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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)	
PACIFIC GAS AND ELECTRIC COMPANY)	Docket Nos. 50-275 O.L.
(Diablo Canyon Nuclear Power Plant)	50-323 O.L.
Unit Nos. 1 and 2))	

NRC STAFF RESPONSE TO PETITION FOR DIRECTED
CERTIFICATION FOR REVIEW OF "RECONSIDERATION
OF BOARD'S ORDER OF SEPTEMBER 5, 1978"
RELATING TO QUALIFICATION OF SECURITY EXPERT

By petition to the Appeal Board dated November 20, 1978, Intervenor San Luis Obispo Mothers for Peace ("SLOMFP") seeks review and reversal of the Licensing Board's decision of November 3, 1978 which, pursuant to the Appeal Board's remand of October 27, 1978 (ALAB-504) reconsidered its earlier denial of Mr. David D. Comey's qualifications as a security expert. In a more lengthy and explicit decision, the Licensing Board again denied to qualify Mr. David D. Comey as a security expert for the purpose of reviewing Pacific Gas & Electric's ("PG & E") security plan. The Staff opposes the instant SLOMFP petition, as it did the earlier one, as an inappropriate and unwarranted interlocutory appeal. Moreover, after careful review of the instant petition, the NRC Staff remains of the view that the Intervenor has failed to demonstrate the

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necessary expertness of its proffered candidate for purposes of reviewing PG & E's security plan.

The position and arguments taken by the NRC Staff in its previous pleadings on this matter are adopted here.^{1/} Since the instant petition does not present any new information or ground for reversal of the Licensing Board decision, the Staff sees little utility in rehashing its earlier arguments on either the merits or the law. The Intervenor, on the other hand, comes again before the Appeal Board requesting that the Appeal Board inject itself into the factual province of the Licensing Board without offering any new relevant information or arguments to support such a request.

Instead, much of what Intervenor presents is irrelevant. There is, for example, no question that full exposition of issues is laudible and that security is one of those issues that has attracted public as well as Congressional attention. However, Intervenor seems to miss the point that the only issue here is simply whether it has been successful at establishing the qualifications of Mr. David D. Comey as a security expert for purposes of reviewing those portions of the security plan as may be relevant to its contention.

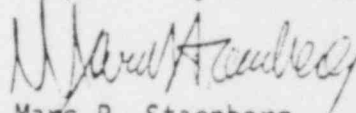
^{1/} See previous Staff pleadings: "NRC STAFF RESPONSE TO INTERVENOR'S PETITION TO ESTABLISH QUALIFICATIONS OF DAVID COMEY AS SECURITY EXPERT FOR DISCOVERY" filed 8/14/78 before the Licensing Board, and "NRC STAFF RESPONSE TO INTERVENOR'S SAN LUIS OBISPO MOTHERS FOR PEACE PETITION FOR DIRECTED CERTIFICATION AND APPEAL FROM LICENSING BOARD ORDER OF SEPTEMBER 5, 1978" filed 10/25/78 before the Appeal Board.

The Licensing Board has twice found that SLOMFP was unsuccessful at meeting its burden 2/

The Staff believes that the Licensing Board, pursuant to Appeal Board direction, has "articulated in reasonable detail" the reasons underlying their decision. Having done so, the Licensing Board decision should stand as one within their purview to render. 3/

For the reasons discussed in the prior Staff pleadings and adopted here, Intervenors' petition for directed certification by this Appeal Board and reversal of the Licensing Board's Orders of September 5 and October 27, 1978 should be denied.

Respectfully submitted,


Marc R. Staenberg
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 1st day of December, 1978.

2/ Licensing Board's "Order", dated September 5, 1978 and Licensing Board's "Reconsideration of the Board's Order of September 5, 1978", dated November 3, 1978.

3/ In ALAB-410, the Appeal Board recognized that the decision whether proffered expert is, in fact, qualified is a matter for the Licensing Board. See footnote 19, ALAB-410.

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(Diablo Canyon Nuclear Power Plant) 50-323 O.L.
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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF RESPONSE TO PETITION FOR DIRECTED CERTIFICATION FOR REVIEW OF 'RECONSIDERATION OF BOARD'S ORDER OF SEPTEMBER 5, 1978' RELATING TO QUALIFICATION OF SECURITY EXPERT", dated December 1, 1978, in the above-captioned proceeding, have been served on the following by deposit in the United States Mail, first class, or, as indicated by an asterisk through deposit in the Nuclear Regulatory Commission's internal mail system, this 1st day of December, 1978.

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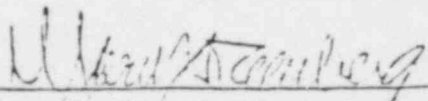
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