



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

February 17, 1984

MEMORANDUM FOR: Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

FROM: James Lieberman  
Director and Chief Counsel  
Regional Operations and Enforcement Division, OELD

SUBJECT: MOTHERS FOR PEACE PETITION UNDER 10 CFR 2.206 CONCERNING  
DIABLO CANYON

On behalf of the San Luis Obispo Mothers for Peace, Thomas Devine of the Government Accountability Project has filed the enclosed petition under 10 CFR 2.206 regarding Diablo Canyon Unit 1. The Secretary's office referred the petition to the staff for appropriate action on February 7th. Although in other circumstances this petition might be handled by the Office of Inspection and Enforcement, NRR is in a better position to handle the response to the petition in view of its other ongoing efforts with respect to Diablo Canyon. Of course, any response to the petition will require a substantial contribution from Region V and appropriate support from IE and ourselves.

The petitioner asks for the following relief:

- (1) a comprehensive, third party reinspection of all safety-related construction to identify nonconformances and require their correction;
- (2) an independent audit of design quality assurance, including a review of the reliability of design verification programs conducted since 1981;
- (3) development of a "full factual record" on the licensee's "character and competence" to operate the plant, which would include an independent management audit and "publication" of a report by the Office of Investigations on the causes of quality assurance violations, harassment of workers, destruction of records and other violations of NRC requirements.
- (4) a "full program of public participation" for the selection and oversight of the organizations performing the independent reviews and creation of a public oversight committee empowered to conduct oversight hearings.

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The petition rests on a recitation of numerous alleged violations involving quality assurance and control, welding, nondestructive examination of installations, hydrostatic testing, vendors' work and supply, material control, construction procedures, training, reporting of construction deficiencies, harassment and retaliation against workers, and destruction of records. The petitioner provides a number of affidavits in support of its petition. Some of these affidavits are already well known to the staff; however, the petitioner has provided two affidavits which exclude identifying details concerning the affiants. The petitioner indicates (page 5, footnote 2) that it will provide unexpurgated copies of these affidavits "after suitable provisions have been arranged to protect confidentiality of [the] witness, and others who established the same restrictions on use of their statements."

I would encourage the staff to obtain unexpurgated copies of these affidavits if it does not already have them, and we should encourage Mr. Devine to disgorge any other information he believes he has pertaining to the safety of the Diablo Canyon plant. I have included a draft acknowledgment letter to Mr. Devine that makes this point. An acknowledgment letter to Mr. Devine and a standard Federal Register notice (draft also enclosed) should be issued as soon as possible.

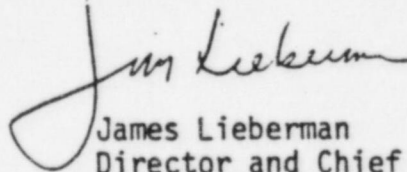
Our ordinary practice is to provide the affected licensee with a copy of the petition and its supporting material. Although the petition itself and a number of its attachments can be provided to the licensee (and may be in fact already in the licensee's possession), some portions of the attachments are not currently "public". I understand that NRR is preparing a Board notification and will pass that notification by OI to ensure that the attachments to the petition are reviewed to determine whether they can be released without compromising ongoing investigative efforts. NRR and Region V apparently believe that release of the attachments will not compromise their respective efforts.

I understand that NRR intends to require the licensee to respond formally to the petition pursuant to 10 CFR 50.54(f). NRR has required such a response in connection with the recent FitzPatrick and TMI-1 petitions. In this instance, however, the licensee might respond to those portions of the petition based on any withheld material by saying that it is unable to respond to the petition without knowing the underlying charges made in the undisclosed materials.

I would suggest as a first step in determining appropriate action on the petition that the staff review the petition to determine the extent to which the factual basis for the petition is encompassed by or is identical to allegations already being analyzed by the staff. The results of such a review should indicate the extent to which the staff is prepared now to take action on the petition or to which we must await the results of a further examination of the petitioner's allegations. In all events, the timing of the staff's action on the petition should be made with due regard to any

decision on further reinstatement of the low power license, because the petitioner asks for the completion of its requested actions before any such reinstatement.

My staff is prepared to assist you in responding to the petition. Please ensure that all correspondence related to the petition is referred to me for concurrence and that I receive copies of such correspondence.



James Lieberman  
Director and Chief Counsel  
Regional Operations and Enforcement  
Division

Enclosures:  
Petition (w/o attachments)  
Draft letter and FR notice

cc:  
R. DeYoung, IE  
D. Eisenhut, NRR  
J. Martin, Reg. V  
E. Christenbury, OELD  
B. Hayes, OI



Docket No. 50-275  
(10 CFR 2.206)

Mr. Thomas M. Devine  
Mr. John Clewett  
Government Accountability Project  
Institute for Policy Studies  
1901 Q Street, N.W.  
Washington, D.C. 20009

Gentlemen:

This letter is sent to acknowledge receipt of your request for action pursuant to 10 CFR 2.206 which was filed on behalf of the San Luis Obispo Mother for Peace. You have requested essentially that the Commission not reinstate the low power operating license for Diablo Canyon Unit 1 before completion of a number of independent reviews of safety-related construction, design quality assurance, and the licensee's management. Your request has been referred to the staff for consideration and, accordingly, appropriate action will be taken on your petition within a reasonable time.

I note that attachments 4 and 5 to your petition have only been provided with the omission of certain identifying details, but that you would provide unexpurgated copies to the staff. I ask that you provide copies of these affidavits to me. The staff will take responsible steps to maintain the confidentiality of the sources of that information.

To the extent that you have other information regarding the safety of the Diablo Canyon plant, I encourage you to provide that information to the NRC promptly. I would ask you to urge others who may have such information to provide it to the NRC. In doing so, you should remind those individuals

that section 210(a) of the Energy Reorganization Act of 1974, as amended, and 10 CFR 50.7 of the Commission's regulations prohibit retaliation against persons who provide information to the NRC. I am sure you would agree that it is imperative that information related to the safety of the plant is made available to the Commission so that such information can be properly evaluated and appropriate corrective action initiated.

As is standard Commission practice in handling section 2.206 petitions, a copy of your request and the publicly available attachments are being provided to the licensee.

A copy of a notice that is being filed with office of the Federal Register for publication is enclosed for your information.

Sincerely,

Harold R. Denton, Director  
Office of Nuclear Reactor Regulation

Enclosure: as stated

cc: Licensee

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-275]

PACIFIC GAS & ELECTRIC CO.

(Diablo Canyon Nuclear Power Plant, Unit 1)

Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated February 2, 1984, the San Luis Obispo Mothers for Peace, through its counsel, have requested that the Commission not authorize reinstatement of the low power operating license for Diablo Canyon Unit 1 until the completion of an independent reinspection of all safety-related construction in the plant, an independent audit of design quality assurance, and an independent management audit and an investigation to determine the licensee's character and competence to operate the plant. The petitioner bases its request on numerous alleged violations of NRC requirements pertaining to the design and construction of the plant.

The petition has been referred to the Office of Nuclear Reactor Regulation for consideration under 10 CFR 2.206 and, accordingly, appropriate action will be taken on the petition within a reasonable time. Copies of the petition are available for public inspection in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555 and in the local public document for the Diablo Canyon Nuclear Power Plant at

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Dated at Bethesda, Maryland, this \_\_\_\_ day of February 1984.

FOR THE NUCLEAR REGULATORY COMMISSION

Harold R. Denton, Director  
Office of Nuclear Reactor Regulation