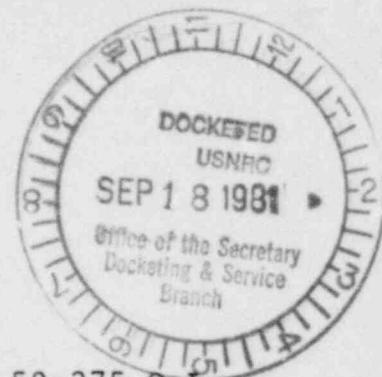


UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

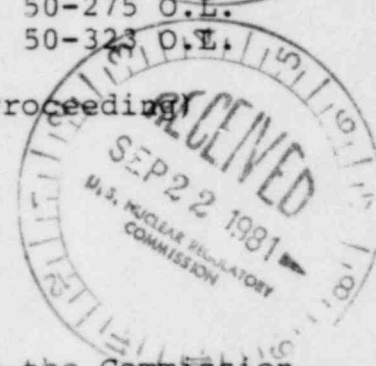
BEFORE THE COMMISSION



In the Matter of)
PACIFIC GAS AND ELECTRIC COMPANY)
(Diablo Canyon Nuclear Power)
Plant, Unit Nos. 1 and 2)

Docket Nos. 50-275 O.L.
50-323 O.L.

(Security Proceedings)



RESPONSE OF GOVERNOR EDMUND G. BROWN JR.
IN SUPPORT OF JOINT INTERVENORS' MOTIONS
CONCERNING SECURITY INCIDENT

On September 16, 1981, Joint Intervenors moved the Commission to augment the security record with a Staff report of a July 15, 1981, security breach at Diablo Canyon and for leave to depose NRC Staff and PG&E personnel with knowledge concerning the incident.^{1/} Joint Intervenors had filed the same motions before the Appeal Board in July 1981, but that Board inexplicably failed to rule on them independently or in connection with the Board's decision in ALAB-653.

The Governor supported Joint Intervenors' original motions before the Appeal Board^{2/} and reiterates that support now. The Governor hereby submits a copy of his earlier pleading.

1/ Motions of Intervenor, San Luis Obispo Mothers for Peace, to Augment the Record in the Security Proceedings with a Report of a Security Occurrence; and for Leave to take Depositions of NRC Staff Personnel and Applicant, Pacific Gas and Electric Co., dated September 16, 1981. DS03
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2/ Response of Governor Edmund G. Brown, Jr. to "Motions of Intervenors, San Luis Obispo Mothers for Peace, to Augment the Record in the Security Proceeding with a Report of a Security Occurrence; and for Leave to take Depositions of NRC Staff Personnel and Applicant, Pacific Gas and Electric Co.," dated August 14, 1981.

The July 15, 1981, security incident at Diablo Canyon was undeniably serious. According to publicly published information, it involved the successful smuggling of a weapon into Diablo Canyon, thus thwarting the implemented PG&E security detection system. At a minimum, this incident raises a serious question whether PG&E's detection system, and particularly the capabilities and training of PG&E personnel to operate and use the output of that system, are adequate. Indeed, it raises the factual issue whether PG&E's security implementation program even approaches the "high assurance" standard required by Section 73.55.

PG&E would dismiss the July 15 incident as a mere "training exercise."^{3/} The Governor disputes such a care-free characterization, particularly because PG&E is at the same time arguing that it is qualified for an operating license that requires a finding that the common defense and security will not be at unreasonable risk.

Joint Intervenors and the Governor seek the opportunity for discovery to determine whether the July 15 security incident was sufficiently serious to reopen the proceeding. Given the sensitive nature of the incident, public information has been necessarily incomplete and, thus, no other means are available to determine these

^{3/} Response of Pacific Gas and Electric Company to Motions of Intervenor, San Luis Obispo Mothers for Peace, to Augment the Record in the Security Proceedings with a Report of a Security Occurrence; and for Leave to take Depositions of NRC Staff Personnel and Applicant, Pacific Gas and Electric Co., dated August 17, 1981.

facts. Indeed, such discovery is essential so that the Governor and Joint Intervenors may simply gain access to the protected information already available to the Staff and PG&E covering the July 15 incident. Only with such information can Joint Intervenors and the Governor assess and respond meaningfully to the assertions of the Staff and PG&E that the situation is not serious.

Accordingly, the Governor urges the Commission promptly to grant the instant motions and to provide the necessary discovery to the Governor and Joint Intervenors before any action is taken by the Commission in consideration of the requested low power license.

Respectfully submitted,

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September 18, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)

PACIFIC GAS AND ELECTRIC COMPANY)

(Diablo Canyon Nuclear Power Plant,)
Units 1 and 2))

) Docket Nos. 50-275 O.L.

) 50-323 O.L.

) (Security Proceeding)

RESPONSE OF GOVERNOR EDMUND G. BROWN JR. TO
"MOTIONS OF INTERVENORS, SAN LUIS OBISPO MOTHERS FOR PEACE,
TO AUGMENT THE RECORD IN THE SECURITY PROCEEDING WITH A REPORT
OF A SECURITY OCCURRENCE; AND FOR LEAVE TO TAKE DEPOSITIONS OF
NRC STAFF PERSONNEL AND APPLICANT, PACIFIC GAS AND ELECTRIC CO."

On July 31, 1981, Joint Intervenor^s moved this Board to
augment the record and to permit depositions to investigate a
reported breakdown in security at the Diablo Canyon facility.
The security breakdown involved the recent failure of PG&E
guards to discover a pistol in the possession of NRC inspectors.
Governor Brown submits this response in support of Joint Inter-
venors' Motion.

The security breakdown, reported in a July 23, 1981 Board
Notification, has obvious relevance to the pending Diablo Canyon
security proceeding. Under the regulations, PG&E's physical pro-
tection system and organization must provide "high assurance"
that the licensed activities can be carried out without unreason-
able risk to the public health and safety or to the common de-
fense and security. 10 C.F.R. § 73.55(a). The reported failure
to detect a pistol would seemingly preclude such a "high assurance"
finding, because that failure evidences inadequate equipment or
personnel, or both. At a minimum, this breakdown of security

raises a material issue concerning the adequacy of the PG&E security system that merits prompt investigation. Without question, there is a need for the Board to look into this matter on the record and then to decide, with the proper participation of the parties, what further action or findings are appropriate. Surely, there is no basis for the Board to fail to confront this significant matter, because the Board not only has the proper Motion of the Joint Intervenors before it, but the Board also has sua sponte responsibilities of its own under Section 2.760a of the Regulations. Thus, even if the Board were for some reason not to grant the Joint Intervenors' instant Motion, the Board would be independently required to inquire into the subject security breakdown.

Governor Brown believes Joint Intervenors' Motion presents a reasonable and efficient means to investigate this security matter. Thus, the Board should augment the record with the Board Notification and direct prompt investigation by depositions to determine the relevant facts.^{1/} While the Staff may be satisfied that PG&E has resolved this matter satisfactorily,^{2/} the fact is that the Staff is only one party in this contested proceeding. The Joint Intervenors and the Governor have rights to seek the facts they

^{1/} The Board may wish to order that the depositions be held before the Board so that it will have first-hand knowledge regarding this incident. Such a procedure could allow swifter completion of the investigation.

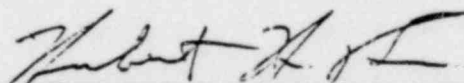
^{2/} See Board Notification.

deem necessary to determine whether they are satisfied. These parties also have the right to inform the Board of their views after obtaining such facts, just as the Staff has done in its Board Notification.

Governor Brown urges the Board to grant Joint Intervenors' Motion and to set a schedule for depositions and any pleadings that the Board may further desire.

Respectfully submitted,

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August 14, 1981

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

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In the Matter of)		
PACIFIC GAS AND ELECTRIC COMPANY)	Docket Nos. 50-275 O.L.	
(Diablo Canyon Nuclear Power Plant,)	50-323 O.L.	
Units 1 and 2))	(Security Plan Proceeding)	
_____)		

CERTIFICATE OF SERVICE

I hereby certify that copies of the "RESPONSE OF GOVERNOR EDMUND G. BROWN JR. IN SUPPORT OF JOINT INTERVENORS' MOTIONS CONCERNING SECURITY INCIDENT" have been served to the following on September 18, 1981 by U.S. mail, first class, except as otherwise indicated.

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September 18, 1981

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