

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

10/3/80

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

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.  
50-323 O.L.

NRC STAFF RESPONSE TO MOTION OF  
SLOMFP FOR RECONSIDERATION

On September 2, 1980, Intervenor San Luis Obispo Mothers for Peace (SLOMFP) submitted contentions which they wished to litigate in the captioned proceeding. The Appeal Board ruled on the admissibility of those contentions on September 18, 1980. "Rulings on Contentions," dated September 18, 1980. At that time, the Appeal Board "tentatively rejected" SLOMFP Contention 12 which asserted that "the security plan entails procedures... which are illegal under state and federal laws, and which are inimical or violative of rights of privacy or other constitutional rights or guarantees."<sup>1/</sup> The Appeal Board did allow SLOMFP to submit a revised Contention 12 "in light of" the Applicant's responses to SLOMFP's interrogatories on this subject matter. The revised contention was to be filed on October 2, 1980.

<sup>1/</sup> The Staff originally objected to Contention 12 as "patently unsupported." "NRC Staff Response to Amended Contentions of Intervenor SLOMFP," September 8, 1980. The Staff also noted that the specific procedures which allegedly violate various laws, as well as the laws which are allegedly violated, were not set forth in the Contention. Staff Response at 6. The Staff continues to assert this objection.

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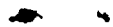
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Although the Applicant provided responses to the interrogatories on September 19, 1980, the Intervenor believed those responses to be inadequate and thus filed a "Motion to Compel PG&E to Respond to Interrogatories" on September 26, 1980. The Intervenors also believed that the time in which they could file a revised contention was automatically extended and did not file a new contention on October 2, 1980.

The Appeal Board, at the same time they granted SLOMFP's Motion to Compel, finally rejected Contention 12 in their "Ruling on Motions to Compel and on Remaining Contention" dated October 10, 1980. SLOMFP, on October 15, 1980, filed the instant "Motion for Reconsideration of the Board's Order of October 10, 1980" (Motion) asking that they once again be permitted to file a revised Contention 12 after reviewing the Applicant's further answers to SLOMFP's interrogatories which were to be filed on October 21, 1980. The Staff opposes the Motion.

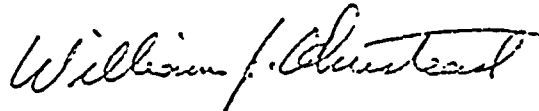
While the original Contention 12 was overly vague, the Appeal Board did give SLOMFP the opportunity to revise the Contention based on information, the security plan in particular, which they obtained from the applicant. SLOMFP argues that inasmuch as the Applicant did not fully provide information concerning Contention 12 in its discovery responses until October 21, 1980 it would be unfair to hold SLOMFP to the October 2, 1980 date for filing a revised Contention 12. SLOMFP fails to explain, however, why access to the security plan on which Contention 12 was based, was not a sufficient basis on which to clarify their Contention.



Direct testimony in response to the Consolidated Issues set forth by the Appeal Board in their September 18, 1980 "Rulings on Contentions" was filed by all the parties on October 29, 1980 and the security hearing is scheduled to begin on November 10, 1980. If SLOMFP's Motion were granted, the revised Contention 12 would not be available to the parties in time to reasonably respond to that Contention and prepare supplemental testimony prior to the hearing.

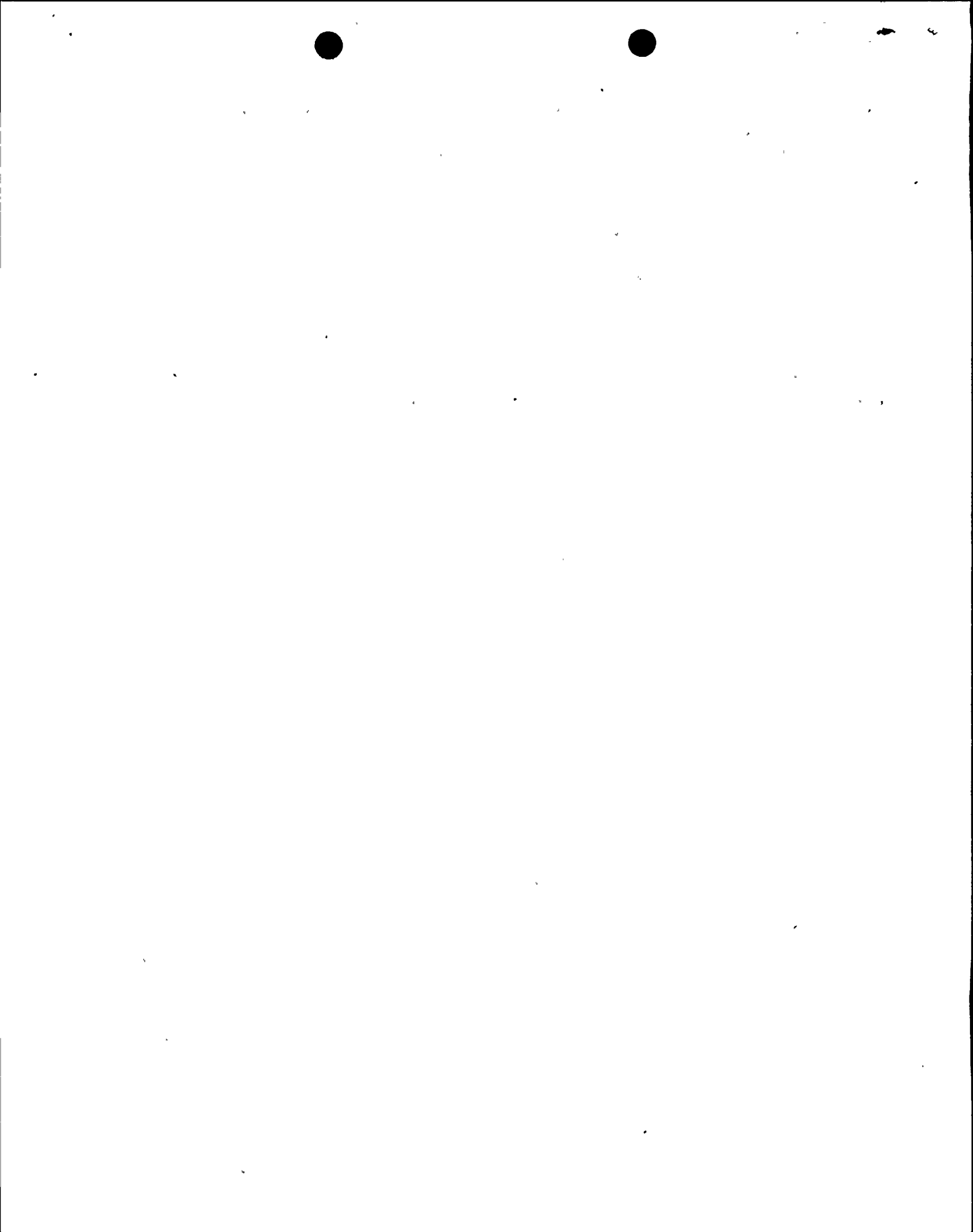
Thus, SLOMFP's Motion should be denied.

Respectfully submitted,



William J. Olmstead  
Lead Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 31st day of October, 1980



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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO MOTION OF SLOMFP FOR RECONSIDERATION" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 31st day of October, 1980.

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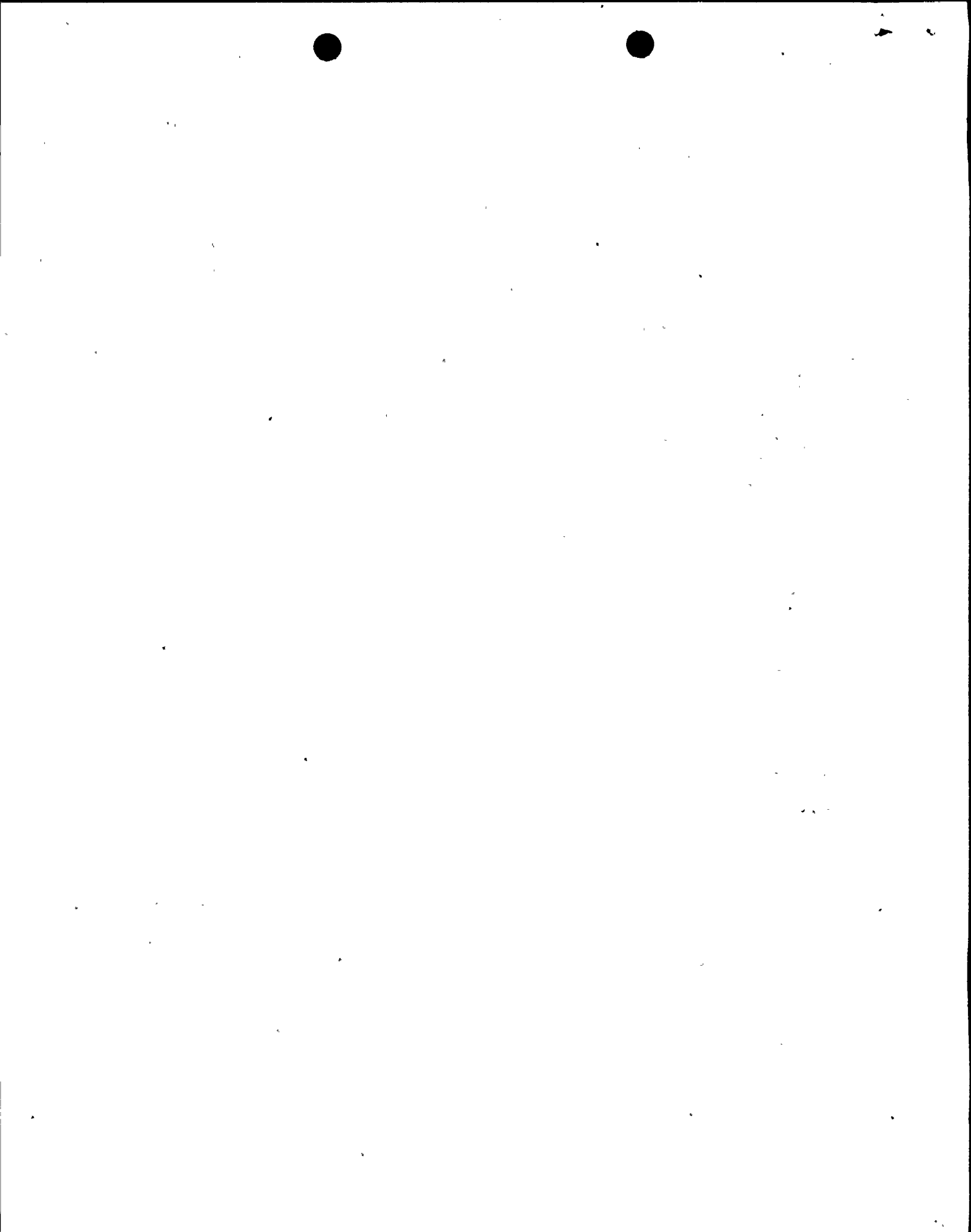
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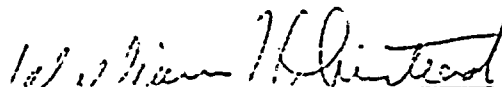
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