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

8209140107 820910 PDR ADOCK 05000275 G PDR 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 withdrawl 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 (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).

Respecfully submitted,

Bradley W. Jones Counsel for NRC Staff

Dated at Bethesda, Maryland this 10th day of September, 1982

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.

CERTIFICATE OF SERVICE

I hereby certify that copies of "STAFF EXCEPTIONS TO INITIAL DECISION ON AUGUST 31, 1982 AND MOTION TO TOLL THE SCHEDULE FOR BRIEFING THE APPEAL" 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 10th day of September, 1982:

Dr. John H. Buck
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555 *

Dr. W. Reed Johnson
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555 *

Mr. Thomas S. Moore, Member Atomic Safety and Licensing Appeal Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 *

John F. Wolf, Esq.
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555 *

Mr. Glenn O. Bright
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555 *

Elizabeth Apfelberg 1415 Cozadero San Luis Obispo, CA 93401 Dr. Jerry Kline
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555 *

Philip A. Crane, Jr., Esq. Pacific Gas and Electric Company P.O. Box 7442 San Francisco, CA 94106

Mr. Frederick Eissler
Scenic Shoreline Preservation
Conference, Inc.
4623 More Mesa Drive
Santa Barbara, CA 93105

Mrs. Raye Fleming 1920 Mattie Road Shell Beach, CA 93449

Richard E. Blankenburg, Co-publisher Wayne A. Soroyan, News Reporter South County Publishing Company P.O. Box 460 Arroyo Grande, CA 93420

Byron S. Georgiou Legal Affairs Secretary Governor's Office State Capitol Sacramento, CA 95814 Mr. Gordon Silver Mrs. Sandra A. Silver 1760 Alisal Street San Luis Obispo, CA 93401

Joel R. Reynolds, Esq.
John R. Phillips, Esq.
Center for Law in the Public
Interest
10951 West Pico Boulevard
Third Floor
Los Angeles, CA 90064

Arthur C. Gehr, Esq. Snell & Wilmer 3100 Valley Center Phoenix, Arizona 95073

Paul C. Valentine, Esq. 321 Lytton Avenue Palo Alto, CA 94302

Bruce Norton, Esq. 3216 North 3rd Street Suite 202 Phoenix, Arizona 85102

David S. Fleischaker, Esq. P.O. Box 1178 Oklahoma City, Oklahoma 73101

Richard B. Hubbard MHB Technical Associates 1723 Hamilton Avenue - Suite K San Jose, CA 95125

John Marrs, Managing Editor San Luis Obispo County Telegram-Tribune 1321 Johnson Avenue P. O. Box 112 San Luis Obispo, CA 93406

Andrew Baldwin, Esq. 124 Spear Street San Francisco, CA 94105

Herbert H. Brown Kirkpatrick, Lockhart, Hill, Christopher & Phillips 1900 M Street, N.W. Washington, DC 20036 Harry M. Willis Seymour & Willis 601 California St., Suite 2100 San Francisco, CA 94108

Janice E. Kerr, Esq. Lawrence Q. Garcia, Esq. 350 McAllister Street San Francisco, CA 94102

Mr. James O. Schuyler Nuclear Projects Engineer Pacific Gas and Electric Company 77 Beale Street San Francisco, CA 94106

Mark Gottlieb California Energy Commission MS-18 1111 Howe Avenue Sacramento, CA 95825

Atomic Safety and Licensing Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 *

Atomic Safety and Licensing Appeal Board U.S. Nuclear Regulatory Commission Washington, D.C. 20555 *

Docketing and Service Section U.S. Nuclear Regulatory Commission Washington, D.C. 20555 *

> Bradley W Jones Counsel for NRC Staff