

Alliance for Nuclear Responsibility
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July 23, 2010

Mr. Eric Leeds
Office of Reactor Regulations
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Leeds:

The NRC's July, 2010 response to the request of the Alliance for Nuclear Responsibility et al. to stay PG&E's license renewal application for Diablo Canyon pending creation of a joint federal-state panel to consider state-required, peer reviewed seismic studies was disappointing, but sadly, not surprising.

Either through deliberate intent or lamentable ignorance, the NRC staff seems to have completely misinterpreted the request of the above stated parties (outlined in a letter to Chairman Jaczko sent on February 2, 2010) regarding the formation of a joint California state-NRC task force to discuss new and emerging seismic data based on new studies using state of the art technologies that did not exist at the time of the original seismic proceedings for Diablo Canyon nearly four decades ago. We did not request the NRC to "better inform the local public about the NRC's continuing safety oversight..." which is your stated reason for coming to California in September. We asked you to join with the appropriate and relevant state regulatory agencies (those with seismic and energy expertise and jurisdiction) to analyze the new data the state has asked for regarding the seismic integrity of the Diablo Canyon site. In fact, given the current track record of the NRC in working with state oversight agencies (i.e., the New Jersey and Vermont departments of environmental affairs regarding tritium leaks at reactor sites in those states) this would have been an opportunity to possibly pre-empt the public scolding your agency has received in recent months for failure to adequately safeguard, regulate and communicate with the public in those states. Instead of working with our democratically elected officials and their appointees, you have chosen to take a "top down" approach and come to California to tell us why the NRC has already made up its mind that all seismic issues are settled and decided before this newly requested seismic information is even obtained, let alone analyzed and peer reviewed. Perhaps the NRC enjoys collecting more of the scathing headlines, articles and op-ed pieces that emerged from the New Jersey and Vermont situations, and need some from west of the Mississippi to complete your scrapbook. If so, the NRC may be well rewarded.

The Alliance has been reviewing the historical documentation of the NRC's interaction with the state and public during the 40-year history of Diablo

Canyon. The paper trail reveals that the NRC has been content to repeat mistakes that resulted in years of delays and billions of dollars in cost throughout Diablo Canyon's licensing history. Failure to acknowledge, investigate and regulate with regard to seismic information created some of the largest cost overruns in nuclear history. To repeat these errors in a time of recession and federal fiscal shortfalls is unconscionable and irresponsible. Please visit our website at www.a4nr.org where the collection of historical documents, including the stunning and prescient dissents of former NRC commissioners (with regard to Diablo Canyon's seismic licensing), have been posted.

In the second paragraph of your letter you state that "The NRC has coordinated with the state on issues related to its jurisdiction and will continue to do so." Whose jurisdiction is referenced in this vaguely worded sentence—the NRC's, or the state's? Exactly what "coordination" has taken place? Has the NRC held any public meetings in California at which our state regulatory agencies were invited to participate at the dais or to make visual presentations—on the record? If so, where and when were such meetings held? Where are the transcripts of any "on the record" meetings with California's elected and appointed officials with regard to the relicensing of Diablo Canyon and seismic issues, and may we have a copy? If your "coordination" with the state of California took place only through correspondence with state officials—and not via public forums—understand that this validates the public notion that the NRC's claim of "transparency" is a complete and disingenuous fabrication.

In paragraph four of your letter, you wrote "...the NRC staff is able to quickly respond to new information, as the agency demonstrated when it monitored the response by PG&E to the discovery of the Shoreline Fault." Exactly what actions are created and demonstrated when you "monitored the response" as mentioned above? What does "monitoring the response" entail? The one page of seismic information on the Shoreline Fault in PG&E license renewal application, based primarily upon the NRC's evaluation, states that the information is "initial" and "preliminary." When will the information be "conclusive" and "final?" At some point, the NRC must deem information "final" in some format, as they previously did when declaring the potential magnitude and design standards for DCPD upon discovery of the original Hosgri fault.

In paragraph five of your letter, you wrote "The NRC staff will continue to monitor assessments of the Shoreline Fault and other seismic issues around DCPD and ensure that the power plant's safety systems remain capable of safely shutting the plant down in case of a seismic event." Please correct or validate our understanding that NRC's role, regulation and jurisdiction encompass the certainty that DCPD can be "safely shut down" in case of seismic event, however, the NRC has no requirement or regulation that the plant be engineered or designed to continue commercially generating electricity after the seismic event (except for maintaining emergency equipment needed to monitor the shutdown status). Is our understanding correct that the NRC's regulatory concern would return for oversight if the plant were put back into operation after a seismic event, but that the NRC's seismic design requirements do not

require a design that guarantees continued operability of the plant in its intended commercial generation purpose after a seismic event?

Regarding your patronizing responses to our comments on the openness and transparency of the GEIS update process we can only surmise that you are genuinely unaware of the actual public participation in the process. Yes, meetings were held in four locations (east of the Mississippi) and if you read the NRC's own "sign-in sheets" from those meetings, you would see that fewer citizens (who were not affiliated with either the NRC or the utilities) than could actually be counted on the fingers and hands of a fully-formed human attended those meetings. If a commercial entity had advertised and scheduled such a seminar, conference or meeting, and received such paltry attendance, it is most certain those responsible for the publicity, facilitation and outreach would be terminated for lack of performance. That it was a government regulatory oversight agency that failed with dismally--using our public funds in the process—is shameful and embarrassing.

The NRC's scheduling of "an additional public meeting in California" was a response to both outrage and demands of the "stakeholders" who were being asked by the NRC to drive hundreds of miles during rush hour to attend a proposed meeting whose location choice was inconvenient to either reactor community. In fact, acting as citizens in a democracy, the stakeholders brought their concerns to congress, and they in turn voiced their concerns to the NRC. The NRC responded to these demands; there was no pro-active consideration on the part of the agency. The result of the stakeholder actions: attendances at the California meetings of more then 2000 percent increase over the other national meetings.

In conclusion, we ask that you once again visit our original letter of request to Chairman Jaczko and actually read the letter. We would welcome a response to the actual issues raised by that letter. As for your proposed September "seismic public meeting," we wish to remind you that as stakeholders, we did not ask the NRC to begin the license renewal process for DCPD before the state-required seismic studies were completed and peer-reviewed. We did not ask you to hold two public meetings in San Luis Obispo to present your single point of view on the issues. And while it was an accommodation by the NRC to allow us to present testimony via a prepared video statement at one such meeting, my absence from that meeting was only because I needed to fly to Rockville, Maryland, to meet with Chairman Jazcko for a meeting whose date was determined by his scheduling needs. So thanks for simply doing your job—I guess.

The NRC may choose to come to San Luis Obispo in September for a public meeting on seismic issues. If so, we will demand a complete accounting of all the costs associated with this event—travel, labor, facilities, etc., as well as detailed accounting of which budgets and pockets (ratepayer, taxpayer, utility fees) are funding such an event. In the interest of fiscal prudence, please put us down as wishing to save the agency and our fellow ratepayers some money. Do not waste any NRC staff time and expense in attempting to contact us so that our "organization can be represented at the upcoming public meeting on

seismic issues.” Such a charade does not address the concerns and issues we have been attempting to place before the NRC since the start of 2010.

In peace,

Rochelle Becker
Executive Director

Cc: by email

Chairman Greg Jaczko
Nuclear Regulatory Commission

Barbara Byron
Hembacher
California Energy Commission

Susan Durbin & Brian
California Attorney General

Tom Luster
California Coastal Commission

Peter Von Lagen
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Assemblyman Sam Blakeslee
SLO Board of Supervisors

Jane Swanson
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Congresswoman Lois Capps

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Congressman Bob Filner

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