

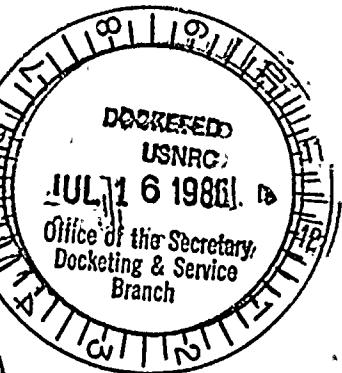
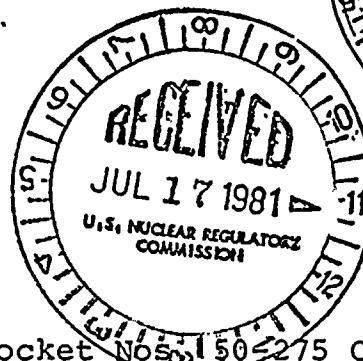
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Richard S. Salzman, Chairman  
Dr. W. Reed Johnson  
Thomas S. Moore

In the Matter of )  
PACIFIC GAS & ELECTRIC COMPANY ) Docket No. 50-275 OL  
(Diablo Canyon Nuclear Power )  
Plant, Units 1 and 2 )



SERVED JUL 16 1981

Messrs. Bruce Norton and Arthur C. Gehr, Phoenix,  
Arizona, and Malcolm H. Furbush, Philip A. Crane,  
Jr., and Douglas A. Oglesby, San Francisco, California,  
for the applicant, Pacific Gas and Electric Company.

Messrs. Herbert H. Brown, Lawrence C. Lanpher and  
Christopher B. Hanback, Washington, D. C., and  
Byron S. Georgiou, Sacramento, California, for  
the Governor of California.

Messrs. William J. Olmstead and Charles Barth and  
Mrs. Lucinda Low Swartz for the Nuclear Regulatory  
Commission staff.

MEMORANDUM AND ORDER

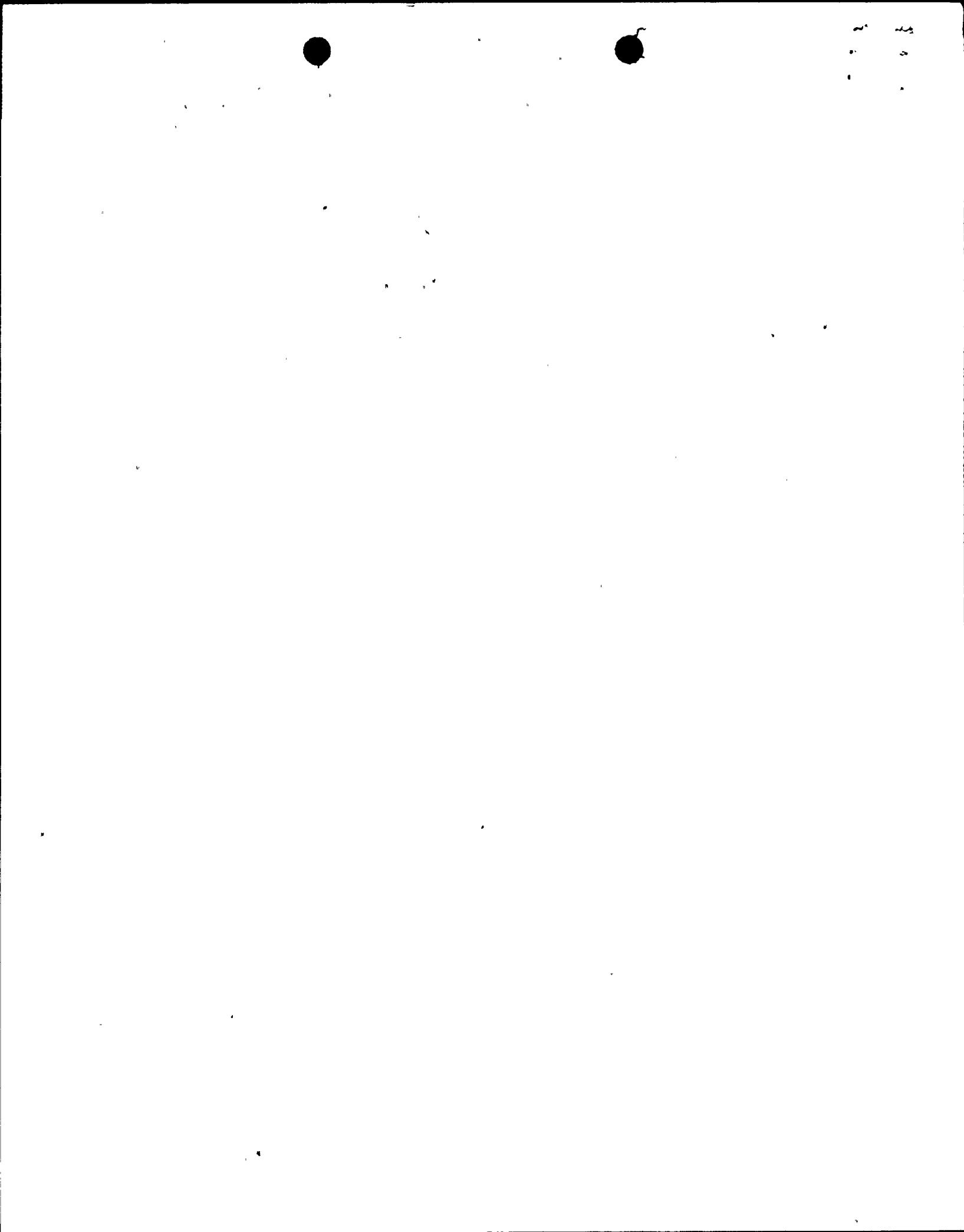
July 15, 1981

(ALAB-649)

On June 12, 1980, the Governor of California moved for an "Immediate Briefing on [a] Security Matter." As grounds for the briefing, we are told that the Governor's "counsel read in the June 11, 1981 issue of Nucleonics Week that alleged sabotage with serious potential consequences for public health and safety occurred recently at the Beaver

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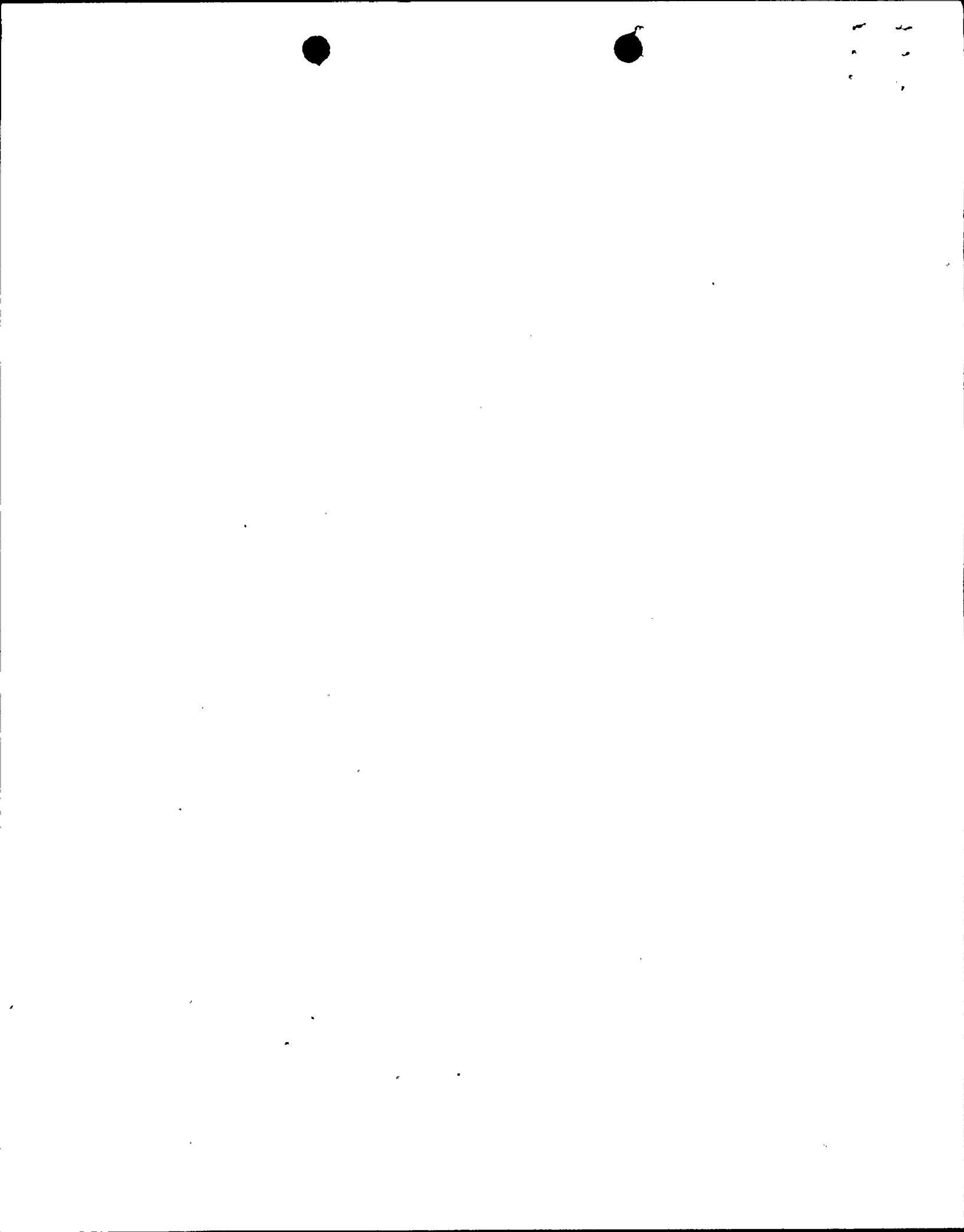
DSR  
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Valley-1 Nuclear Power Plant." The Governor's counsel believes that a full briefing for this Board and all participants in this case would be the only effective means to determine the relevance of the incident to the situation at the Diablo Canyon plant in California.

A copy of the four paragraph article from the trade journal in question was attached to the Governor's motion; no other information accompanied it. The staff and Pacific Gas and Electric Company, the applicant, oppose the Governor's request.

No briefing is warranted on the basis of the papers before us. The Governor makes no effort in his 17-line motion to demonstrate any connection between the incident mentioned and this case. We are not told, for example, whether the alleged incident is even theoretically possible at Diablo Canyon. We are left to speculate whether the two reactors employ the same type of emergency core cooling system (ECCS) with a similar arrangement of pumps and valves, or whether the potential consequences of closing an ECCS suction valve at Diablo Canyon are likely to be the same as those that were hypothesized for Beaver Valley. Nor do we know whether the proposed technical specifications for the Diablo Canyon operating license application require the same procedures for assuring proper ECCS valve alignment as those employed at



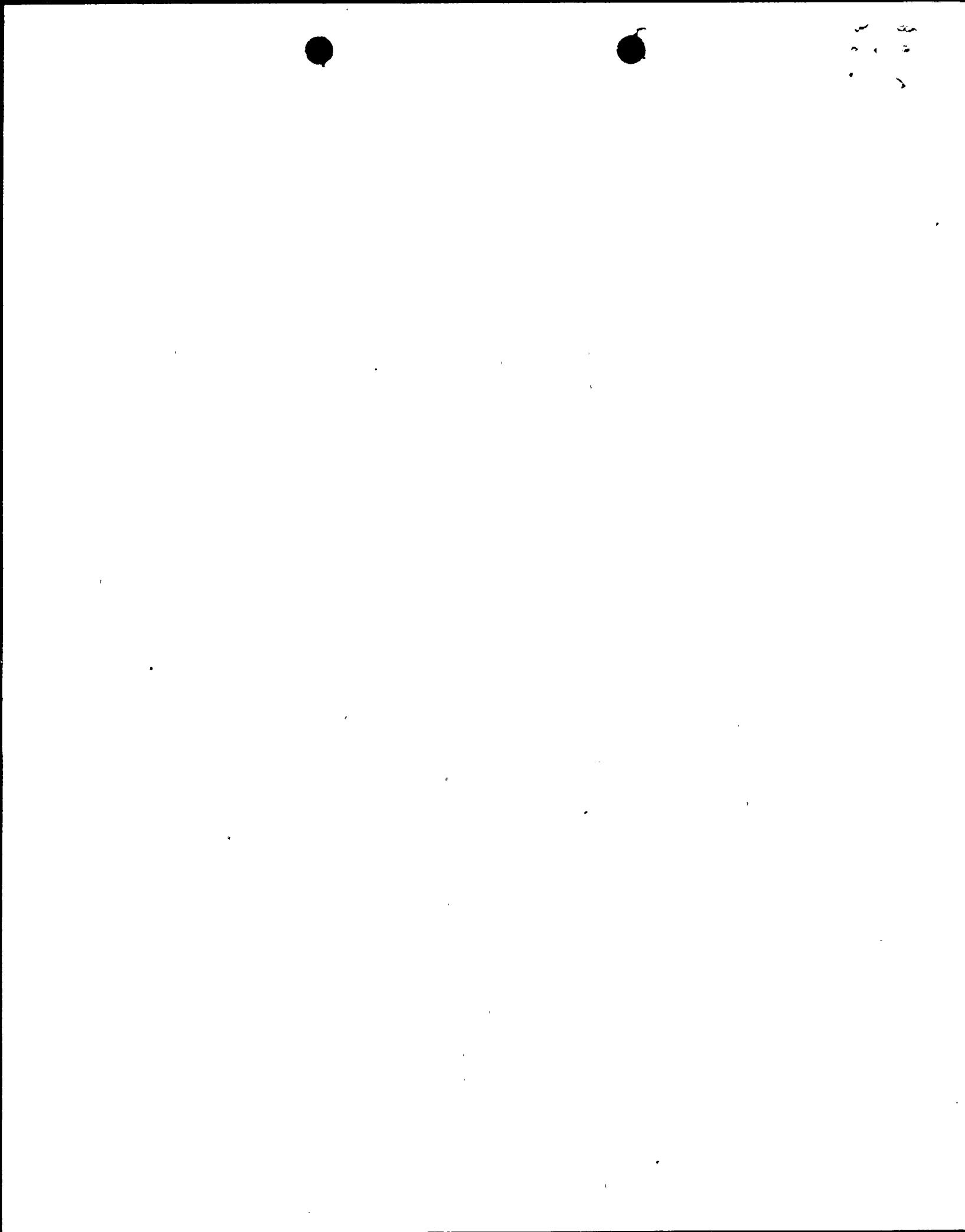
Beaver Valley. These and a myriad of similar questions are generally answerable from materials available to the public <sup>1/</sup> without any need to resort to sensitive security information. Rather than shoulder his initial burden to demonstrate relevance, Governor Brown seeks to transfer the lead to us and the NRC staff. No basis exists for the relief sought in the absence of a showing of such relevance.

Although the staff's response made no mention of any ongoing investigation, the article in Nucleonics Week indicates that the Beaver Valley licensee, the NRC staff, and the Federal Bureau of Investigation are looking into the matter. If, while this case is still pending before us, the staff's inquiry should disclose relevant information of significance to the Diablo Canyon security proceeding, we will surely be so informed. The staff has long been obliged to keep the licensing and appeal boards apprised of significant developments in pending cases, <sup>2/</sup> and is further obligated "to

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1/ See 10 CFR §§2.790, 50.34(b), 50.36(a), and 50.39.

2/ Duke Power Co. (McGuire Nuclear Station, Units 1 and 2), ALAB-143, 6 AEC 623, 625 (1973).

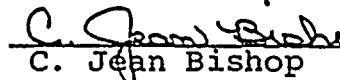


lay all relevant materials before the Board to enable it adequately to dispose of the issues before it." Consolidated Edison Co. of New York (Indian Point Station, Units 1, 2 and 3), CLI-77-2, 5 NRC 13, 15 (1977). Accord, Virginia Electric and Power Co. (North Anna Station, Units 1 and 2), ALAB-551, 9 NRC 704, 706 (1979). <sup>3/</sup>

Motion denied.

It is so ORDERED.

FOR THE APPEAL BOARD

  
C. Jean Bishop  
Secretary to the  
Appeal Board

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- 3/ Finally, should it determine that the Beaver Valley incident raises a significant safety issue after our jurisdiction in this proceeding has terminated, the staff would be required to assess any possible implications for other licensed facilities, including Diablo Canyon, as part of its continuing regulatory responsibilities.

