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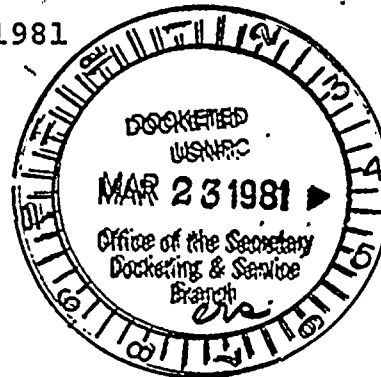
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GLADYS MEADE	WERNER WOLFEN

**CENTER FOR LAW
IN THE PUBLIC INTEREST**
10203 SANTA MONICA BOULEVARD
FIFTH FLOOR
LOS ANGELES, CALIFORNIA 90067
TELEPHONE: (213) 879-5588

LEGAL STAFF

ALLETTA D'A. BELIN
ROBERT BERKE
WALTER COCHRAN-BOND
TIMOTHY B. FLYNN
LUCAS GUTTENTAG
CARLYLE W. HALL, JR.
A. THOMAS HUNT
JAN G. LEVINE
JOHN R. PHILLIPS

March 20, 1981



OF COUNSEL

GEOFFREY COWAN

ADMINISTRATIVE OFFICER

MARSHA H. KWALWASSER

VISITING FELLOWS

DELLA S. HINN
SUSAN B. JACOBY
MICHAEL F. KEELEY
JOEL R. REYNOLDS

Commissioners of the
U. S. Nuclear Regulatory Commission
1717 H Street, N. W.
Washington, D. C. 20555

Sirs:

On behalf of the Joint Intervenors in the Diablo Canyon Nuclear Power Plant ("Diablo Canyon") low power test licensing proceeding, we are writing in reference to recent Requests for Directed Certification filed before the Commission by the NRC Staff ("Staff") and Pacific Gas and Electric Company ("PG&E"). On February 27, 1981, Joint Intervenors filed a response in support of the Staff's February 23, 1981 Request for Directed Certification and suggested that a briefing schedule be established by the Commission to ensure all parties an opportunity to be heard on the important issues raised by that application. Joint Intervenors reaffirmed this request for a briefing schedule on March 9, 1981 in their response in opposition to PG&E's February 26, 1981 Request for Directed Certification. Consistent with established Commission practice, neither of Joint Intervenors' responses addressed the merits of the issues raised by the Staff and PG&E because the Commission had not yet ruled whether it would rule on the merits of the certification requests.

On March 18, 1981, however, in a document entitled "NRC Response to the Request of Pacific Gas and Electric Company for Directed Certification," the Staff submitted a lengthy presentation of its position on the merits of the issues raised in the certification requests to the Commission. Asserting that "[t]he views of the Licensing Board and the parties are fully set forth in the record below,"^{1/} the Staff urged the Commission to

give its interpretation to its Revised Policy Statement, reverse the Licensing Board's rulings admitting the contentions, require a Licensing Board decision on the low power motion by a specified date, and further provide for immediate Commission review of the Licensing Board's decision.^{2/}

^{1/} Staff March 18, 1981 Response, at 14.

^{2/} Id. at 20.

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Joint Intervenors strongly object to the Staff's departure from settled administrative procedures and hereby inform the Commission once again of their desire and intention to be heard on the merits of the issues before it. By arguing the merits prematurely and recommending immediate action of an extraordinary and sweeping nature, the Staff invites the Commission not only to foreclose Joint Intervenors' right to a hearing on contentions admitted in the low power test proceeding, but also to deprive them of their right to be heard on the very issue of their right to a hearing.

The Staff's assertion that the views of all parties are fully set forth in the low power test proceeding record is belied by its own filing: if the record below were indeed so complete, the Staff certainly would not have felt compelled to file its response explaining its own views and the basis for them. Nowhere in the record have Joint Intervenors had an opportunity to set forth fully their position on the issues before the Commission and the legal and factual bases for it. Settled principles of due process and fundamental fairness mandate that they, as well as other parties to the proceeding, be given a similar opportunity prior to any action by the Commission on any of the Requests for Directed Certification before it.

In view of the Staff's disregard of established procedures, Joint Intervenors now are compelled to submit a substantive response. We will file that response on or about April 1, 1981, addressing the merits of the issues before the Commission in the certification requests. Joint Intervenors expect the Commission to refrain from reaching or issuing any decision on the pending Requests for Directed Certification until it has received and reviewed their response.

Respectfully submitted,

John R. Phillips, Esq.
 Joel R. Reynolds, Esq.
 CENTER FOR LAW IN THE PUBLIC INTEREST
 10203 Santa Monica Boulevard - 5th Floor
 Los Angeles, California 90067
 (213) 879-5588

DAVID S. FLEISCHAKER, Esq.
 1735 Eye Street, N. W.
 Washington, D. C. 20006
 (202) 638-6070

By: Joel R. Reynolds
 Joel R. Reynolds

Attorneys for Intervenors

SAN LUIS OBISPO MOTHERS FOR PEACE
 SCENIC SHORELINE PRESERVATION CONFERENCE, INC.
 ECOLOGY ACTION CLUB

SANDRA SILVER
 GORDON SILVER
 ELIZABETH APFELBERG
 JOHN J. FORSTER

cc: Diablo Canyon Service List

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DAVID S. FLEISCHAKER, Esq.
1735 Eye Street, N. W.
Washington, D. C. 20006
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