

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,
Nos. 1 and 2))

Docket Nos. 50-275 O.L.
50-323 O.L.
FULL POWER PROCEEDING

RESPONSE TO JOINT INTERVENORS' THIRD
SET OF INTERROGATORIES

On October 22, 1981 the Joint Intervenors filed their third set of Interrogatories and Requests for Documents against the NRC Staff. Although not bound by the time limits in 10 C.F.R. § 2.740b, since that section does not apply to the Staff, the Staff has in the past voluntarily attempted to answer interrogatories within the 14 day limit in that provision. In the present circumstance the Staff has not been able to prepare the answers to Joint Intervenors within that 14 day period. This is due to the absence of Mr. John Sears, who was on official business in California for two weeks. The Staff intends to rely in part upon knowledge of Mr. Sears in answering the subject interrogatories. The Staff intends to respond to the interrogatories on or before November 16, 1981, with the exception of the following objections:

The interrogatories presented to the Staff by Joint Intervenors requested that each interrogatory be answered in four parts. The Staff will label the responses A through D corresponding to Joint Intervenors' request. The Staff objects to Part D(2) of the interrogatories. Any

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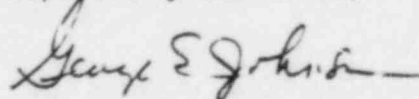
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summary of the witnesses' testimony would be privileged as trial preparatory material. See Kansas Gas and Electric Co. (Wolf Creek Nuclear Generating Station, Unit 1), ALAB-327, 3 NRC 408 (1976). Further, since at present no such summaries exist, requiring the Staff to compile data and create such a summary is objectionable. See 4A Moore's Federal Practice, Para. 33.20(3). Therefore, throughout the Staff responses to the interrogatories subpart (2) of Part D will not be answered. The Staff further notes that Joint Intervenors will have a copy of all Staff testimony prior to any hearing.

In addition to the above objection, Interrogatories 76 and 78(b) ask the Staff for information contained in the evacuation times assessment prepared for Diablo Canyon, and in the State and County plans, respectively. The Staff objects to these interrogatories. They ask the Staff to compile data which is as readily available to Joint Intervenors as to the Staff. The Joint Intervenors can read these documents and find for themselves any information responsive to their interrogatories. See 4A Moore's Federal Practice, Para. 33.20(3).

Respectfully submitted,



George E. Johnson
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 10th day of November, 1981