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September 30, 1986

Honorable Lando W. Zech, Jr.
Chairman
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

Dear Mr. Chairman:

I am writing to express my serious concern over the implications of the proposed reracking of spent fuel pools at the Diablo Canyon nuclear power plant, and to request that a full and independent review of this matter be conducted as expeditiously as possible.

As you know, Pacific Gas and Electric Company has proposed to address the problem of on-site storage of nuclear waste at Diablo Canyon by increasing the capacity of the temporary spent fuel storage pools at the facility. The utility has requested amendments to the operating license of the plant which involve the replacement of the current spent fuel racks, which are bolted to the floor of the pools, with free-standing racks capable of holding five times the capacity of the original racks. The Commission approved the amendments without a thorough technical review of the proposal and without holding prior hearings on the issue.

As you know, the Ninth Circuit Court of Appeals has recently issued a stay order prohibiting storage of spent fuel in the new racks until a safety hearing has been held to consider the issue. The court found that the proposed reracking would create the possibility of a new type of accident not previously studied by the NRC, because the new racks would be free-standing and could collide during an earthquake. Clearly, this matter must be resolved before the utility should be allowed to proceed to address the problem of waste storage at the facility. My concern is that the issues raised in this case must be the subject of a full and unbiased review before the time of the safety hearing, in order for the Commission to make fair and balanced judgements on the reracking issue.

I understand that despite clear Congressional intent that doubtful or borderline cases should not be resolved with a finding of no significant hazards consideration, the Commission made such a finding in approving the license amendments. Surely, the unique circumstances involved at Diablo Canyon warrant the most thorough review of the

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Honorable Lando W. Zech, Jr.
September 30, 1986
Page 2

reracking proposal possible. As you are well aware, the plant itself was designed to withstand a "worst-case" earthquake measuring 7.5 on the Richter Scale. That the proposal to increase the storage capacity of the waste storage ponds several times over would be given nothing more than a perfunctory review seems to me indefensible.

In fact, the Court has ruled that the Commission violated its own regulations in finding no significant hazards consideration with respect to the Diablo Canyon amendments. I am deeply concerned that the Commission's decision may be yet another example of an effort to conceal relevant safety information from the public. On every occasion that I have become involved in the controversy over Diablo Canyon, whether it was because of evidence of design flaws or the failure to consider earthquakes in emergency planning, I have urged the Commission to make every effort to ensure that the trust of the people is maintained. Unfortunately, it seems that the decision to grant this significant license amendment under the cloak of a no significant hazards consideration represents business as usual for the Commission.

Now that the court has ordered the public hearing the Commission should have held as a matter of course, an independent technical review is mandated. I strongly urge you therefore, to take the necessary steps to ensure that such a review is conducted. I believe that this action will help restore public confidence in the Commission's commitment to public safety.

Thank you for your time and consideration. I look forward to hearing from you in the near future.

Sincerely,



LEON E. PANETTA
Member of Congress

LEP/pt

cc: Honorable Morris K. Udall
Honorable John D. Dingell
Honorable Edward J. Markey



10/10/10