



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

PDR-016  
LPDR

Doc No. 50-275/323

SEP 24 1984

Joel Reynolds, Esquire  
Center for Law in the Public Interest  
10951 West Pico Boulevard, Third Floor  
Los Angeles, CA 90064-2166

IN RESPONSE REFER  
TO FOIA-84-73

Dear Mr. Reynolds:

This is in further response to your letter of January 20, 1984, in which you requested, pursuant to the Freedom of Information Act, documents regarding the 1977 Nuclear Services Corporation audit of Pullman Power Products, the prime piping contractor for the Diablo Canyon Nuclear Power Plant.

Enclosed is a three-page memorandum, dated January 4, 1982, for the Commissioners from William J. Dircks (SECY-84-1) that discusses Modification of Commission Memorandum and Order Regarding Operation of Diablo Canyon Nuclear Power Plant (CLI-83-27).

The documents listed on Appendix A are being withheld in their entirety. Documents one through five are drafts which contain the advice, opinions, and recommendations of the staff, given during a deliberative process regarding the 10 CFR 2.206 Director's Decision to deny the petition of the Joint Intervenors with regard to the 1977 audit performed by Nuclear Services Corporation of Pullman Power Products' quality assurance program for Diablo Canyon. Document six is a six-page draft Memorandum and Order regarding the Diablo Canyon facility which contains the analysis, opinions, and recommendations of the Executive Director for Operations to the Commissioners regarding the Pacific Gas & Electric Company's request for reinstatement of the authority to conduct certain precriticality tests at the Diablo Canyon facility. The document does not contain any reasonably segregable factual portions not already available to the public in Docket No. 50-275. Because these documents reflect the predecisional process among the staff, the Executive Director for Operations, and the Commissioners, these documents are exempt from mandatory disclosure pursuant to Exemption (5) of the Freedom of Information Act (5 U.S.C. 552(b)(5)) and 10 CFR 9.5(a)(5) of the Commission's regulations.

Pursuant to 10 CFR 9.9 and 9.15 of the Commission's regulations, it has been determined that the information withheld is exempt from production or disclosure, and that its production or disclosure is contrary to the public interest. The persons responsible for the denial of documents one through five are the undersigned and Richard C. DeYoung, Director, Office of Inspection and Enforcement. The person responsible for the denial of document six is John C. Hoyle, Assistant Secretary of the Commission.

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PDR FOIA  
REYNOLDS84-73 PDR

Joel Reynolds, Esquire

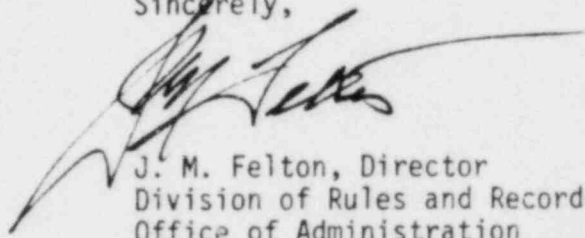
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SEP 24 1984

These denials by myself and Mr. DeYoung may be appealed to the Executive Director for Operations within 30 days from the receipt of this letter. Any such appeal must be in writing addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should clearly state on the envelope and in the letter that it is an "Appeal from an Initial FOIA Decision." The remaining denial may be appealed within 30 days to the Commission and should be addressed to the Secretary of the Commission.

The review of additional documents subject to your request has not been completed. As soon as that review is completed, we will contact you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. M. Felton", with a long, sweeping horizontal line extending to the right.

J. M. Felton, Director  
Division of Rules and Records  
Office of Administration

Enclosures: As stated

APPENDIX A

1. January 1984 Draft Letter to Joel L. Reynolds from Richard C. DeYoung, re: Response to petition with attached draft 10 CFR 2.206 Director's Decision and notice document (18 pages)
2. January 1984 Annotated draft Director's Decision (17 pages)
3. Undated Annotated draft Director's Decision (14 pages)
4. Undated Excerpt from draft number 2 above, with annotations (5 pages)
5. Undated Draft Letter to Joel Reynolds from Richard C. DeYoung, re: Response to petition with attached draft 10 CFR 2.206 Director's Decision and notice document (17 pages)
6. Undated Draft Memorandum and Order, re: Diablo Canyon facility (6 pages)



**POLICY ISSUE**  
(Notation Vote)

January 4, 1984

SECY-84-1

For: The Commissioners

From: William J. Dircks  
Executive Director for Operations

Subject: MODIFICATION OF COMMISSION MEMORANDUM AND ORDER REGARDING  
OPERATION OF DIABLO CANYON NUCLEAR POWER PLANT (CLI-83-27)

Purpose: To provide the Commissioners with the staff's recommendation to reinstate the authority to engage in activities in Modes 4 and 3 under Facility Operating License No. DPR-76 prior to consideration of criticality and low power testing, pursuant to licensee's request of January 4, 1984.

Discussion: At the October 28 Commission meeting, both the staff and PG&E recommended reinstatement of the authority to load fuel and conduct precriticality testing in terms of operation in Modes 6 and 5. This authority had been requested by PG&E in December 1982 as part of its proposed 3-step process for reinstatement of the Unit 1 operating license and authorization of full power operation, which was approved by the Commission. The limitation on the modes of operation was placed on PG&E's request because of their modification completion schedule. Collectively, however, Modes 6, 5, 4, and 3 encompass operation within what was contemplated by Step 1 in the 3-step licensing process, i.e. precritical activities. On November 8, 1983, the Commission issued a Memorandum and Order, CLI-83-27, in which, among other things, it reinstated the authority to load fuel and conduct pre-criticality activities included within Modes 6 and 5 as described in the Diablo Canyon Technical Specifications.

Consistent with the Commission's Memorandum and Order, the licensee has loaded fuel and has been conducting activities permitted under Modes 6 and 5 which limit system heatup to 140°F. We have been advised by the licensee, by letter dated January 4, 1984, that all steps necessary to undertake activities under Modes 4 and 3 will be completed so as to permit entry into Mode 4 by January 15, 1984. From an operational standpoint, the licensee has estimated that Mode 4 and 3 operation will take about two weeks to complete. Operation in Modes 4 and 3 would allow additional precriticality

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activities to be conducted at full system temperatures and pressures. As noted by the Staff in SSER 21, December 1983, such operation will provide additional confidence in the evaluation of piping and pipe support design which will be helpful in the staff's assessment of a number of allegations still under review.

The staff continues to be satisfied overall that the public health and safety is protected during operation in these modes given the low risk attributable to precriticality activities and the fact that no fission product inventory will be created. In addition, the staff, in SSER 20, December 1983, has completed its review of those matters which require resolution prior to step 2 (criticality and low power testing) and, subject to the reservation noted in SSER 21) has favorably reported on them. We further believe that authorization to proceed to Modes 4 and 3 would be consistent with the Commission's intentions as evidenced in its November 8, 1983 Memorandum and Order which, but for a single reference to Modes 6 and 5, reinstated the authority to load fuel and conduct precriticality activities.

Recommendation: The staff recommends that the Commission grant the licensee's request of January 4, 1984 and modify its Memorandum and Order to permit operation in Mode 4 and 3.



William J. Dircks  
Executive Director for Operations

Enclosure:  
Proposed Commission Order (to follow)

Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Friday, January 13, 1984.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Tuesday, January 10, 1984, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

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\*ADMITTED IN D.C.  
NOT CALIF.

January 20, 1984

FREEDOM OF INFORMATION  
ACT REQUEST  
FOIA 84-73  
Rec 4-31-84

Director, Office of Administration  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20055

Re: Freedom of Information Act Request

Dear Sir:

This is a request under the Freedom of Information Act, as amended, 5 U.S.C. § 552. On behalf of the Joint Intervenors in the Diablo Canyon Nuclear Power Plant licensing proceeding (In the Matter of Pacific Gas and Electric Company, Nos. 50-275, 323), I am writing to request a copy of all records (10 C.F.R. 9.3a(b)) which discuss, relate to, arise out of, or address in any way the 1977 Nuclear Services Corporation audit of Pullman Power Products (also known as Pullman-Kellogg), the prime piping contractor for the Diablo Canyon Nuclear Power Plant. This request encompasses, among other things, all responses or analyses of the audit by any person, company, entity, or agency; any documents from any subsequent investigations into the audit findings by any person, company, entity, or agency; and any documents relating to disclosure of (or failure to disclose) the audit report to the NRC or any person, company, entity, or agency.

If you determine that some or all of the documents are exempt from release, please advise me as to which exemption(s) you believe covers the materials which you are not releasing and the reasons supporting that belief. In addition, I will expect, as the Act requires, that you will provide me with the remaining non-exempt portions. I, of course, reserve the right to appeal any decision to withhold information and expect that you will list the address and office to which such an appeal may be directed.

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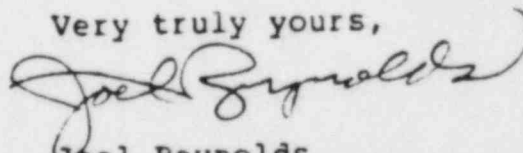
Director, Office of Administration  
January 20, 1984  
Page Two

As you know, the amended Act permits you to reduce or waive search and copying fees if it "is in the public interest primarily benefiting the public." 5 U.S.C. § 552(a)(4)(A). Because the Center for Law in the Public Interest is a nonprofit institution and because the public generally will benefit from and be served by full disclosure of the documents requested, I believe that this request plainly fits that category and ask that you waive any fees.

If you have any questions regarding this request, please telephone me at (213) 470-3000.

As the amended Act requires, I will expect to receive a reply from you within ten (10) working days.

Very truly yours,



Joel Reynolds  
Counsel to the  
Joint Intervenors

JR:cc