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UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D.C. 20555-0001

December 22, 1999

Mr. David A. Lochbaum  
Union of Concerned Scientists  
1616 P Street, N.W., Suite 310  
Washington, D.C. 20036-1495

Dear Mr. Lochbaum:

In a letter dated November 24, 1999, to the Executive Director for Operations of the U.S. Nuclear Regulatory Commission (NRC), signed by you and submitted pursuant to 10 CFR 2.206, you requested that the NRC, on December 20, 1999, suspend the operating licenses for Diablo Canyon Nuclear Power Plant (DCNPP), Units 1 and 2, if Pacific Gas & Electric Company (PG&E) has not fully satisfied the nine conditions of the Department of Labor (DOL) findings dated November 19, 1999, and remain suspended until all the conditions are met. The petition also requested that the NRC issue an order requiring PG&E to have an independent contractor assess the safety culture at Diablo Canyon. You also requested a public meeting to present your concerns to the NRC staff. Attached to the petition was a copy of the Department of Labor letter dated November 19, 1999, which delineates the nine conditions.

The facts you provided as the basis for your request relate to your concern regarding the safety culture at the DCNPP site due to the recent DOL findings that PG&E illegally discriminated against an employee at DCNPP. You also stated that a "chilling" effect has occurred at the site due to the illegal discrimination that has previously occurred and that the environment is not conducive to employees raising safety issues freely without fear of retaliation.

Your petition has been referred to me pursuant to 10 CFR 2.206 of the Commission's regulations. The issues which you raised were the subject of NRC staff review and evaluation on the cited facility, for which a resolution had been achieved by an earlier Director's Decision (DD-99-05) issued on March 12, 1999, which is enclosed. This Director's Decision was based on your previously submitted petition dated November 24, 1998, on DCNPP. In this Director's Decision, the intent of your petition was met since PG&E had already contracted with Synergy, Inc. and had already had a safety culture survey performed. The results of the survey were discussed during a public meeting held on January 15, 1999 in San Luis Obispo, California.

The NRC staff has found insufficient basis for additional surveys beyond those which have already been conducted, such as the full safety culture survey which was completed in October 1998, by Synergy, Inc., and the mini-safety culture survey, also conducted by Synergy, Inc., which targeted previously-identified areas of concern and which was completed in December 1999. Thus, the intent of your request has already been met. Also, the new information that is provided with your petition is the findings of the DOL, which was not part of the basis of the earlier petition or the Director's Decision. However, this information does not change the conclusions in the DD-99-05 nor warrant any additional action. In regard to the DOL decision, it

**NRC FILE CENTER COPY**

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*PDR ADDEN 05000275*

Mr. David A. Lochbaum

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is noted that the NRC does not have any authority to order the reinstatement of a dismissed employee or to interfere in the DOL process by enforcing a decision which has been nullified by PG&E's appeal which will result in an evidentiary hearing at DOL. The NRC will continue to follow the DOL process, and if necessary, take additional actions as needed.

Accordingly, we have determined that your request does not meet the threshold criteria for treating your request as a 2.206 petition in that the issues you raised were previously the subject of NRC staff review and evaluation, for which a resolution has been achieved by an earlier Director's Decision (DD-99-05) (Part II of Management Directive 8.11, page 9).

We trust that this has been responsive to your concerns. Should you have any questions or comments regarding these matters, please call me toll-free at 1-800-368-5642.

Sincerely,

<sup>/s/</sup>  
John A. Zwolinski, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275  
and 50-323

Enclosure: Director's Decision 99-05

cc w/o encl: See next page

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Mr. David A. Lochbaum

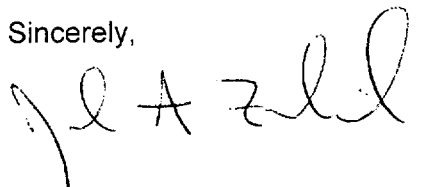
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We trust that this has been responsive to your concerns. Should you have any questions or comments regarding these matters, please call me toll-free at 1-800-368-5642.

Sincerely,

A handwritten signature in black ink, appearing to read "John A. Zwolinski". The signature is written in a cursive style with a large initial "J" and "Z".

John A. Zwolinski, Director  
Division of Licensing Project Management  
Office of Nuclear Reactor Regulation

Docket Nos. 50-275  
and 50-323

Enclosure: Director's Decision 99-05

cc w/o encl: See next page

cc w/o encl:

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Rec'd DLP  
11/29/99

Richards  
Jembek  
Bloom

**ACTION**

EDO Principal Correspondence Control

FROM:

DUE: 12/27/99

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DOC DT: 11/24/99

FINAL REPLY:

David A. Lochbaum  
Union of Concerned Scientists

TO:

Travers, EDO

FOR SIGNATURE OF :

\*\* GRN \*\*

CRC NO:

Travers, EDO

DESC:

2.206 -- ILLEGAL ACTIVITIES AT DIABLO CANYON

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Miraglia  
Norry  
Blaha  
Burns  
Merschhoff, RIV  
Cyr, OGC  
Subbarathnam, NRR  
Goldberg, OGC

DATE: 11/24/99

ASSIGNED TO:

CONTACT:

NRR

Collins

SPECIAL INSTRUCTIONS OR REMARKS:

All Action: DLP: Zuolinski  
NRR Received: November 26, 1999  
NRR Routing: Collins / Jeminerman  
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Sharon  
NRR Mailroom

ACTION  
DUE TO NRR DIRECTOR'S OFFICE  
BY 12/21/99