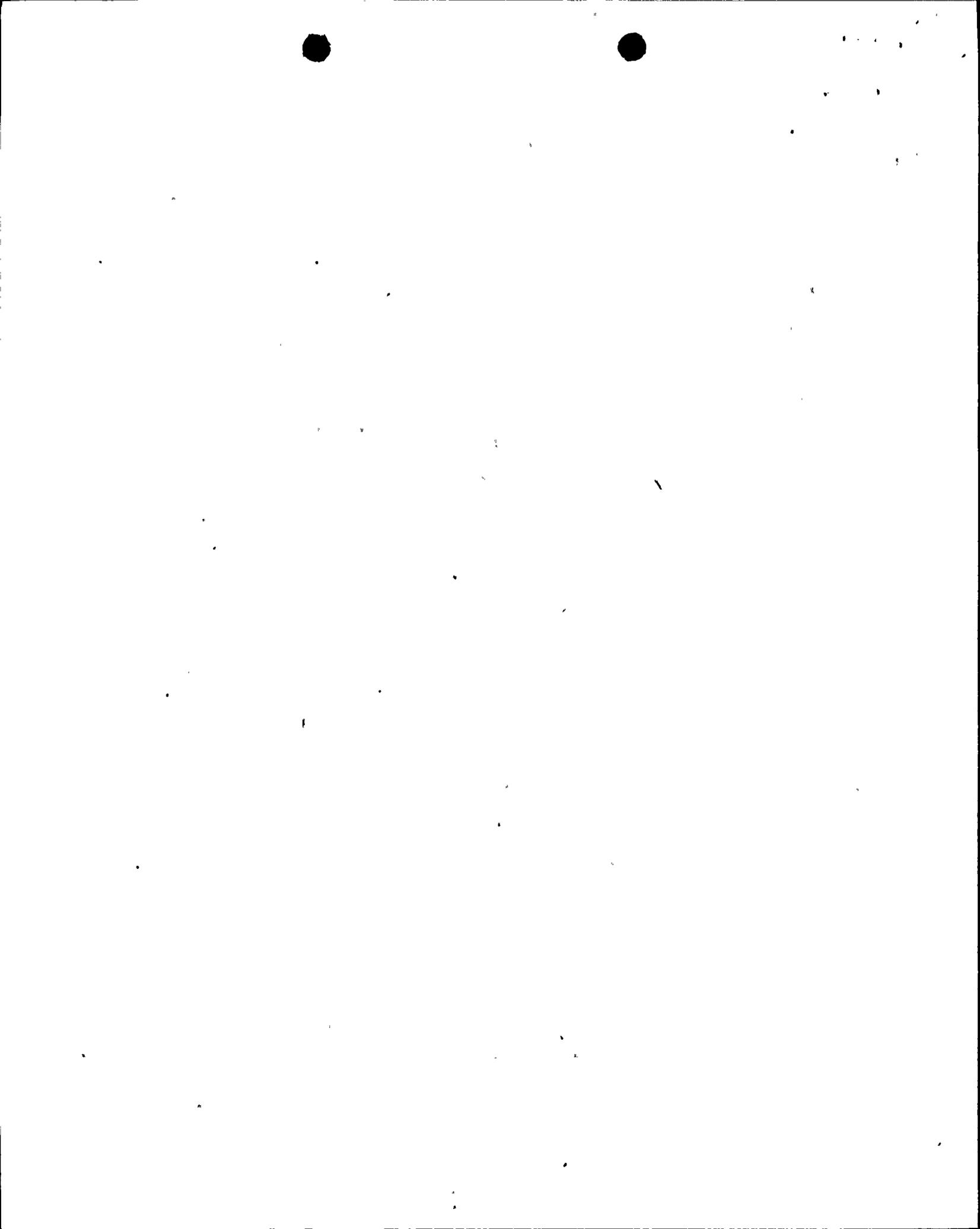
CLI-81-30

1. On September 21, 1981, the Nuclear Regulatory Commission ("Commission" or "NRC") authorized the NRC staff to issue a license to Pacific Gas and Electric Company ("PG&E") for fuel loading and the conduct of tests at up to 5% of rated power at the Diablo Canyon Nuclear Power Plant Unit 1, CLI-81-22, 14 NRC _____. On September 22, 1981, the NRC staff issued such a license. License No. DPR-76. In taking these actions the Commission found that it was in the public interest to allow effectiveness, and the NRC staff found that the applicant was in compliance with NRC regulations and construction permit requirements relevant to the licensed activity.



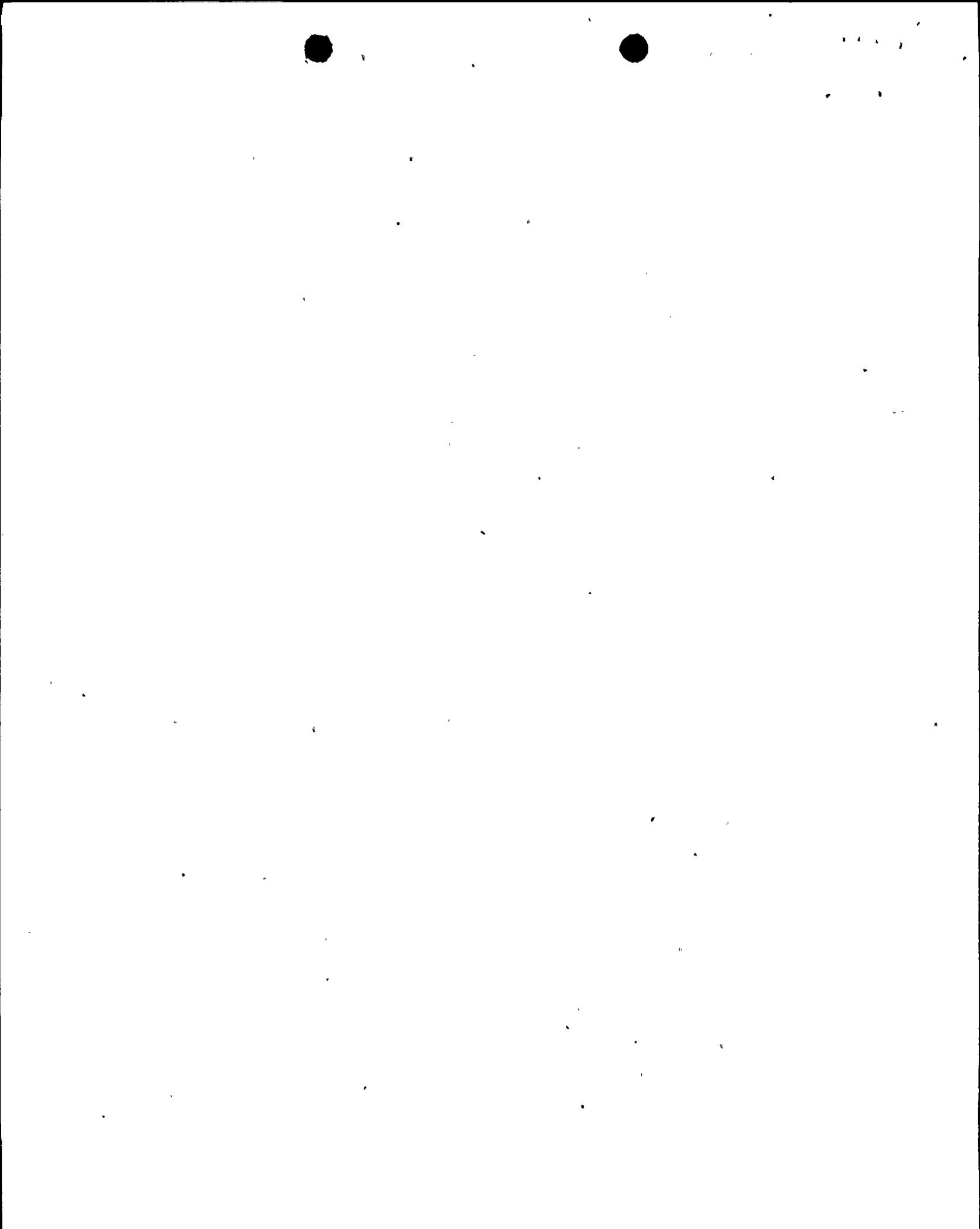
2. In late September 1981, in the course of responding to a special NRC request for information, an error in the seismic design of equipment and piping in the containment annulus of Diablo Canyon Unit 1 was detected by PG&E and reported to the NRC. PG&E committed to postpone loading of fuel until the matter was resolved satisfactorily and initiated a reanalysis of portions of the seismic design of the facility. As a result, a number of different additional errors were found. Based upon information supplied by PG&E, and recent NRC staff inspections conducted at the offices of PG&E and URS/John A. Blume and Associates ("Blume") in San Francisco, Report Nos. 59-275/81-29 and 50-323/81-18, the NRC staff identified serious weaknesses in PG&E's quality assurance program. More specifically:

- a. the PG&E quality assurance program did not appear to effectively exercise control over the review and approval of design information passed to and received from Blume,
- b. the PG&E quality assurance program did not appear to adequately control the distribution of design information from Blume within affected internal PG&E design groups, and
- c. the PG&E quality assurance program did not appear to define and implement adequate quality assurance procedures and controls over other service-related contracts.



statements made in PG&E's operating license application, certain structures, systems, and components important to safety at the plant may not be properly designed to withstand the effects of earthquakes, and further indicates that violations of NRC's regulations in 10 CFR Part 50, Appendix B have occurred. Had this information been known to the Commission on or prior to September 22, 1981, Facility License No. DPR-76 would not have been issued until the questions raised had been resolved.

4. Accordingly, the Commission suspends PG&E's license to load fuel and conduct tests at up to 5% of rated power pending satisfactory completion of the actions specified in attachment 1 to this Order. In furtherance of this, PG&E is hereby ordered to show cause pursuant to 10 CFR 2.202 and 50.100, why Facility License No. DPR-76 should not be suspended pending satisfactory completion of the actions specified in attachment 1, insofar as it authorizes fuel loading and other operation of Diablo Canyon Nuclear Power Plant Unit 1.- Further, the Commission finds pursuant to 10 CFR 2.202(f) that, because it is now uncertain as to the extent which structures, systems, and components important to safety of fuel loading and testing at up to 5% of rated power will in fact withstand the effects of earthquakes, and because of the seriousness of the violations, the public health, safety and interest require that this Order be



immediately effective. Within 20 days of the date of this Order, PG&E may file a written answer to the Order under oath or affirmation and may demand a hearing. The issues to be addressed in any answer or hearing shall be whether the matters specified in paragraphs 2 and 3 are true and whether, as a consequence, the license should have been suspended as provided in this paragraph.

A separate statement by Commissioner Roberts is attached.

It is so ORDERED.

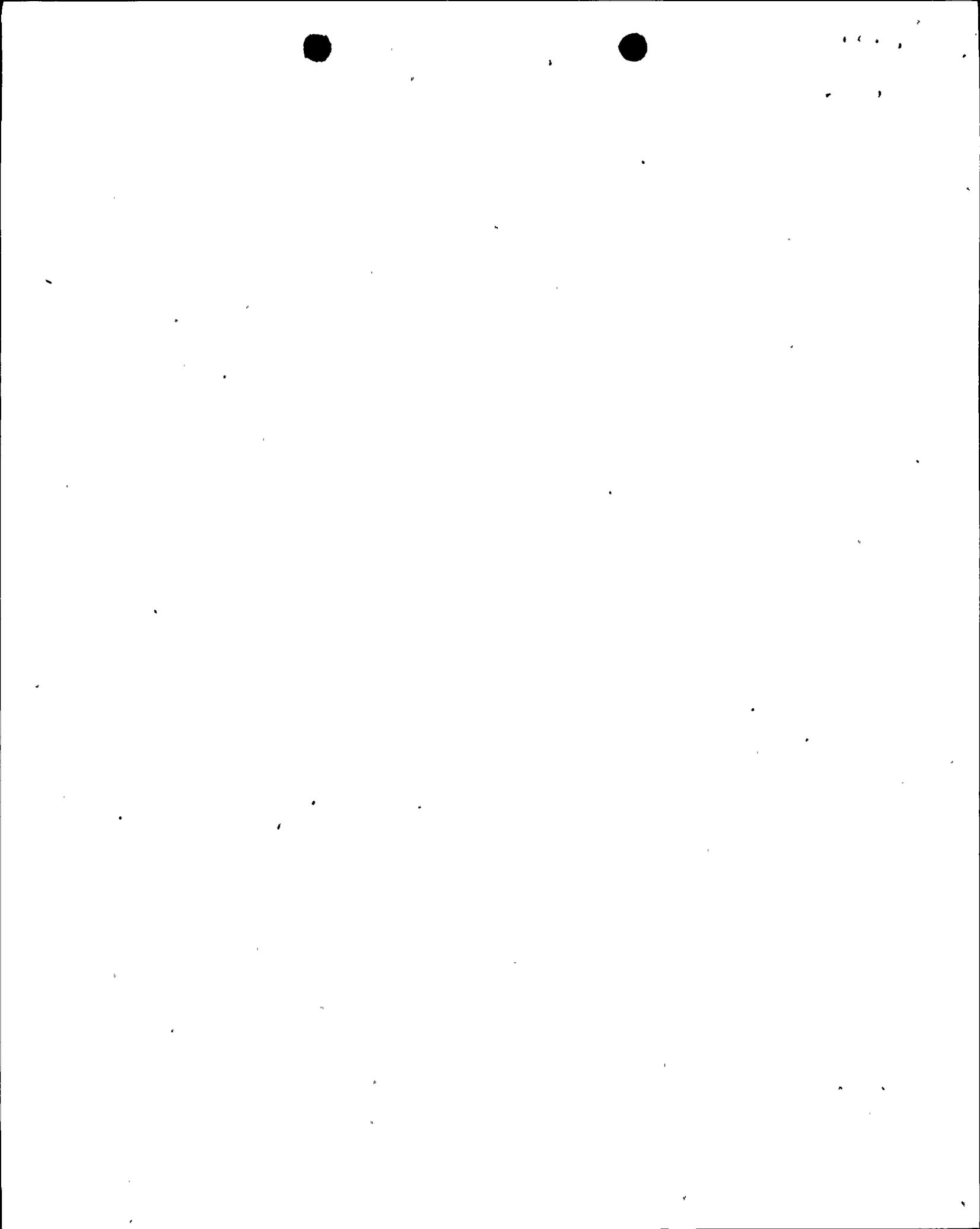


For the Commission



SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.,
this 19th day of November, 1981.



1. Provide the following information for NRC review:

For All Seismic Service-Related
Contracts Prior to June 1978

- (a) The results of an independent design verification program on all safety-related activities performed prior to June 1, 1978 under all seismic-related service contracts utilized in the design process for safety-related structures, systems and components.

Information concerning this program should address quality assurance procedures, controls and practices concerning the development, accuracy, transmittal, and use of all safety-related information both within PG&E and within each contractor's organization, as well as the transmittal of information between PG&E and each contractor. It should also include performance of a suitable number of sample calculations related to each contract to verify the adequacy and accuracy of the design process for affected safety-related structures, systems and components. The information to be provided concerning this design



Verification program should be based on and include the following program elements.

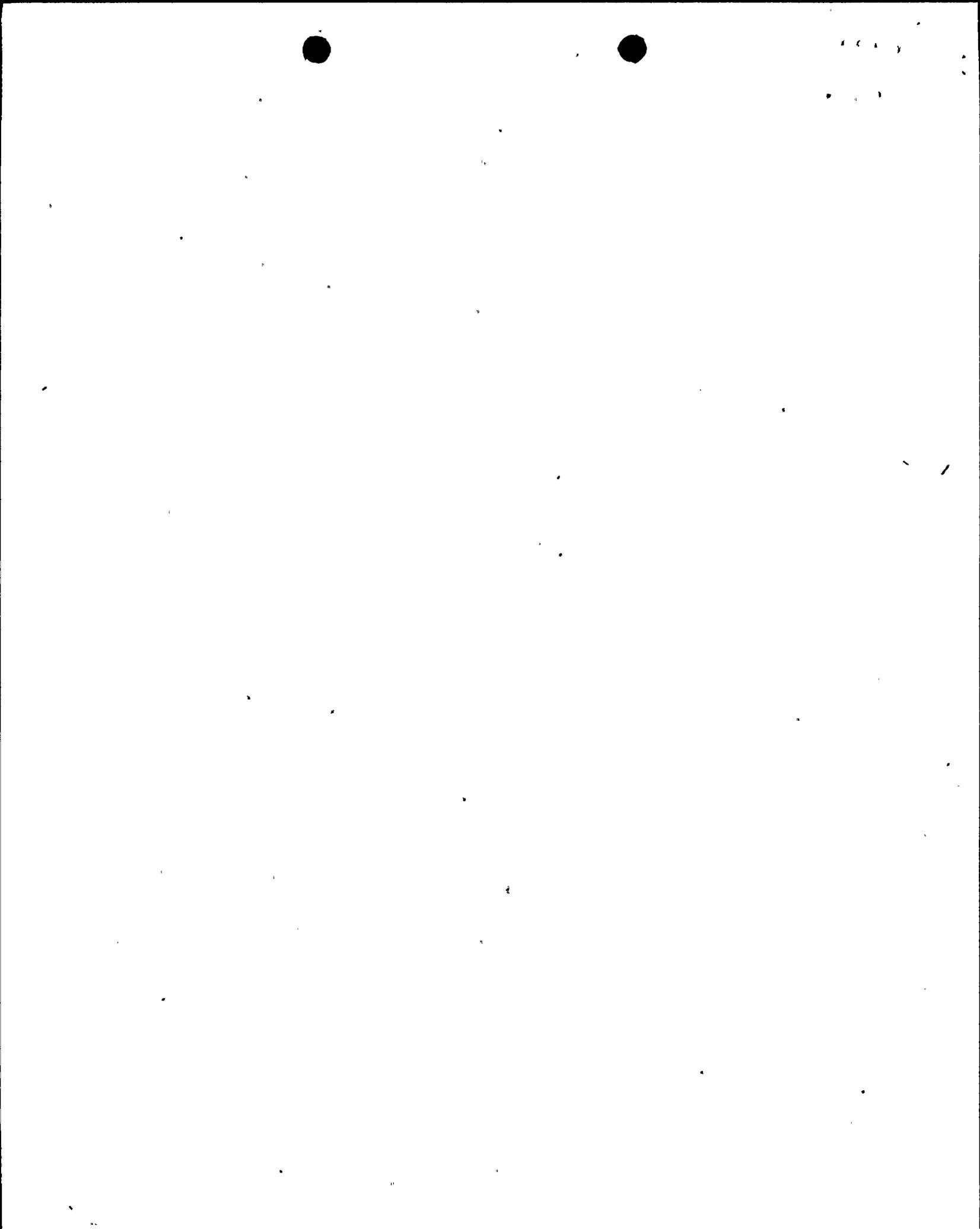
- (1). A review of all quality assurance procedures and controls used by each pre-June 1978 seismic service related service contractor and by PG&E with regard to that contract; a comparison of these procedures and controls with the related criteria of Appendix B to 10 CFR 50; and an identification of any deficiencies or weaknesses in the quality assurance procedures and in controls of the contractor and PG&E.
- (2). Development of a network for the design chain for all safety-related structures, systems, and components involved. This should include all interfaces where design information was transmitted between PG&E internal design groups and each contractor.
- (3). A review of the implementation of quality assurance procedures and controls used by and for:



- PG&E internal design groups,
- each contractor internal design group(s),
- transmittal of information between PG&E and each contractor,
- transmittal of contractor developed information within PG&E; and identification of any deficiencies or weaknesses in the implementation of quality assurance procedures and controls by each contractor and by PG&E.

(4). Development of criteria for the conduct of this design verification program should consider the relevant guidelines contained in ANSI N45.2.11, Section 6.3.1.

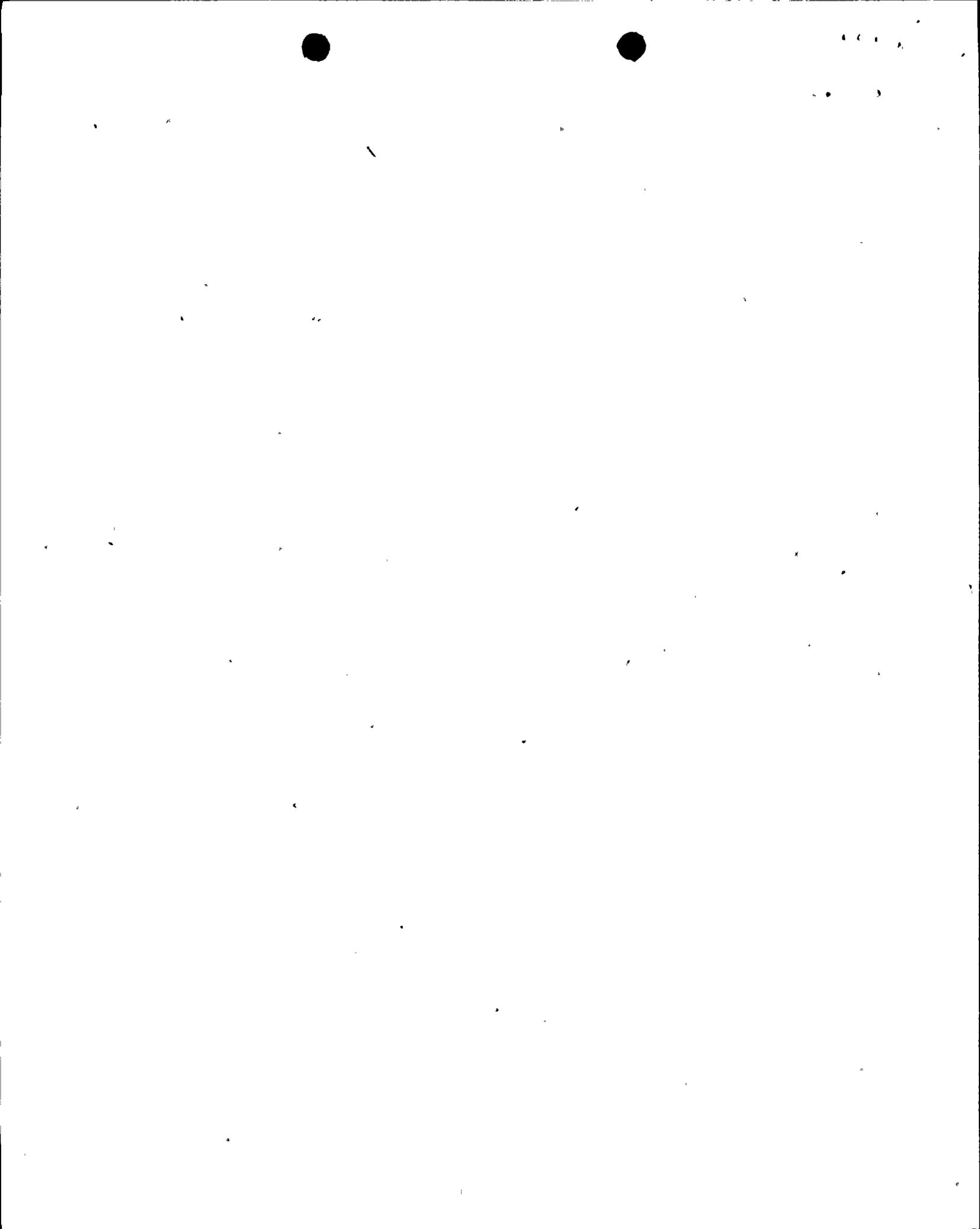
(5). Development of criteria for selection of a suitable number and type of sample calculations related to the design of safety-related structures, systems and components involved. The purpose of these sample calculations should be to



verify the design process, particularly

in the areas of any identified contractor or PG&E quality assurance weaknesses or deficiencies as determined from the procedure and implementation reviews discussed in steps 1 through 3 above. Criteria for expanding the sample size when problems in verification are encountered should also be developed.

- (b) A technical report that fully assesses the basic cause of all design errors identified by this program, the significance of design errors found, and their impact on facility design.
- (c) PG&E's conclusions on the effectiveness of this design verification program in assuring the adequacy of facility design.
- (d) A schedule for completing any modifications to the facility that are required as a result of this program. For modifications that you propose not completing prior to fuel load, the bases for proceeding should be provided.



2. The following information shall be provided for NRC review and approval. NRC will make its decision on these proposed companies after providing the Governor of California and Joint Intervenors in the pending operating license proceeding 15 days for comment.

Qualifications of Companies Proposed
To Conduct Independent Reviews.

A description and discussion of the corporate qualifications of the company or companies that PG&E would propose to carry out the independent design verification program discussed in 1 above, including information that demonstrates the independence of these companies.

3. As soon as practicable following NRC approval of the company or companies to conduct the independent design verification program, the following information shall be provided for NRC review and approval. NRC will make its decision on the acceptability of the program plan after providing the Governor of California and Joint Intervenors in the pending operating license proceeding 15 days for comment.

Program Plan For The Design Verification Programs

A detailed program plan for conducting the design verification programs discussed in 1 above. The



information provided should include the bases for the criteria proposed to be used for selection of a suitable number and type of sample calculations to be performed under these programs and the bases for the criteria proposed to be used for expanding the sample size based upon the results of the initial samples.

4. Status Reports

Starting on Friday, November 27, 1981, and continuing while the suspension is in effect, a semi-monthly status report on the second and fourth Friday of each month, on all of the ongoing reanalyses efforts and design verification programs being conducted by and for PG&E, including but not limited to the program referred to in paragraph 1, should be submitted to the Regional Administrator, Region V and the Director, Office of Nuclear Reactor Regulation.

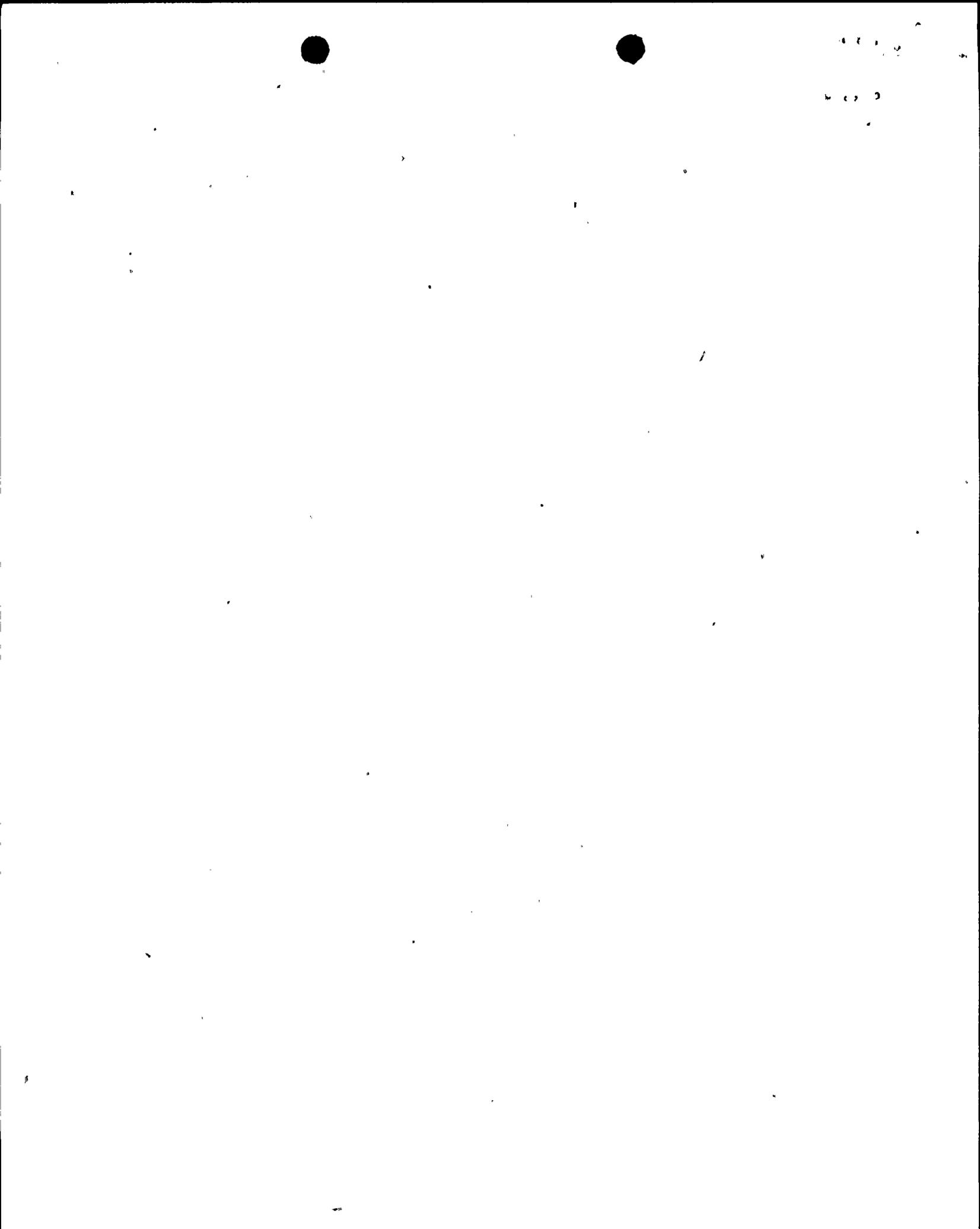
5. NRC Review

Prior to authorization to proceed with fuel loading, the NRC shall be satisfied with the results of the seismic design verification program referred to in paragraph 1, and with any plant modification resulting from that program that may be necessary prior to fuel loading. The NRC may impose additional requirements prior to fuel loading necessary to protect health and safety based upon its review of the program or any of



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the information provided by PG&E pursuant to
paragraph 4. This may include some or all of the
requirements specified in the letter to PG&E, dated
November 19, 1981.



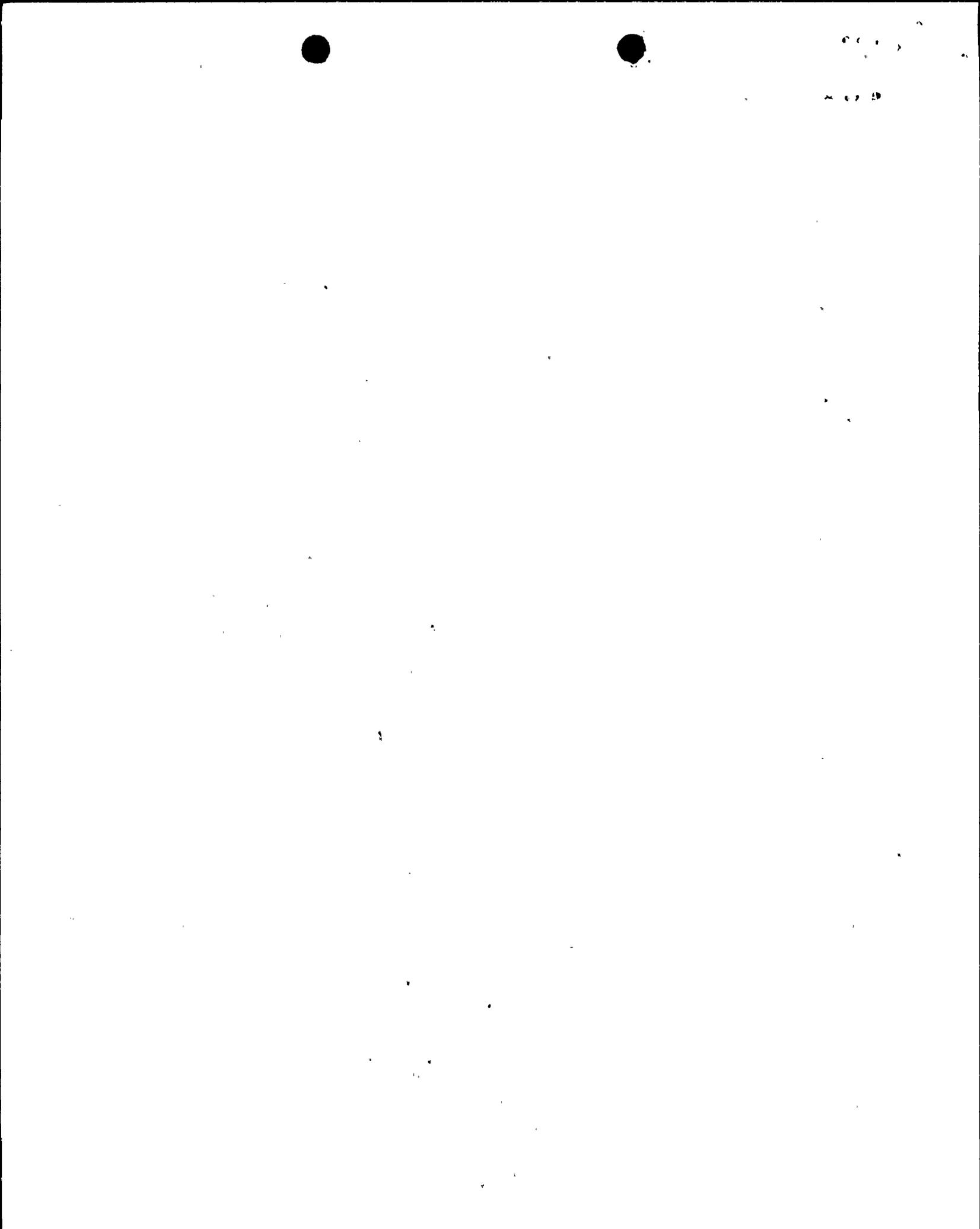
November 19, 1981

SEPARATE DISSENTING OPINION OF COMMISSIONER ROBERTS

I agree with the reverification program imposed on PG&E in this Order. I disagree, however, with two aspects of the action taken by the majority of the Commission today. First, I believe that suspension of the Diablo Canyon fuel load and low power license, without the opportunity for a prior hearing and the opportunity to cure provided by the Atomic Energy Act, the Administrative Procedures Act, and the Commission's regulations, is unwarranted in light of the minimal threat to the public health and safety that exists at this time and in light of the Commission's duty to exercise its emergency remedial powers responsibly. Second, I believe that the procedures outlined in this Order calling for the comments of adversary parties to the operating license proceeding on (1) the companies proposed by PG&E to undertake the reverification program and (2) the scope and acceptability of the proposed reverification program evidence an abnegation of the Commission's responsibility to use its technical expertise to assess independently and impartially any errors that may have occurred at the facility.

While there is no question that the Commission may suspend a license for false statements in the license application or for a violation of the Commission's regulations, the Commission has, in the past, held itself to a standard of exercising its emergency powers carefully and with due regard for taking action commensurate with the magnitude of the risk posed to the public health and safety. This is so because emergency actions "can radically and summarily affect the rights and interests of others, including licensees and those who depend on their activities." Licensees Authorized to Possess or Transport Strategic Quantities of Special Nuclear Material, CLI-77-3, 5 NRC 16, 20 (1977). Thus, in the past, "the Commission has said that if risks to the public are identified, the Commission must determine their magnitude and take appropriate remedial action." Petition for Emergency and Remedial Action, CLI-78-6, 7 NRC 400, 405 (1978) (emphasis added). Violation of a regulation does not, by itself, result in a requirement that a license be suspended. Id.

A wide range of remedial actions are available to the Commission. In this case, the Commission could have continued to rely on PG&E's written commitment not to take actions authorized by its license until PG&E had completed to the Staff's satisfaction the program required by



the Staff.^{1/} Alternatively, the Commission could have inserted a technical specification^{2/} or a license condition into the license to prevent fuel load. Finally, the Commission could have provided PG&E an opportunity for a prior hearing and an opportunity to cure before deciding whether to suspend the license.

In order to illustrate the severe and precipitous nature of the Commission's decision to suspend, it is important to note some of the facts before the Commission but omitted from the majority opinion. An underpinning of the Commission's September 21 Order authorizing issuance of the fuel load and low power license is the low risk that would be entailed by activities under this license. At present, fuel has not yet been loaded into the Diablo Canyon Unit 1 core and PG&E has committed in writing not to commence fuel load until it has received the concurrence of the Commission's Staff. Additionally, the Commission has two resident inspectors assigned to the site to monitor PG&E's activities. As the fuel intended for Unit 1 has not been loaded into the core and as assurance exists that it will not be loaded until satisfactory resolution of the present issues, minimal risk to the public exists at the present time.

1/ It is not the Commission's experience that licensees have taken action contrary to a written commitment such as that involved here. This is due, in part, to the Commission's extensive power to take summary action if a licensee rescinds its commitment. To illustrate this, I note that the Commission recently filed a motion opposing a request for an injunction of the Diablo Canyon low-power license in Jaffer v. Brown, No. 81-5878 (9th Cir., filed November 4, 1981) which stated: "The discovery of a series of errors in portions of the engineering analysis has forced deferral of the implementation of the low-power license by Pacific Gas and Electric. No action under the license will be undertaken until problems at the facility are resolved to the NRC's satisfaction." Thus, as a practical matter, the Commission's reliance on PG&E's written commitment is not unreasonable and the Commission has so stated in court as recently as November 10.

2/ To the extent that the Commission needs to take any legal action, it is important to note that under the present technical specifications and license, the risk to the public is minimal because PG&E can load fuel but cannot change the plant status to above a cold shutdown condition (Mode 5). This is because of Section 1.19 of the Diablo Canyon Unit 1 Technical Specifications which provides the following definition of OPERABLE-OPERABILITY:

A system, subsystem, train, component or device shall be OPERABLE or have OPERABILITY when it is capable of performing its specified function(s) and when all necessary attendant instrumentation, controls, electric power, cooling and seal water, lubrication or other auxiliary equipment that are required for the system, subsystem, train, component or device to perform its function(s) are also capable of performing their related support function(s). (footnote continued)



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With regard to my second point of disagreement, the Commission has decided to request the comments of adversary parties to the operating license proceeding on (1) the companies proposed by PG&E to implement the reverification program and (2) the scope and acceptability of the reverification program. The Commission is under a duty as an independent regulatory agency to identify any errors which may have been made, to assess what risk, if any, to the public health and safety exists, and to determine what measures need to be taken so that the Commission has reasonable assurance that the public health and safety is protected. Incorporation of adversary parties into this reverification process is an abnegation of the Commission's responsibility to fulfill its duties independently and impartially.

2/ (continued)

In view of the above definition and references to it throughout the Limiting Conditions For Operation in the Unit 1 Diablo Canyon Technical Specifications, the licensee is legally precluded from entering into operational modes above cold shutdown (Modes 1, 2, 3 and 4) because systems technically affected by the seismic design error would not meet the definition for OPERABLE-OPERABILITY. For example, the supports for the containment fan coolers which may be affected by the mirror image error are addressed in section 3.6.2.3 "Containment Cooling System." This section reads as follows:

At least two independent groups of containment fan coolant units shall be OPERABLE with a minimum of two units to one group and one unit to the other group.

Since, in view of the known potential design errors, the Containment Cooling System might not be capable of performing its specified function. Therefore, the licensee would be legally obliged to remain in a cold shutdown condition.

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TIMOTHY W. GLIDDEN
 REPUBLICAN COUNSEL

January 11, 1983

The Honorable Nunzio Palladino
 Chairman
 United States Nuclear Regulatory Commission
 Washington, D.C. 20555

Dear Mr. Chairman:

In recent weeks I have received a number of letters from persons residing in the vicinity of the Diablo Canyon reactors. These letters express concern that the NRC will allow fuel loading prior without an adequate overall assessment of the plant's safety.

This mail leads me to believe that there is widespread doubt that the Diablo station complies with the Commission's requirements. In view of the need to establish public confidence in whatever decision the Commission makes with regard to this matter, I think it important that the Commission state its response to concerns of the kind that have been brought to my attention.

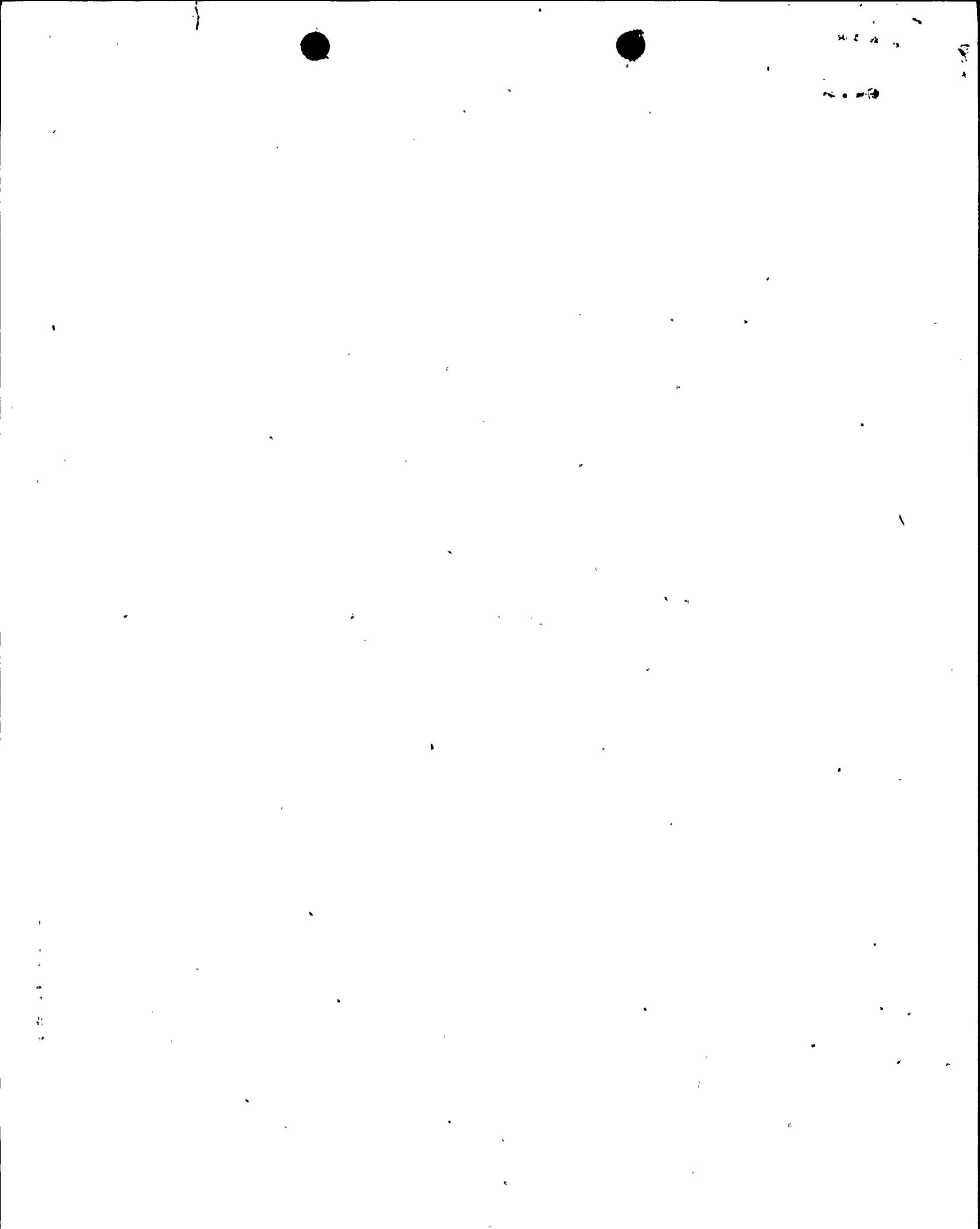
Among these concerns are that the Commission has approved a licensing schedule that would permit fuel loading prior to completion by PG&E of its review of the plant's seismic design and prior to implementation of all necessary corrective measures that might result from this review. A second concern is that no provision has been made for considering analyses of the seismic design now being prepared by Brookhaven National Laboratory. A third concern is that fuel loading will be allowed before completion of an adequate review of nonseismic safety-related plant elements. Fourth, there is concern that fuel loading will be permitted before results are received from the ongoing audit of the quality assurance program and the implementation of corrective actions, if any, which might be called for as a result of this program.

Finally, the intervenors are concerned that fuel loading will be permitted prior to an adequate NRC review of the various seismic and nonseismic safety-related audits, analyses and corrective actions undertaken since late 1981.

Thank you for your assistance.

Sincerely,

Morris K. Udall
 MORRIS K. UDALL



January 7, 1983

DOCKET NO(S). 50-275

The Honorable Morris Udall, Chairman
Subcommittee on Energy and the Environment
Committee on Interior and Insular Affairs
United States House of Representatives
Washington, D.C. 20515

SUBJECT: PACIFIC GAS & ELECTRIC COMPANY -- DIABLO CANYON NUCLEAR POWER PLANT, UNIT 1

The following documents concerning our review of the subject facility are transmitted for your information.

- Notice of Receipt of Application.
- Draft/Final Environmental Statement, dated _____.
- Notice of Availability of Draft/Final Environmental Statement, dated _____.
- Safety Evaluation Report, or Supplement No. _____, dated _____.
- Notice of Hearing on Application for Construction Permit.
- Notice of Consideration of Issuance of Facility Operating License.
- Application and Safety Analysis Report, Volume _____.
- Amendment No. _____ to Application/SAR dated _____.
- Construction Permit No. CPPR- _____, Amendment No. _____, dated _____.
- Facility Operating License No. DPR-76, Amendment No. 3, dated 1/6/73.
- Order Extending Construction Completion Date, dated _____.
- Other (Specify) _____

Office of Nuclear Reactor Regulation

Enclosures:
As stated

cc: Representative Manuel Lujan

bcc: OCA

OFFICE	DL/NB#3						
SURNAME	JL						
DATE	1/7/83						



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