



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
REGION IV  
611 RYAN PLAZA DRIVE, SUITE 400  
ARLINGTON, TEXAS 76011-8064

January 14, 2000

EA 99-157

Gregory M. Rueger, Senior Vice President  
and General Manager  
Nuclear Power Generation Business Unit  
Pacific Gas and Electric Company  
Nuclear Power Generation, B32  
77 Beale Street, 32nd Floor  
P.O. Box 770000  
San Francisco, California 94177

**SUBJECT: ALLEGED DISCRIMINATION (2000-ERA-3)**

Dear Mr. Rueger:

This letter is in reference to recent events related to a discrimination complaint brought by a former shift foreman at the Diablo Canyon Power Plant, Neil J. Aiken. In a complaint filed with the U.S. Department of Labor (DOL) on November 2, 1998, Mr. Aiken's attorneys claimed that Mr. Aiken was suspended from his duties at Diablo Canyon as a result of his engaging in protected activities, i.e., raising nuclear safety issues. On November 19, 1999, the DOL's Occupational Safety & Health Administration (OSHA) informed Pacific Gas & Electric Company (PG&E) of the results of its investigation into this complaint. The Regional Administrator of OSHA's Region 9 office in San Francisco, California, informed PG&E that Neil J. Aiken was a protected employee engaging in protected activities within the scope of the Energy Reorganization Act and that discrimination as defined and prohibited by the statute was a factor in the actions which comprised his complaint. PG&E requested a hearing, which is now pending before an Administrative Law Judge. In late December, PG&E informed the NRC by telephone that it had terminated Mr. Aiken's employment on December 13, 1999.

On October 6, 1999, the NRC informed you by letter that NRC's investigation of the same matter did not substantiate that discrimination had occurred. The NRC has reviewed the OSHA Regional Administrator's determination, and our view of this matter has not changed. As is our normal practice, we will continue to monitor the DOL proceeding, particularly as to whether information developed in the proceeding would affect our conclusion.

While the NRC recognizes that PG&E does not agree with OSHA's determination, the NRC is concerned about the potential negative effect on the safety conscious work environment at Diablo Canyon that may occur as a result of OSHA's determination and the termination of Mr. Aiken's employment. Therefore, the NRC is requesting that PG&E inform the NRC of any actions it has taken or plans to take to prevent these events from having a negative effect on the willingness of other employees to raise safety concerns. In addition, the NRC requests that you provide information regarding your recent survey regarding the safety conscious work

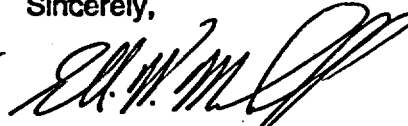
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-2-

environment at Diablo Canyon, including a discussion of the methodology used in implementing the survey instrument. Please include: 1) a copy of the survey instrument and any instructions associated with it; 2) a summary of the results; and 3) a summary of any actions that you have taken or plan to take to address the results. After reviewing your response, the NRC will determine whether any further action is warranted.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter and your response will be placed in the NRC Public Document Room.

Sincerely,



Ellis W. Merschoff  
Regional Administrator

Docket Nos.: 50-275; 50-323  
License Nos.: DPR-80; DPR-82

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**-3-**

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