

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD

82 SEP-3 11:28

Administrative Judges:

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

Thomas S. Moore, Chairman
Dr. John H. Buck
Dr. W. Reed Johnson

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

ORDER

September 2, 1982

On August 31, 1982 the Licensing Board issued its initial decision in this proceeding authorizing, with certain conditions, the Director of Nuclear Reactor Regulation to issue an operating license for the Diablo Canyon facility. Pending before us are the appeals of Governor Brown and the joint intervenors from the Licensing Board's earlier July 17, 1981 partial initial decision that authorized a license for fuel loading and low power testing for the facility. LBP-81-21, 14 NRC 107 (1981). Subsequent to the issuance of that low power license, it was suspended

by the Commission and it remains suspended today. See CLI-81-30, 14 NRC 950 (1981). ^{1/}

In light of these events, it would appear that many of the issues presented by the pending appeals from the Licensing Board's low power decision may be moot. The parties therefore should fully address this question in supplemental briefs. ^{2/} All briefs are to be filed simultaneously and shall be in our hands no later than September 17, 1982. All parties may file responses that

^{1/} In addition to suspending the low power license, the Commission ordered an independent design verification audit of the facility. Thereafter, and in response to joint intervenor's motion to reopen the record underlying the Licensing Board's partial initial decision, we certified to the Commission questions relating to whether the Commission intended to deprive the adjudicatory boards of jurisdiction to consider quality assurance and quality control issues involving the plant. ALAB-681, 16 NRC ____ (July 16, 1982). In line with our actions, the Licensing Board declined to consider quality assurance issues in its initial decision. Slip opinion at 9.

^{2/} The briefs should not, however, address the issue of the Licensing Board's August 4, 1981 ruling on full-power contentions that we consolidated for argument with the low-power appeal. The issue of the admissibility of full-power contentions was decided in our order of December 11, 1981, for which our explanatory memorandum is forthcoming.

shall be in our hands no later than September 24, 1982.

It is so ORDERED.

FOR THE APPEAL BOARD

C. Jean Shoemaker
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Secretary to the
Appeal Board