

# PACIFIC GAS AND ELECTRIC COMPANY

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ATTORNEYS

January 8, 1981

Dr. Harold Denton  
Director of Nuclear Reactor Regulation  
United States Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2) Docket Nos. 50-275, 50-323; Request for Action (45 Fed. Reg. 78317 (Nov. 25, 1980))

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Dear Dr. Denton:

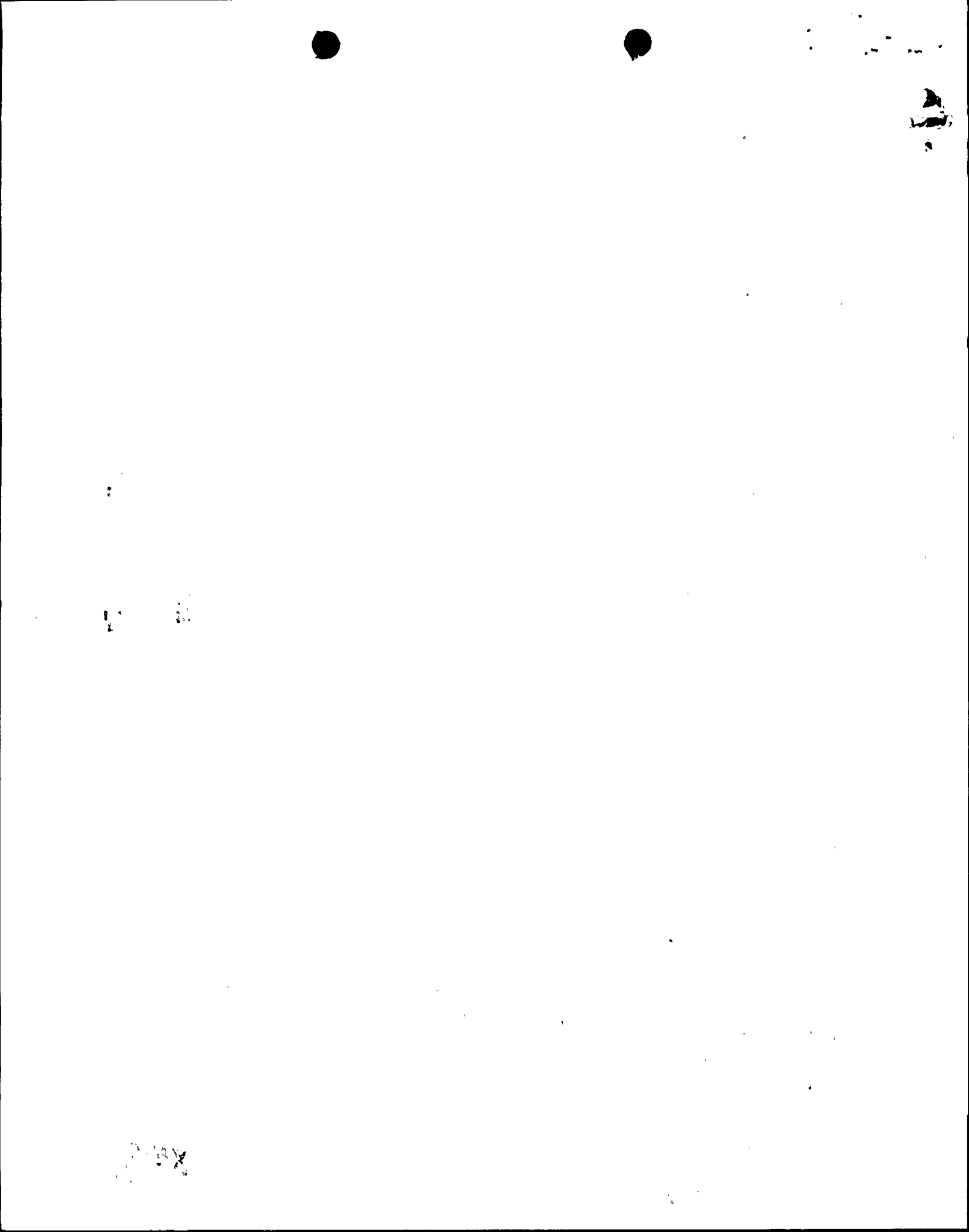
By letter of October 17, 1980, David Fleischaker, on behalf of the Joint Intervenors in the Diablo Canyon operating license proceedings, requested that "the Commission prepare a supplemental environmental impact statement [for Diablo Canyon Nuclear Power Plant] which will consider the serious environmental consequences of a Class 9 accident at the Diablo Canyon nuclear facility." By notice published in the Federal Register (45 Fed. Reg. 78317 (Nov. 25, 1980)), the Commission announced that Mr. Fleischaker's request would be treated under section 2.206 of the Commission's regulations (10 C.F.R. § 2.206). While the Commission's regulations neither provide for nor prohibit a response from the Applicant, we request that you consider the following in arriving at your decision on Mr. Fleischaker's request for action.

In its Federal Register notice, the Commission noted that Mr. Fleischaker's request is similar to a request filed by Friends of the Earth (FOE) which was recently denied under 10 C.F.R. § 2.206. Pacific Gas and Electric Company (Diablo Canyon Nuclear Power Plant, Units 1 and 2), DD-80-22, 11 NRC 191 (1980). Indeed, Mr. Fleischaker's request is identical to the FOE request for action in that it seeks precisely the same relief.

Although Mr. Fleischaker places greater emphasis than did FOE on the alleged "special circumstances" of the Diablo Canyon facility because of its proximity to the Hosgri fault, the seismic safety of Diablo Canyon plainly was known to the

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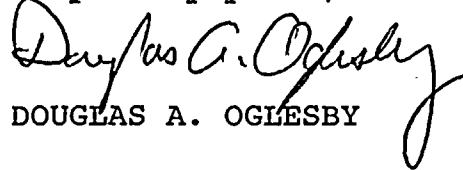
staff when it denied FOE's request. The staff analyzed the site characteristics and other nearby features of the Diablo Canyon facility, and its "review has not identified any unusual circumstances with respect to external hazards that would warrant reopening or expanding proceedings on Diablo Canyon." 11 NRC at 926. Thus, in accordance with the Commission's statement of interim policy concerning environmental reviews ("Nuclear Power Plant Accident Considerations under the National Environmental Policy Act of 1969," 45 Fed.Reg. 40101 (June 13, 1980), it did not reopen Diablo Canyon's environmental record.

Similarly, there is no ground for granting Mr. Fleischaker's current request and reversing the FOE decision.

The Joint Intervenors have filed a Request For Directed Certification to the Commission in the Diablo Canyon licensing proceedings seeking to litigate in those proceedings the Class 9 issue (as well as two other issues). The Commission denied their Request by Order dated December 22, 1980. Like their October 17, 1980, request for action, their Request For Directed Certification focused primarily on the alleged "special circumstances" of the facility's proximity to the Hosgri fault, approximately three-and-one-half miles offshore. PGandE's Response To The Joint Intervenors' Request For Directed Certification opposing reopening the hearing record discussed in some detail why the existence of the Hosgri fault does not constitute "special circumstances" rendering the facility more vulnerable to earthquake damage than are other facilities. We also discussed in that Response additional reasons why a Class 9 accident analysis should not be performed for Diablo Canyon. We have attached to this letter a copy of PGandE's Response; the pertinent portions are located on pages 14-17 and 22-28. We will not burden you with a repetition of those discussions in this letter.

Mr. Fleischaker's request for action has presented no evidence whatsoever which would warrant reopening the Diablo Canyon environmental record. Since the Diablo Canyon facility is designed to withstand the safe shutdown earthquake postulated for the Hosgri fault, that fault is not a "special circumstance." Indeed, the safe shutdown earthquake for Diablo Canyon is a design-basis earthquake and cannot, by definition, provide the basis for analyzing the environmental consequences of beyond-design-basis accidents. Mr. Fleischaker's request for action must be denied.

Very truly yours,



DOUGLAS A. OGLESBY

cc: Service List,  
Diablo Canyon Licensing Proceedings

Attachment

