

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before Administrative Judges:
John F. Wolf, Chairman
Glenn O. Bright
Dr. Jerry Kline



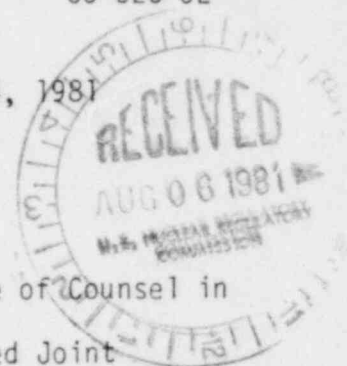
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In the Matter of:

PACIFIC GAS AND ELECTRIC COMPANY
(Diablo Canyon Nuclear Power Plant,
Units 1 and 2)

Docket Nos. 50-275 OL
50-323 OL

August 4, 1981



MEMORANDUM AND ORDER

Pursuant to an Order issued May 27, 1981, a Conference of Counsel in this matter was held on July 1, 1981. The parties discussed Joint Intervenors' Statement of Clarified Contentions dated June 30, 1981. The Board took under advisement the question of the admissibility of the contentions. Proposed hearing schedules were also discussed. The Board is refraining from adopting a schedule of hearings until the NRC Staff issues an SER Supplement covering matters discussed in contention 14, herein.

The Board's determination of the admissibility of the Joint Intervenors "clarified" contentions follows:

Contention 1 (as restated by the Board).

PG&E and the combined onsite, state and local emergency response plans and preparedness do not comply with 10 CFR 50.33(g); 50.47 and revised Appendix E to Part 50.

Joint Intervenors filed a motion to reopen the full-power licensing proceeding based in part on emergency planning issues on May 9, 1979 shortly after the accident at TMI. The Staff concluded in the Conference of Counsel

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held July 1, 1981 that the motion was timely filed after the accident (Tr. 11386). The Board agrees.

The Board admitted an emergency planning contention in the low-power test hearings held May 19-22, 1981 but limited issues to those relevant to low-power testing. Staff and Applicant argued in that proceeding that while full compliance with the new emergency planning regulations would not be in effect at Diablo Canyon such compliance was not needed because of the reduced risk to the public associated with low-power testing. Full compliance with the Commission's new regulations for full-power operation has therefore not been previously litigated in this proceeding.

The new regulations and the requirements contained in NUREGs-0737 and -0694 constitute significant new information on emergency planning which was not available during previous full-power hearings. This new information could have caused a different result had it been considered originally. 10 CFR 50.47c(1) states that "Failure to meet the standards set forth in paragraph (b) of this section may result in the Commission declining to issue an operating license. . ." The conditions for reopening the full-power proceeding as restated by the Commission in CLI-81-5, p. 6, have therefore been met on this issue.

At the Conference of Counsel held July 1, 1981 Joint Intervenors submitted a statement of clarified contentions which provided sufficient specificity and basis to the emergency planning contention to place the applicant on notice as to the subjects it would be required to defend.

The Board concludes that the requirements for reopening the full-power proceeding for the purpose of hearings on emergency planning have been met. The emergency planning contention is admitted.

Combined Contentions 2 and 3: Hydrogen.

This contention asserts that the Diablo Canyon hydrogen control system is based on the assumption that the amount of fuel cladding that would react chemically to produce hydrogen would under all circumstances be limited to less than 5 percent. The TMI accident demonstrated that this assumption is not valid since as much as 50 percent of the cladding at TMI reacted to form hydrogen.

Other assertions claim that the Applicant has not demonstrated that hydrogen will not combust, that systems important to safety can withstand conditions resulting from hydrogen combustion, and that offsite radiation releases in excess of 10 CFR 100.11(a)(2) will be prevented.

Joint Intervenors make a number of assertions in this contention but they have not provided the Board with any new significant factual information regarding hydrogen generation as would be required by the Commission Order of April 1, 1981 (CLI-85-5) to reopen a record which has been closed. The matters addressed are not required by NUREG-0737.

Furthermore, on matters related to hydrogen generation in excess of the criteria of 10 CFR 50.44 the Commission has specifically ruled that:

"...quite apart from 10 CFR 50.44, hydrogen gas control could properly be litigated in this proceeding under 10 CFR Part 100. Under Part 100 hydrogen control measures beyond those required by 10 CFR 50.44 would be required if it is determined that there is a credible loss of coolant accident scenario entailing hydrogen generation, hydrogen combustion, containment breach or leaking and offsite radiation doses in excess of Part 100 guideline values." (11 NRC 674 (1980)).

Joint Intervenors have not supplied information of any kind which could be interpreted as a credible loss of coolant accident scenario. This contention is therefore denied.

Contention 4. Decay Heat Removal.

Joint Intervenors contend that the Staff has failed to address the shutdown decay heat removal issue in a SEI supplement.

Decay heat removal is a new unresolved generic safety issue (Task A-45) that was published in March 1981 in NUREG-0705. There is no requirement that new issues be published in an SER each time a generic problem is developed. There is therefore no basis for admitting this contention in the absence of significant new factual information which Intervenors have not provided. We note that NUREG-0705 provides a description of the problem and the means by which the Staff is addressing it. This contention is denied.
Combined Contention 8 and 9. Relief and Block Valves.

Joint Intervenors contend that the present classification of Diablo Canyon relief valves and associated block valves, instruments and controls does not comply with 10 CFR 50, Appendix A, Criterion 1, 10 CFR Part 50, Appendix B, Reg. Guide 1.26 and SRP (Reg. Guide 1.70) Section 3.22. Joint Intervenors also contend that general design criteria 1, 14, 15 and 30 are violated because relief and block valves have not been qualified under all transient and accident conditions.

Joint Intervenors have not supplied new significant factual information which would raise serious questions concerning the safety or operability of relief or block valves at Diablo Canyon. This contention stands therefore as a bare allegation which at this stage of the proceeding is insufficient to require reopening the record on this issue. (CLI-81-5.)

The Board heard evidence on valves in the low-power test proceeding held May 19-22, 1981. The Board limited the issues in that hearing to the question of when block valve testing should be completed. This limitation perhaps leaves the door open to hear a factually supported contention on valves in a reopened full-power proceeding. However, in order to do so Joint Intervenors would need at least some new information to show why valves are likely to fail or are otherwise unreliable at full power. They carry a burden to bring forward new information if they have it at this stage of the proceeding. No such information has been provided.

The Board, however, has received a notification from the Staff that the EPRI valve testing program has been delayed. Relief valve and safety valve testing was not completed by July 1, 1981 as required by NUREG-0737, Item II.D.1. While some tests may be completed by October 1, 1981 others may be delayed for up to eight months. (BN 81-15 dated July 16, 1981 and Staff Counsel letter to Board dated July 24, 1981.) In its decision of July 17, 1981 the Board anticipated that this testing would be completed prior to fuel load.

These notifications do not change our views on this contention since the Staff plans to bring the change in program completion dates to the Commission as a generic NUREG-0737 action item. Prior to any change in Commission policy, however, the Board continues to expect that the Staff will implement current licensing requirements related to valve testing. The contention on valves is denied.

Contention 10. Reactor Vessel Level Instrumentation System.

This is a specific requirement of II.F.2 of NUREG-0737. Joint Intervenors contend that the RVLIS to be installed at Diablo Canyon is deficient in a number of respects: it is still under development; it may provide erroneous or ambiguous readings under some dynamic conditions; it may not comply with single-failure criteria; it is not qualified for seismic conditions; and it is not in full conformance with the Staff's isolation criteria. It will therefore not provide an unambiguous, easy-to-interpret indication of inadequate core cooling.

Section II.F.2 of NUREG-0737 is entitled "Instrumentation for Detection of Inadequate Core Cooling". Knowledge of the water level in the core is considered to be very important, and for this reason a water-level measuring

device is required to be installed in all reactors by January 1, 1982. The basic thrust of II.F.2 is, however, on detection of inadequate core cooling, and for this purpose a multi-component system is required of which a water-level indicator is only a part. Implicit in this requirement is a realization by the Commission that no one instrument can be depended upon to provide the necessary information under all conditions. The water-level indicator does not bear the entire burden of determining inadequate core cooling and it is not required to.

Joint Intervenors appear to believe that the RVLIS must be the primary instrument in detecting inadequate core cooling because of the standard set forth in 10 CFR §50.55a(h) which requires that instrumentation should directly measure the desired variable. The Board would note that 50.55a(h) applies to protective, rather than monitoring instrumentation, and also does not apply to reactors which were issued construction licenses prior to January 1, 1971. (Diablo Canyon Unit 1 issued in April, 1968, and Diablo Canyon Unit 2 issued in December, 1970). In any event, the application of IEEE 279, §4.8 (the requirement in 50.55a(h)) only required direct measurement of variables "To the extent feasible and practical...". Joint Intervenors do not maintain that there is any feasible and practical method to measure water level directly under all conditions, but only that RVLIS may not do so.

Joint Intervenor's concerns concerning single-failure criteria, seismic qualification and isolation criteria are addressed directly in NUREG-0737, pp 3-114 and 3-115 under (7) and (8). These are requirements which must be complied with before acceptance of the RVLIS.

As explained above, the Board finds that the Joint Intervenors have presented no genuine issue to be litigated. The contention is therefore denied.

Contention 11. Small-Break LOCA Analysis.

This contention is almost word for word the Joint Intervenors' Contention 14 which the Board considered in the proceedings on low-power operation. The contention was denied in the Board's Prehearing Conference Order of February 13, 1981. We can find no reason presented by the Joint Intervenors to change our former decision. Contention 11 is therefore denied.

Contention 14. Environmental Qualification of Safety-Related Electrical Equipment.

The Board has determined that this contention does not encompass a NUREG-0737 requirement, but is based on necessary conformance with General Design Criteria, Regulatory Guides and other Staff requirements.

The first part of the contention points out "...significant deficiencies in the qualification of Diablo Canyon equipment...", which were obtained from a June 10, 1981 letter from PG&E to the NRC Staff. This letter, as the Board understands it, was in the nature of a report from PG&E to the Staff on the status of their qualification effort. With this information as a basis, Joint Intervenors first allege that "...the Diablo Canyon safety-related electrical equipment is not capable of maintaining functional operability under all service conditions during the installed life for the time it is required to operate...", and, later, that "Diablo Canyon should not be permitted to operate until all safety-related

electrical equipment has been demonstrated to be qualified to operate as required by the GDC".

The Board agrees in part with the sentiments expressed by the Joint Intervenors. It is obvious that as of June 10, 1981 not all Diablo Canyon electrical equipment had been fully qualified. The Board, however, expects that Diablo Canyon will not be permitted to operate until the safety-related electrical equipment has been qualified in accordance with the mandates of the various general design criteria, as required by regulation. Having said this, the Board does not see herein a litigable issue set forth. This part of the contention is therefore denied.

Joint Intervenors also contend that the Staff has failed to determine that environmental qualification of Class 1E electrical equipment for full-power operation is adequate, and that the Staff has not determined the adequacy of the radiation qualification of safety-related equipment. Joint Intervenors are quite correct in this assertion. The Staff has stated (SER, Supp. 13, p. 7-1; SER, Supp. 14, p. 3-8) that the Staff evaluation of these matters will be presented in a following SER supplement. The Board, therefore, will allow Joint Intervenors, if they so desire, to file a contention on these matters setting forth specific areas of inadequacy in the Staff's evaluation to be contained in a forthcoming SER supplement. The contention will be due fifteen days after service of the SER supplement.

Contention 15 and 16. Systems Interaction.

Joint Intervenors contend that Diablo Canyon cannot be granted an operating license until PG&E demonstrates that structures, systems and components important to safety will not be prevented from operating and performing their intended functions as a result of interactions with

non-safety-related systems. The Board has determined that this is not an explicit requirement of NUREG-0737.

To establish a basis for their contention, Joint Intervenors cite letters written by NRC personnel to persons both within and without the Commission concerning a need for system interaction analyses. They also cite a PG&E study on seismically-induced interactions, in which some 677 interactions were identified. They then conclude that no license should be granted to Diablo Canyon until all adverse interactions between safety and non-safety systems are identified and remedied.

The Board is not aware of any requirement in the regulations for this kind of comprehensive study. Even the seismically-induced interaction study by PG&E was undertaken at the specific request of the Staff and the Advisory Committee on Reactor Safeguards, in recognition of the fact that Diablo Canyon is located in an area of known seismicity. No special circumstances have been established by the Joint Intervenors, and no specific interactions have been identified.

The Board finds that this contention is too broad and non-specific to be accepted. The contention is denied.

Contention 17. Documentation of Deviations.

Joint Intervenors contend that the NRC Staff has (i) failed to require PG&E to document in the FSAR where Diablo Canyon design, structures and components deviate from current regulatory practices (i.e., regulatory guides, Branch Technical Positions and Standard Review Plans) and the basis for and acceptability of those deviations, and (ii) failed to set forth in the Safety Evaluation Report the standards against which Diablo Canyon has been reviewed and the basis for any deviations approved by the Staff from current regulatory practices.

Joint Intervenors cite the accident at TMI and several documents which were prepared in the aftermath of the accident in support of this contention. (Rogovin Report, Kemeny Report and others).

The Board finds that neither the accident at TMI nor the analyses which followed now constitute new information which would alone justify reopening a closed record. The analyses which followed the accident indicate that the Commission has considered it in detail for the purpose of licensing. NUREG-0737 is the Commission response to this consideration. The Commission has stated that: "...current operating license applications should be measured by the NRC Staff against the regulations, as augmented by these requirements." (CLI-80-42, Dec. 18, 1980, p. 6.)

Joint Intervenors Contention 17 would establish a requirement which is not found either in the Commission regulations or in NUREG-0737. Neither is new significant factual information supplied which could reasonably lead to a conclusion of improved safety if this proposed requirement were implemented.

In view of the foregoing we conclude that this contention is nothing more than a generalization regarding the Intervenor's views of what applicable policies ought to be. This requires rejection under the criteria established in Philadelphia Electric Co. (Peach Bottom Atomic Power Station, Units 2 and 3, ALAB-216, 8 AEC 13, 20-21 (1974)). Contention 17 is denied.

ORDER

On this 4th day of August 1981 it is

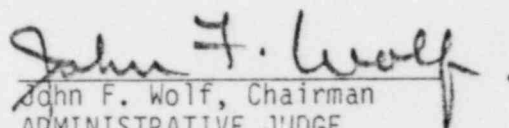
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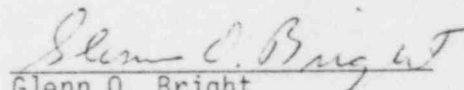
That the following contention will be litigated by the parties: PG&E and the combined onsite, state and local emergency response plans and

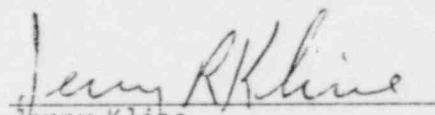
preparedness do not comply with 10 CFR 50.33(g); 50.47 and revised Appendix E to Part 50.

That discovery will begin immediately.

ATOMIC SAFETY AND
LICENSING BOARD


John F. Wolf, Chairman
ADMINISTRATIVE JUDGE


Glenn O. Bright
ADMINISTRATIVE JUDGE


Jerry Kline
ADMINISTRATIVE JUDGE

Issued and entered at
Bethesda, Maryland.