

DAVID S. FLEISCHAKER

ATTORNEY AT LAW

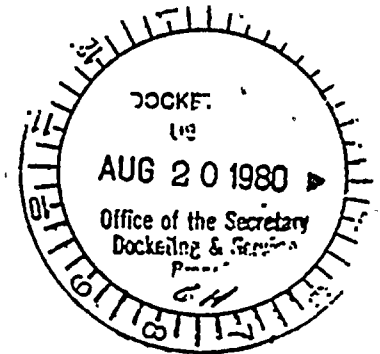
August 18, 1980

1735 EYE STREET N.W.
WASHINGTON, D. C. 20006
SUITE 709Richard S. Salzman, Chairman
Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory Commission
4350 East West Highway
Bethesda, Maryland 20014Dr. W. Reed Johnson
Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory
Commission
4350 East West Highway
Bethesda, Maryland 20014Dr. John H. Buck
Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory
Commission
4350 East West Highway
Bethesda, Maryland 20014Re: Pacific Gas & Electric Co.
Diablo Canyon Nuclear
Power Plant, Units 1 & 2
Docket Nos. 50-275 OL; 50-323 OL

Gentlemen:

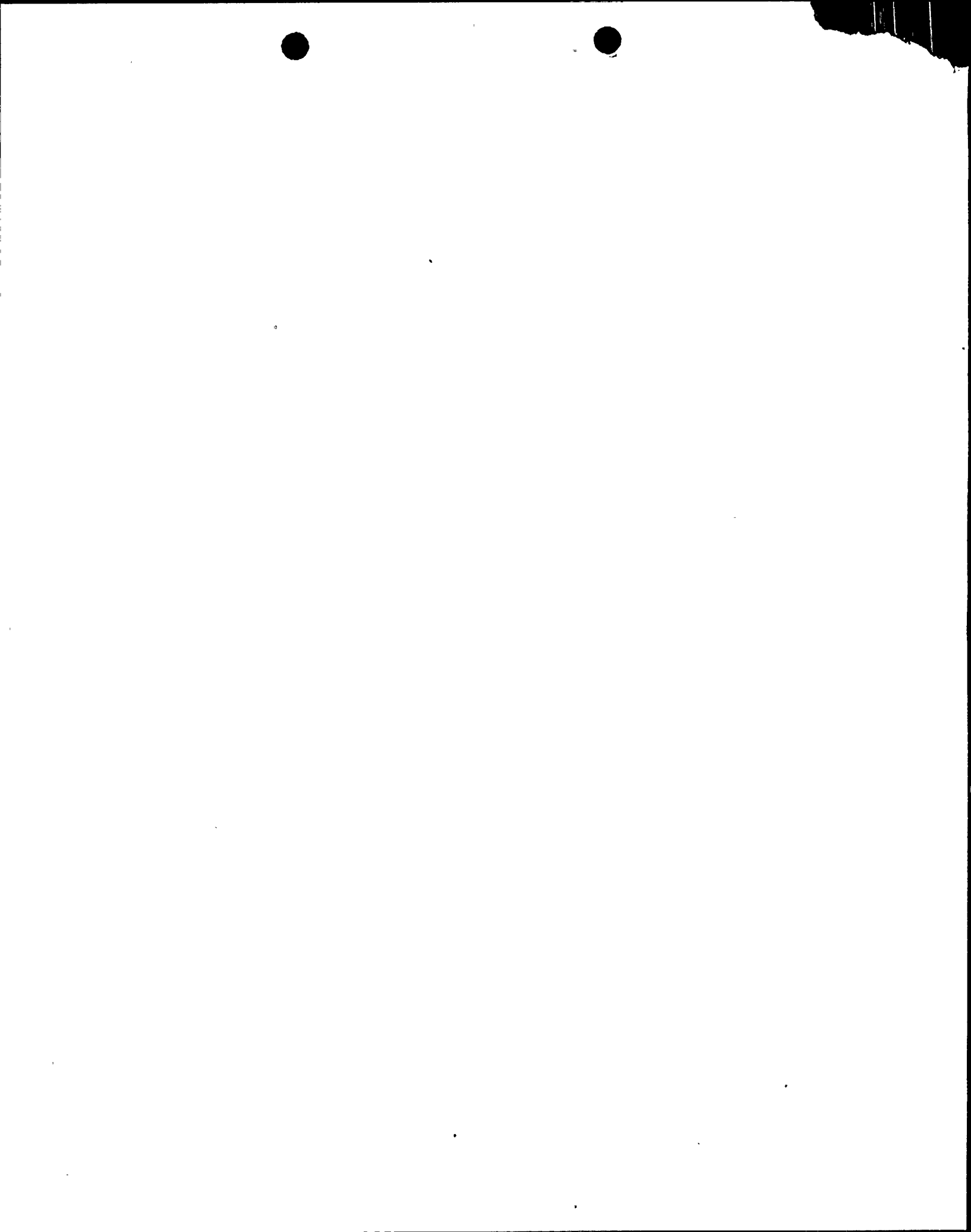
On August 14, 1980, I wrote to express my view that the reopened seismic hearing should commence October 21, 1980 instead of September 23, 1980. The date tentatively set by the Appeal board. The two reasons cited in my letter were (1) the desirability of completing the hearings in a single sitting and (2) the need to assure that Dr. Luco is not compelled to undergo cross-examination shortly after his wife gives birth.

Since writing that letter, I have reviewed the Applicant's and Staff's prefiled testimony. Review of this new material with the experts available to the Joint Intervenors will take substantial time. A September 23rd commencement imposes serious time constraints on the Joint Intervenors and makes preparing adequately for the reopened hearings extremely difficult. On the other hand, on October 21st starting date provides the time necessary to review the prefiled testimony.



8 008260 235

DSOB
S/10



Richard S. Salzman
Dr. W. Reed Johnson
Dr. John H. Buck
August 18, 1980
Page Two

In addition, the Appeal board should consider enlarging the time provided Drs. Trifunac and Luco to complete there prefiled testimony, due September 2, 1980. I am advised by the Office of General Counsel that as of August 12, 1980, Drs. Trifunac and Luco had not received any of the prefiled testimony. Further, as of August 15, 1980, the Office of General Counsel had not determined whether Drs. Trifunac and Luco had received any prefiled testimony. Inasmuch as the parties had 45 days in which to develop there testimony, and given the large amount of new data and analysis presented in the prefiled testimony filed to date, it appears appropriate for the Appeal board to enlarge the time provided to Drs. Trifunac and Luco to complete there written comments. As matters stand, the ACRS experts have cost them one half the time provided all other experts to complete the analysis.

Finally, I would like to propose hearing procedures which, I believe, will maximize development of the record in the reopened proceedings. The proposal is to divide the proceeding into two parts. In the first, each party will present its witnesses for cross-examination in the normal order. In the second part, after the opposing view points are developed on the record, all witnesses are recalled to the hearing room. Then, with all witnesses present and under oath, the experts are, a) permitted to comment on opposing view points developed during the hearings; b) pose questions to opposing experts; and c) subjected to questions by the Appeal board and Counsel. This procedure would assure that the scenific issues are fully joined. It avoids the situation where arguments or criticism are developed and there is no opportunity for reply.

This and other scheduling matters might best be discussed at a prehearing conference. If the Appeal board feels it would be useful, I would propose such a conference for September 4th or 5th in Washington, D.C.

Very truly yours,



David S. Fleischaker, Esq.
Counsel for the Joint Intervenors

DSF:cm

cc: Counsel for the Parties
Office of the General Counsel, NRC.

