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Mr. John F. Darke
 P.O. Box 442
 Avila Beach, California 93424

Dear Mr. Darke:

SUBJECT: ALLEGATION ON DIABLO CANYON

This letter is in response to your telephone call on October 6, 1986 to the NRC Region V Office. In that call you expressed your concern regarding a potential violation of the Atomic Energy Act associated with a request for a license amendment by the Pacific Gas and Electric Company (PG&E), licensee for the Diablo Canyon Nuclear Power Plant, Units 1 and 2 to delete from the Technical Specifications the maximum amount of uranium as stated in Section 5.3.1. The same subject was previously addressed by Mr. H. Schierling, NRC Project Manager for the Diablo Canyon Plant, in letters to you, dated October 24 and November 17, 1986.

On October 21, 1986 we issued Amendment Nos. 10 and 8 to Facility Operating License Nos. DPR-80 and DPR-82 for Units 1 and 2, respectively. The amendments, among other changes, deleted from the Technical Specifications, Section 5.3.1, the requirement that each fuel rod shall "contain a maximum total weight of 1766 grams uranium." In the accompanying safety evaluation the staff concluded that such deletion of the maximum gram amount of uranium is acceptable.

The staff has reviewed and found acceptable similar deletions of the gram amount of uranium from the technical specifications for other facilities, including the Byron Station, Unit 1 (Amendment No. 4, dated October 29, 1986), Trojan (Amendment No. 116, dated June 6, 1986), and Farley Units 1 and 2 (Amendment Nos. 56 and 66, dated April 22, 1986 and September 23, 1986, respectively). In all cases the staff determined, as for Diablo Canyon, that such deletion does not affect the safe operation of the facility.

Over the past several weeks you have discussed with Mr. Schierling and other members of our staff your concern about the recent amendments to the Diablo Canyon licenses, as described above, deleting a provision specifying the maximum gram amount of uranium per fuel rod from the Technical Specifications. Specifically, such action, in your view, was improper in light of the language of Section 182 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2232, which states, in pertinent parts, that:

In connection with applications for licenses to operate production or utilization facilities, the applicant shall state such technical specifications, including information of the amount...of special nuclear material required.... Such technical specifications shall be a part of any license issued. (Emphasis added).

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In the staff's view, the deletion of the gram amount of uranium from Section 5.3.1 of the Diablo Canyon Technical Specifications, as was accomplished by Amendment Nos. 10 and 8 for Units 1 and 2, respectively, does not conflict with the foregoing requirement. Facility Operating License Nos. DPR-80 and No. DPR-82 for Units 1 and 2, each, authorize in paragraph 2.B.(2), the Pacific Gas and Electric Company:

Pursuant to the Act and 10 CFR Part 70, to receive, possess, and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Final Safety Analysis Report, as supplemented and amended;

This provision has not been changed by any license amendment. Thus, the technical specification pertaining to the amount of special nuclear material (uranium in this instance) as stated in the Final Safety Analysis Report (FSAR) continues to be incorporated in the operating license for each unit. The pertinent information for the amount of uranium is listed in Table 4.1-1 (Sheets 3 and 4) of the FSAR.

Therefore, consistent with the above and notwithstanding the recent license amendments, it continues to be possible to ascertain the amount of the special nuclear material (uranium) from the information contained in the FSAR, as updated. As you are aware, the FSAR is required to be updated annually as provided by 10 CFR paragraph 50.71(e) and may be changed only in accordance with the provisions of 10 CFR 50.59.

Sincerely,
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Steven A. Varga, Director
Project Directorate #3
Division of PWR Licensing-A

cc: A. D. Johnson, RV

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THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
530 SOUTH EAST ASIAN AVENUE
CHICAGO, ILLINOIS 60607
TEL: 773-936-3700

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TO: DR. J. H. GOLDSTEIN
FROM: DR. R. M. WAYMIRE
SUBJECT: [Illegible]

RE: [Illegible]

DR. J. H. GOLDSTEIN
UNIVERSITY OF CHICAGO
530 SOUTH EAST ASIAN AVENUE
CHICAGO, ILLINOIS 60607

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DR. R. M. WAYMIRE
UNIVERSITY OF CHICAGO
530 SOUTH EAST ASIAN AVENUE
CHICAGO, ILLINOIS 60607