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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of

PACIFIC GAS AND ELECTRIC COMPANY

(Diablo Canyon Nuclear Power

Plant, Units No. 1 and 2)

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

PACIFIC GAS AND ELECTRIC COMPANY'S
RESPONSE TO INTERVENOR'S PETITION FOR
DIRECTED CERTIFICATION FOR REVIEW OF
'RECONSIDERATION OF BOARD'S ORDER OF
SEPTEMBER 5, 1978' RELATING TO
QUALIFICATION OF SECURITY EXPERT

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I. HISTORY

Intervenors, under date of November 20, 1978, have again petitioned this Board for direct certification of the Atomic Safety and Licensing Board's reconsideration of that Board's Order of September 5, 1978. This Board had recently issued ALAB-504 which remanded to the Board for reconsideration their Order of September 5, 1978. The basic premise for this Board's ruling was that the parties were entitled to a detailed explanation as to why the Board felt Mr. Comey was not qualified to review the Applicant's security plan.

On November 3, 1978, the Atomic Safety and Licensing Board issued its reconsideration which, intervenor's immediate petition notwithstanding, details the Board's position. While Intervenor complains that the reconsideration does not follow this Board's previous orders, it is in fact the conclusion of the Board with which Intervenor disagrees.

II. NO BASIS FOR GRANTING CERTIFICATION

On October 13, 1978, Applicant filed a brief in response to Intervenor's original Petition for Direct Certification and Appeal from the Licensing Board's Order of September 5, 1978. Pages 1 through 11 of that brief discuss in full the Applicant's legal and factual arguments as to why certification was not appropriate in that instance. As the only events which have occurred since that time are this Board's determination in ALAB-504 and the Licensing Board's reconsideration of November 3,

1978, Applicant will not repeat that argument here but simply incorporate it by reference as though set forth in full.

The Intervenors are not without an adequate remedy through normal appellate procedures of the Nuclear Regulatory Commission. If indeed the Intervenors should ultimately be ruled correct in their argument that Mr. Comey is qualified to review the security plan, then the matter can be reopened for that limited purpose. At this very moment the final safety hearings are in process and to suspend them, or any part of them, would lead to severe prejudice to the Applicant.

III. EVEN IF CERTIFICATION SHOULD BE GRANTED, NO BASIS EXISTS FOR REVERSAL OF BOARD'S RECONSIDERATION

Again, nothing new as respects Mr. Comey's qualifications, or lack thereof, has been added to the record before this Board since it previously considered the question other than the Licensing Board's reconsideration of November 3. For that reason, Applicant incorporates herein by reference pages 12 through 16 of their brief before this Board of October 13, 1978. No showing has yet been made that Mr. Comey is qualified to review the plan.

IV. CONCLUSION

The Atomic Safety and Licensing Board has determined on the basis of the evidence before it that Mr. Comey is not qualified to review Applicant's security plan. That decision is

within the sound discretion of that Board and should not be overturned by this Board. No basis for certification or reversal exists. It is therefore respectfully requested that this Board deny Intervenor's present petition or, in the alternative, affirm the Licensing Board's finding that Mr. Comey is not qualified to act as an expert witness in this matter. In any event, Applicant strongly urges that no portion of these proceedings should be suspended as such a course is not necessary to protect the rights of Intervenor and would only work a prejudice on the Applicant in the licensing of Diablo Canyon, Units 1 and 2.

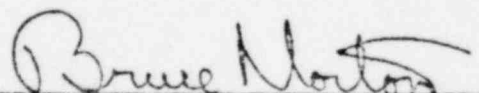
Respectfully submitted,

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DATED: December 5, 1978.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "PACIFIC GAS AND ELECTRIC COMPANY'S RESPONSE TO INTERVENOR'S PETITION FOR DIRECTED CERTIFICATION FOR REVIEW OF 'RECONSIDERATION OF BOARD'S ORDER OF SEPTEMBER 5, 1978' RELATING TO QUALIFICATION OF SECURITY EXPERT", dated December 5, 1978, have been served on the following by deposit in the United States mail, this 5th day of December, 1978:

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Copies were hand-served on the following this 5th day of
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