

2 June 1980

Dear Mr. Ahearne:

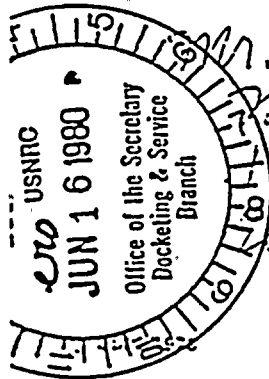
As an American concerned about America's future energy needs, I urge you to expedite the licensing of nuclear power plants that meet NRC standards. In particular I would like to see the Diablo Canyon plant licensed in the near future.

Sincerely,
Roger Henderson

ROGER HENDERSON
5301 SEVILLE CIR.
LA PALMA, CAL.
90623



DOCKET NUMBER
PROD. & UTIL. FAC. 50-275,323



Mr. John Ahearne, Chairman
Nuclear Regulatory Commission
717 H. Street, NW
Washington, DC 20555

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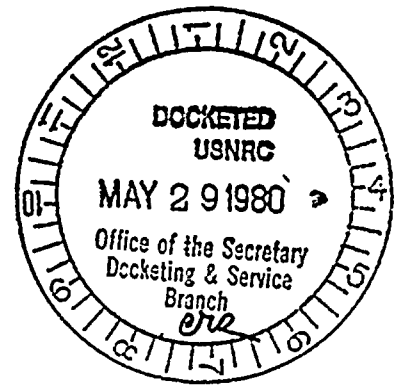
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONER:

Richard T. Kennedy



In the Matter of
PACIFIC GAS & ELECTRIC COMPANY
(Diablo Canyon Nuclear Power Plant,
Units 1 and 2)

Docket Nos. 50-275-0L
50-323 0L

MEMORANDUM TO COUNSEL FOR THE PARTIES

On March 28, 1980 Joint Intervenors in the above-captioned proceeding filed a response to my Memorandum to Counsel for the Parties (March 13, 1980) in which I invited all parties to this proceeding to submit any additional relevant information bearing upon Joint Intervenors' disqualification motion which might be of assistance to me in reaching a final decision whether to recuse myself from this proceeding. Joint Intervenors called upon me to retract my interim decision to remain in the Diablo Canyon proceeding and recuse myself on the ground that my continued participation in this proceeding, as a result of my October 19, 1979 meeting with certain representatives of Pacific Gas and Electric (PG&E), will destroy the very appearance of fairness, if not the fact of impartiality, so essential to the proper conduct of adjudicatory proceedings.

After having carefully reviewed Joint Intervenors' Response, I find nothing which would lead me to reach a conclusion different from that set forth in my initial Memorandum to Counsel for the Parties, wherein I tentatively concluded



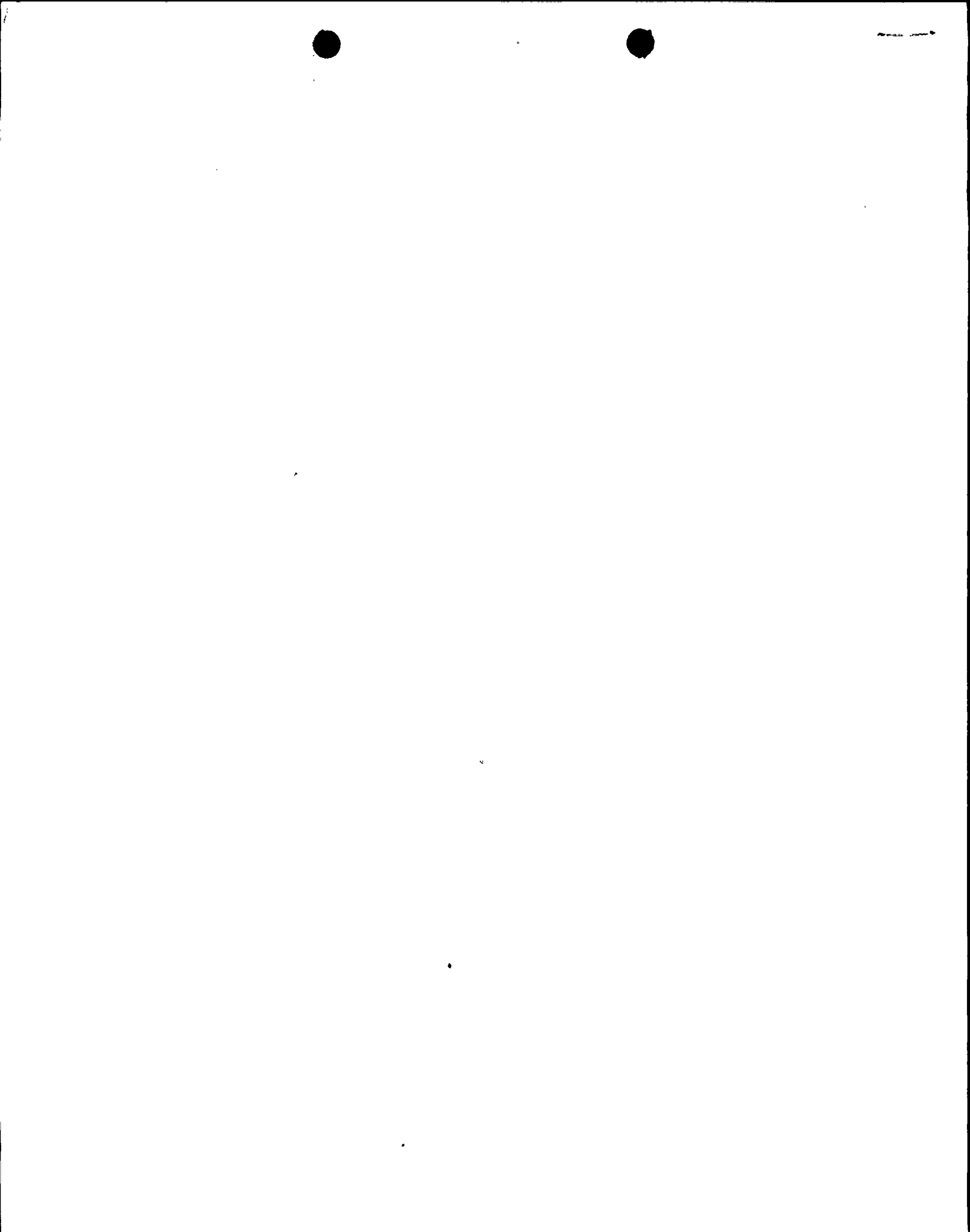
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that there is no basis for my disqualification. Indeed, Joint Intervenors' Response is conspicuously devoid of any substantiated allegation suggesting either a lack of impartiality on my part or a potential compromise of the appearance of fairness doctrine as a result of my continued participation in this proceeding. As I indicated in my previous Memorandum, there simply is no support for an inference that my meeting of October 19, 1979 evidences pre-existing bias on my part or will adversely affect my ability to consider the Diablo Canyon proceeding in a fair and impartial manner. I adhere to the views set forth in the Memorandum. Moreover, I reiterate my firm belief that my continued participation in this proceeding is entirely consistent with the appearance of fairness precept so frequently invoked by Joint Intervenors as a basis for my disqualification.

After having undertaken a careful reexamination of the relevant statutes, regulations, and judicial decisions, I once again conclude that there is no basis for disqualification as a result of my October 19, 1979 meeting with PG&E representatives.

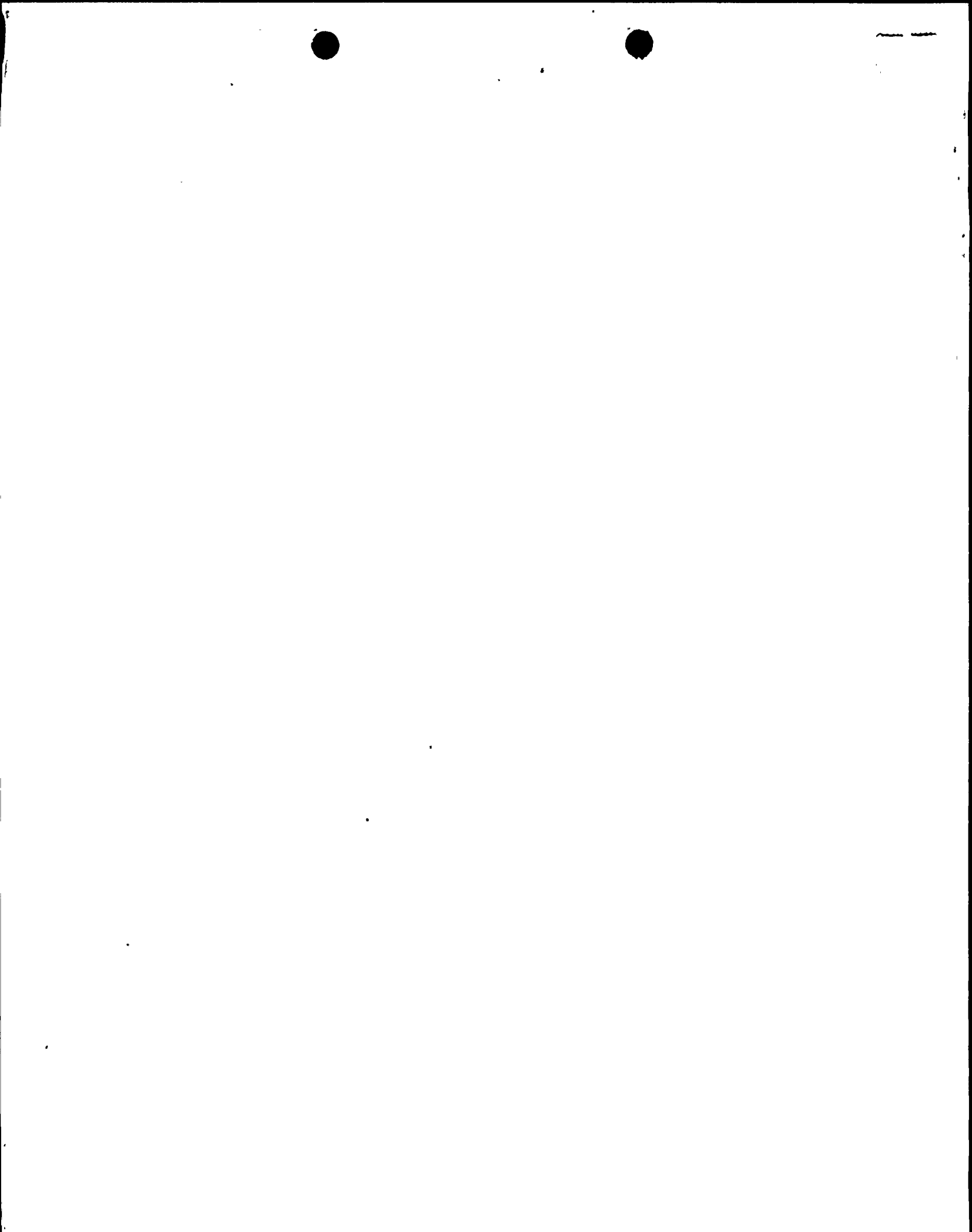
For reasons unrelated to the substance of the contentions advanced by Joint Intervenors, however, I have decided not to participate in the balance of this licensing proceeding. After careful consideration of the present posture of this case, it has become increasingly evident that this Commission will not be called upon to address any major substantive issues arising out of this proceeding during the remainder of my term. Thus, I have concluded that my continued participation in this proceeding may serve only to subject the parties thereto to unjustified commitments of time and resources in litigating the propriety of my participation. For this reason, I have decided that it is in the best interest of all concerned



for me not to participate in the balance of this licensing proceeding. I reiterate however, the views I expressed in my earlier Memorandum and reaffirm the interpretation of the pertinent statutes, regulations, and judicial decisions contained therein. In particular, I note that the course of action I have chosen is based solely upon my desire to avoid fruitless expenditures of litigative resources and is in no way compelled nor counseled by the relevant law on disqualification.

Richard T. Kennedy
Commissioner

Dated at Washington, D. C.
this day of , 1980.



May 27, 1980

Richard S. Salzman, Esq., Chairman
Atomic Safety & Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Thomas S. Moore, Member
Atomic Safety & Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Dr. W. Reed Johnson
Atomic Safety & Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
PACIFIC GAS AND ELECTRIC COMPANY
(Diablo Canyon Nuclear Power Plant Unit Nos. 1 and 2)
Docket Nos. 50-275 O.L. and 50-323 O.L.

Dear Sirs:

As you know, the Commission has not yet decided Pacific Gas & Electric Company's motion to deny intervenors, San Luis Obispo Mothers for Peace, access to the physical security plan at the Diablo Canyon Nuclear Power Plant. The Commission's ultimate decision could have an effect on the substance of the Staff's testimony concerning the security plan. Because of this uncertainty, the Staff believes that testimony should not be filed by the Staff or any other party until after the Commission rules.

Sincerely,

James R. Tourtellotte
Assistant Chief Hearing Division

cc: see next page

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DATE ▶	5/22/80	5/ /80				



[The text in this section is extremely faint and illegible due to the quality of the scan. It appears to be a multi-paragraph document.]

Richard S. Salzman, Esq., Chairman
Atomic Safety & Licensing Appeal Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. Thomas S. Moore, Member
Atomic Safety & Licensing Appeal Board
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Dear Sirs:

As you know, the Commission has not yet decided Pacific Gas & Electric Company's motion to deny intervenors, San Luis Obispo Mothers for Peace, access to the physical security plan at the Diablo Canyon Nuclear Power Plant. The Commission's ultimate decision could have an effect on the substance of the Staff's testimony concerning the security plan. Because of this uncertainty, the Staff believes that testimony should not be filed by the Staff or any other party until approximately 10 days after the Commission rules. Based on a telephone conversation I had with Chairman Salzman on Monday, May 19, I understand that this kind of schedule will be acceptable to you.

Sincerely,

James R. Tourtellotte
Assistant Chief Hearing Division

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SURNAME	LSwartz:cr	Tourtellotte				
DATE	5/22/80	5/ /80				

cc:

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