

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.  
Units Nos. 1 and 2 )

STAFF'S REQUEST FOR LEAVE TO WITHDRAW CERTAIN EXCEPTIONS  
TO THE INITIAL DECISION OF AUGUST 31, 1982

I. BACKGROUND

On August 31, 1982, the Licensing Board issued an Initial Decision ("Decision") which authorized the issuance of a full-power operating license for Diablo Canyon Nuclear Power Plant, Units 1 and 2 subject to certain conditions. Exceptions to certain rulings in that Decision were filed by the Staff on September 10, 1982, pursuant to 10 C.F.R. § 2.762(a). These exceptions concern: (1) FEMA Findings on the State Plan, (2) Standard Operating Procedures (SOP's) and (3) Acquiescence by State Jurisdiction to SOP's. The Staff requested the Appeal Board to toll the time for the filing of briefs related to exceptions until the Licensing Board ruled on the Staff's motion for clarification of the Decision.<sup>1/</sup> Furthermore, the Staff requested that all parties be given until 5 days

1/ On September 15, 1982, Pacific Gas and Electric Company filed its exceptions to the Licensing Board's August 31, 1982 Decision and also moved to toll the briefing schedule until 5 days after the Licensing Board has ruled on the Staff's motion for clarification of the Decision.

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after issuance of the Licensing Board's ruling on the request for clarification to withdraw or file modifications to the exceptions. -On September 13, 1982, the Appeal Board granted the Staff's motion and tolled the period for filing briefs concerning exceptions until the Licensing Board ruled on the Staff's motion to clarify the Decision. The Staff filed its motion for clarification of the Decision on September 17, 1982. On September 27, 1982, the Licensing Board issued a memorandum responding to the Staff's motion for clarification of the Decision.

## II. DISCUSSION

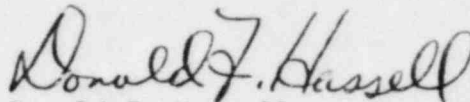
In the memorandum of September 27, 1982, the Licensing Board clarified its earlier rulings concerning certain preconditions to the issuance of a full-power license which relate to FEMA findings on the State plan, completion of SOP's and acquiescence by appropriate State jurisdiction to SOP's. These particular conditions are identical to the areas in which the Staff filed its exceptions on September 10, 1982. The Licensing Board's clarification of the preconditions related to completion of SOP's and acquiescence by appropriate State jurisdiction to SOP's has rendered unnecessary Staff Exceptions 2 and 3. Consequently, the Staff no longer wishes to pursue exceptions numbered 2 and 3 as set forth in its filing of September 10, 1982.

## III. CONCLUSION

Given the Licensing Board's rulings in its memorandum of September 27, 1982, responding to Staff's motion for clarification of the

August 31, 1982 Initial Decision, the Staff requests leave to withdraw Staff Exceptions 2 and 3 to the Initial Decision. The Staff intends to pursue an appeal of Staff Exception 1.

Respectfully submitted,

A handwritten signature in cursive script that reads "Donald F. Hassell". The signature is written in dark ink and is positioned above the typed name and title.

Donald F. Hassell  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 4th day of October, 1982

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NUCLEAR REGULATORY COMMISSION

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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 "NRC STAFF REPLY TO STAFF'S REQUEST FOR LEAVE TO WITHDRAW CERTAIN EXCEPTIONS TO THE INITIAL DECISION OF AUGUST 31, 1982 ORDER" 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 4th day of October, 1982:

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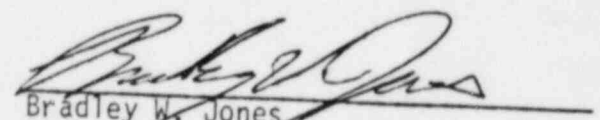
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