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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING APPEAL BOARD
84 JUN 29 A8:27

Administrative Judges:

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH
June 28, 1984

_____)
In the Matter of)
)
PACIFIC GAS AND ELECTRIC COMPANY)
)
(Diablo Canyon Nuclear Power)
Plant, Units 1 and 2)
_____)

SERVED JUN 29 1984

Docket Nos. 50-275 OL
50-323 OL

ORDER

On June 12, 1984, the joint intervenors filed a motion for a protective order. They seek to prevent disclosure to the applicant and the NRC staff of certain affidavits accompanying their reply to the applicant's and staff's responses to joint intervenors' motions to reopen the record on the issues of design and construction quality assurance. The motion requests no alternative relief.

The movants assert that the affidavits were all given by present or former employees at the Diablo Canyon facility who fear reprisal by the applicant, or the applicant's contractors, should their identities become known. The exhibits at issue, numbered 3, 4, 7 and 10, were not served on the applicant and the staff. Additionally, the copies of these exhibits filed with us have been edited by the joint

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intervenors to delete the names and other identifying information concerning the anonymous affiants.¹

Because joint intervenors have not established the necessity for the comprehensive protective order they seek, the motion is denied.

As indicated in ALAB-775, supra, the joint intervenors' motions to reopen the record have been denied. Thus, the question of a protective order is of little immediate significance. To ensure that the matter is resolved in the event of further appeals, however, we hereby order the joint intervenors to serve by July 6, 1984, the expurgated affidavits filed with us (i.e., Exhibits 3, 4, 7 and 10) upon the applicant and the staff.² This will allow

¹ We note that in adjudicatory proceedings the proper course is to submit complete materials to the Board, in camera, including the names of all affiants, so that we may determine the need for and scope of any protective order. See, ALAB-775, 19 NRC ____, ____ n.18 (June 28, 1984) (slip opinion at 8 n.18).

² In scrutinizing these affidavits, we noted several instances in which the names of the "anonymous" affiants were apparently inadvertently recited. The joint intervenors should carefully examine the affidavits and delete these names prior to releasing the documents to the applicant and staff.

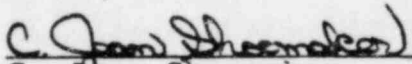
We are permitting the joint intervenors to withhold the names and other identifying information about the individuals supplying Exhibits 3, 4, 7 and 10 even though they have not demonstrated they are entitled to withhold such information. Indeed, the applicant's response to the joint intervenors' motion seemingly removes the basis for a

(Footnote Continued)

the other parties to be informed of the substance of the joint intervenors' reply, while still accommodating the joint intervenors' perceived need to protect the confidentiality of their affiants.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board

(Footnote Continued)
protective order. Nevertheless, we have not ordered the release of all the information in Exhibits 3, 4, 7 and 10 because at this juncture there will be no prejudice to the applicant or the staff.