

09/10/82

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)
Unit, Nos. 1 and 2)

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

STAFF EXCEPTIONS TO INITIAL DECISION OF AUGUST 31, 1982
AND MOTION TO TOLL THE SCHEDULE FOR BRIEFING THE APPEAL

On August 31, 1982 the Licensing Board in the above proceeding issued an Initial Decision. That decision authorized issuance of a full power license for Diablo Canyon subject to certain conditions. Pursuant to 10 C.F.R. § 2.762(a) the Staff takes exception to certain rulings in that Initial Decision as detailed below. Further, for the reasons described below, the Staff moves to toll the beginning of the period provided in 10 C.F.R. § 2.762(b) for the filing of a brief in support of or in opposition to the Staff's exceptions.

Exceptions

1. The Licensing Board erred in finding that there must be a completion of state plans and findings on the adequacy of state plans by FEMA prior to issuance of the full power license. This condition is addressed by the Licensing Board at pp. 20 and 218 of the Initial Decision.

2. The Staff takes exception to the Licensing Board's conclusion that the remaining Standard Operating Procedures need to be completed prior to full power operation. This condition is addressed by the Licensing Board at pp. 20 and 218.

DESIGNATED ORIGINAL

Certified By

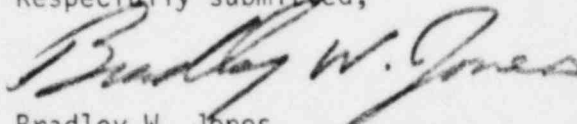
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3. The Licensing Board erred in finding that the Director of Nuclear Reactor Regulation shall obtain a written acquiescence by the appropriate State jurisdiction binding them to participate in those Standard Operating Procedures required to be followed by Federal Regulations prior to issuance of a full power license. This condition is discussed on page 218 of the Initial Decision.

Motion To Toll Schedule For Briefing Appeal

The Staff moves the Atomic Safety and Licensing Board to toll the period for filing briefs related to Staff's above stated exceptions until the Atomic Safety and Licensing Board has ruled on the Staff's request for clarification of the Initial Decision, which is in preparation and will be filed by September 17, 1982. That filing will relate to the above exceptions and any clarification from the Licensing Board as a result of the request may result in withdrawal or modification of the above exceptions. The Staff further requests that all parties be given until 5 days after the issuance of the Licensing Board's ruling on the request for clarification to withdraw or file modifications to the exceptions. Such relief is consistent with the Appeal Board's previous practice. Commonwealth Edison Company (Byron Nuclear Power Station, Units 1 and 2), ALAB-659 14 NRC 983 (1981). See also Duke Power Company (Perkins Nuclear Station, Units 1, 2, and 3), ALAB-597 11 NRC 870 (1980).

Respectfully submitted,



Bradley W. Jones
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Dated at Bethesda, Maryland
this 10th day of September, 1982

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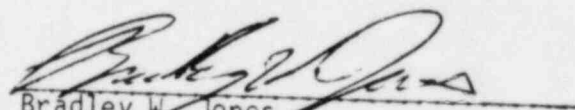
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