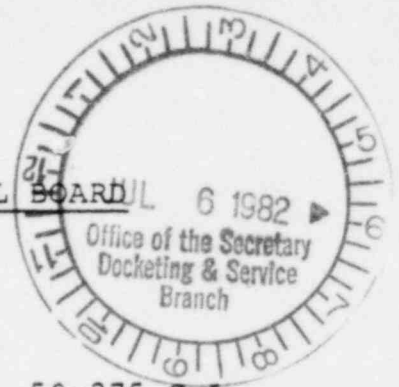


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD



\_\_\_\_\_)  
In the Matter of )  
\_\_\_\_\_)  
PACIFIC GAS AND ELECTRIC COMPANY )  
\_\_\_\_\_)  
(Diablo Canyon Nuclear Power Plant, )  
Units 1 and 2) )  
\_\_\_\_\_)

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

RESPONSE OF GOVERNOR BROWN IN SUPPORT OF AND JOINING  
JOINT INTERVENORS' MOTION TO REOPEN THE RECORD

Governor Edmund G. Brown Jr., representing the State of California, hereby supports and joins the Joint Intervenors' Motion to Reopen the Record ("Motion"), and urges the Board itself to take jurisdiction over the issues to be decided in the reopened proceeding.<sup>1/</sup>

The findings of the Licensing Board on PG&E's quality assurance program at Diablo Canyon have been shown to be categorically incorrect. This is documented not only by Joint Intervenors' Motion and the accompanying Hubbard affidavit, but also by the express language of the Commission in its November 19, 1981 Order suspending PG&E's low power license, by the subsequent findings of the independent Reedy Report, and by the fundamental QA breakdowns which caused and permitted to go undetected the more than 200 already documented design and construction flaws at Diablo Canyon.

<sup>1/</sup> The Governor, of course, could independently file a separate motion to reopen. However, to avoid repetitious filings, and because the Governor agrees with the Joint Intervenors' Motion and relies on Mr. Hubbard's affidavit attached thereto, the Governor hereby adopts the content of Joint Intervenors' Motion.

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The Governor will not belabor the incontrovertible error of the Licensing Board in finding PG&E's quality assurance program for design and construction to be adequate and in compliance with Appendix B. Today, it is universally known that in some critical instances -- seismic design, for example -- PG&E and its contractors had no quality assurance program whatsoever; in other instances, the quality assurance program was simply ignored. The action required of this Board, therefore, is to establish on the record the evidentiary basis on which to make factual findings on quality assurance at Diablo Canyon; not only for pre-1978 seismic contracts, but for all design and construction activities subject to the requirements of Appendix B.

Given the sweeping and fundamental nature of PG&E's QA breakdowns which have already been revealed, there is every reason to believe that QA breakdowns occurred in every aspect of design and construction activities at Diablo Canyon. Indeed, not only does the Reedy Report identify specific post-1978 QA breakdowns, but the Hubbard affidavit demonstrates the extensive range and depth of QA breakdowns which can be assumed with virtual certainty to have occurred at Diablo Canyon. The broad spectrum of already known design and construction flaws is proof positive that there has been a collapse of QA responsibility within the PG&E organization. The Governor submits that only by granting the Motion to Reopen and thus subjecting PG&E's quality assurance activities to the rigors and discipline of an evidentiary hearing can the facts be determined and the rights of the parties be preserved.

The Motion to Reopen satisfies the Wolf Creek criteria which govern the granting of motions to reopen: (1) the new information on quality assurance breakdowns is important to safety; (2) the absence of adequate quality assurance programs contradicts and would have precluded the Licensing Board's QA findings and licensing decision; and (3) the Motion is timely and was duly filed after the new information was circulated by the NRC to the Joint Intervenors and the Governor and such parties were able to analyze the information and its impact on the QA findings and evidence before the Licensing Board. Finally, the Motion is not premature, but is ripe for consideration by the Board even though the ongoing audit activities of Teledyne, Reedy, and the NRC Staff continue to uncover additional PG&E errors and discrepancies. The Board need not await the conclusion of those activities before addressing the Motion, because the evidence already is more than sufficient to establish the urgency and justiciability of the quality assurance issue.

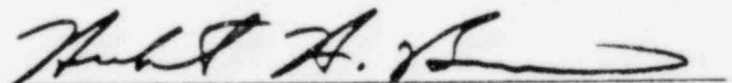
The plain fact is widely known: a quality assurance debacle has occurred at Diablo Canyon. This debacle has been recognized by virtually every sector of nuclear interests, including the Chairman and Commissioners of the NRC who in their November 19, 1981 Congressional testimony and thereafter minced no words in characterizing the spiraling number of QA breakdowns at Diablo Canyon. Ever since PG&E's flaws were first revealed in September 1981, and continuing through the present, the disclosure of scores-upon-scores of QA breakdowns has highlighted the incongruity of the Licensing Board's finding that QA is adequate at

Diablo Canyon. It is with that significantly erroneous finding in mind, coupled with the hard evidence of the Reedy report, the Hubbard affidavit, and the more than 200 documented flaws at Diablo Canyon, that this Board should grant the Motion to Reopen.

The Motion presents this Board with a narrow legal issue which is central to the safety of Diablo Canyon and to the participatory rights of the Governor and Joint Intervenors. These parties now have the right, under the Atomic Energy Act and Administrative Procedure Act, to a hearing on quality assurance at Diablo Canyon given the significant new information that has come to light since the record was closed and the low power license was suspended. Accordingly, the Governor submits that this Board's first action should be to vacate the erroneous decision of the Licensing Board and to set aside that Board's findings on PG&E's QA programs for design and construction. Following this, the Governor submits that the Board's only alternatives are either (1) to remand the matter for further proceedings before the Licensing Board or (2) to take jurisdiction for the conduct of further proceedings. Given the precedents of the vacated security proceeding and the reopened seismic proceeding, the Governor suggests that it would be appropriate that this Board itself take jurisdiction.

Respectfully submitted,

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July 2, 1982

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of )  
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)

CERTIFICATE OF SERVICE

I hereby certify that copies of the "RESPONSE OF GOVERNOR BROWN IN SUPPORT OF AND JOINING JOINT INTERVENORS' MOTION TO REOPEN THE RECORD" have been served to the following on July 2, 1982, by U.S. mail, first class.

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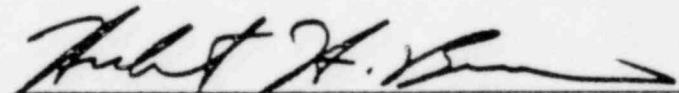
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