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50-205

July 23, 1963

J. F. Hadlock
Attorney
Office of the General Counsel
U.S.A.E.C.
Washington 25, D. C.

C.F. Hadlock
PRIORITY--COLLECT

Philip A. Crane, Jr., Esq.
245 Market Street
San Francisco 6, California

THE FOLLOWING LETTER WAS DISPATCHED TODAY:

Mr. Robert H. Gerdes, President
Pacific Gas and Electric Company
245 Market Street
San Francisco, California

DEAR MR. GERDES:

THIS IS IN REPLY TO MR. SUTHERLAND'S LETTER DATED JUNE 27, 1963, SETTING FORTH YOUR PLANS FOR PREPARATION OF THE EXCAVATION FOR THE PROPOSED BODEGA BAY REACTOR AND REQUESTING CONFIRMATION OF YOUR VIEWS CONCERNING THE APPLICATION OF THE COMMISSION'S REGULATIONS, 10 CFR 50.10, TO SUCH WORK.

YOU STATE THAT YOU EXPECT THAT IT WILL BE NECESSARY TO SHORE THE VERTICAL SIDES OF THE EXCAVATION; THAT YOU ANTICIPATE THAT YOUR CONTRACTOR WILL FIND IT MOST ECONOMICAL TO USE STEEL AND CONCRETE TO SUPPORT THE SHORING; AND THAT SUCH STEEL AND CONCRETE ULTIMATELY WILL BE INCORPORATED INTO THE FOUNDATION ALTHOUGH IT WILL NOT BE RELIED UPON TO FUNCTION STRUCTURALLY AS AN INTEGRAL PART OF THE REACTOR FOUNDATION. YOU FURTHER STATE THAT, IN YOUR OPINION, WHATEVER STEEL AND CONCRETE MAY BE INSTALLED IN CONNECTION WITH SHORING THE EXCAVATION PRIOR TO POURING OF THE

Hadlock:jk
RECONSTRUCTION FOUNDATION CLEARLY FALLS WITHIN THE TYPE OF WORK CLASSIFIED AS "... SITE
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EXCAVATION, PREPARATION OF THE SITE FOR CONSTRUCTION OF THE FACILITY. ..." SET FORTH

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San Francisco 6, California

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WE WISH TO EMPHASIZE, HOWEVER, THAT, AS POINTED OUT IN YOUR LETTER, THIS INTERPRETATION SHALL HAVE NO EFFECT ON THE SUBSEQUENT GRANTING OR DENIAL OF A CONSTRUCTION PERMIT FOR THE PROPOSED BODEGA BAY REACTOR AND THAT ANY WORK PERFORMED PURSUANT TO THIS INTERPRETATION SHALL BE PERFORMED ENTIRELY AT THE RISK OF THE PACIFIC GAS AND ELECTRIC COMPANY.

Sincerely yours,

/s/ Joseph F. Hennetsey

Joseph F. Hennetsey
General Counsel

Enclosures:
As stated"

cc; Public Document Room

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IN 10 CFR 50.10 (b)(1); THAT SUCH WORK DOES NOT CONSTITUTE "CONSTRUCTION" AS
DEFINED IN 10 CFR 50.10 (b); AND ACCORDINGLY, A CONSTRUCTION PERMIT IS NOT REQUIRED
FOR PACIFIC GAS AND ELECTRIC COMPANY TO PERFORM SUCH WORK.

IN SUPPORT OF YOUR VIEWS YOU CITE THE OPINION OF THE COMMISSION'S GENERAL COUNSEL,
DATED FEBRUARY 20, 1961, ADDRESSED TO MR. J. T. HUGHES, ATTORNEY FOR GENERAL
ELECTRIC COMPANY REPLYING TO MR. HUGHES' REQUEST FOR A RULING DATED FEBRUARY 1, 1961.
THIS OPINION OF THE GENERAL COUNSEL, A COPY OF WHICH IS ON FILE IN THE COMMISSION'S
PUBLIC DOCUMENT ROOM, DOCKET NO. 50-183, RELATED TO A SIMILAR QUESTION INVOLVING THE
EXCAVATION FOR THE PROPOSED EVER FACILITY THEN PLANNED FOR CONSTRUCTION BY GENERAL
ELECTRIC AT THE VALLECITOS ATOMIC LABORATORY NEAR PLEASANTON, CALIFORNIA. COPIES
OF MR. HUGHES' LETTER AND THE GENERAL COUNSEL'S OPINION ARE ENCLOSED.

WE AGREE WITH YOUR CONCLUSION THAT THE INSTALLATION OF STEEL AND CONCRETE FOR THE
SOLE PURPOSE OF MAINTAINING THE EXCAVATION AS DESCRIBED IN YOUR LETTER OF JUNE 27,
1963, DOES NOT CONSTITUTE "CONSTRUCTION" AS DEFINED IN 10 CFR 50.10 (b), PROVIDED
THAT SUCH STEEL AND CONCRETE IS NOT RELIED UPON TO FUNCTION STRUCTURALLY AS AN
INTEGRAL PART OF THE REACTOR FOUNDATION. ACCORDINGLY, A CONSTRUCTION PERMIT IS NOT
REQUIRED FOR THE PERFORMANCE OF SUCH WORK BY PACIFIC GAS AND ELECTRIC COMPANY.

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