



**ALLIANCE FOR NUCLEAR RESPONSIBILITY**

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July 26, 2012

Dr. Allison Macfarlane, Chair  
United States Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Dr. Macfarlane:

I want to congratulate you on your recent appointment and compliment your insightful testimony this week before the House Subcommittee on Environment and the Economy. Your professional grounding in geology fills a longstanding void among NRC members that is particularly meaningful to the Alliance for Nuclear Responsibility (A4NR).

As you may be aware, our exclusive focus is the two seismic outliers among the NRC's licensed reactor sites, Diablo Canyon and San Onofre.

It has now been one year since the NRC staff's extraordinary written rebuke to PG&E for blatant deficiencies in its evaluation of new seismic information concerning the 2008 discovery of the Shoreline Fault, located some 600 meters from the reactors at Diablo Canyon. The August 1, 2011 memorandum from Region IV minced no words:

- *Although the LTSP margin analysis demonstrated that the new Shoreline Fault Zone information was bounded by the Hosgri Event, the licensee didn't evaluate the new seismic information against the other two design basis earthquakes, the Design Earthquake and the Double Design Earthquake.*
- *... the plant safety analyses concluded that seismic qualification for certain structures, systems and components was more limiting for the Design Earthquake and Double Design earthquakes than for the Hosgri Event.*
- *New seismic information developed by the licensee is required to be evaluated against all three of the seismic design basis earthquakes and the assumptions used in the supporting safety analysis ... Comparison to the LTSP by itself is not sufficient to meet this requirement.<sup>1</sup>*

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<sup>1</sup> Kriss M. Kennedy, NRC Director /RA/, Division of Reactor Projects, Region IV, "Task Interface Agreement (TIA) – Concurrence on Diablo Canyon Seismic Qualification Current Licensing and Design Basis (TIA 2011-010), August 1, 2011, accessible at <http://pbadupws.nrc.gov/docs/ML1121/ML112130655.pdf>

A4NR has been particularly distressed that, when confronted with this license infraction less than five months after Fukushima, PG&E's instinctive response was to ignore the NRC's requirement for evaluation against the two more demanding elements of Diablo Canyon's license. Instead, the utility chose to quietly submit a License Amendment Request<sup>2</sup> to simply eliminate these more stringent tests.

As required by federal securities law, PG&E acknowledged the seriousness of this standoff with the NRC staff in its November 3, 2011, 10-Q filing with the Securities and Exchange Commission:

*...in early August 2011, the NRC found that a report submitted by the Utility to the NRC on January 7, 2011 to provide updated seismological information did not conform to the requirement of the current Diablo Canyon operating license. On October 21, 2011, the Utility filed a request that the NRC amend the operating license to address this issue. If the NRC does not approve the request the Utility could be required to perform additional analyses of Diablo Canyon's seismic design which could indicate that modifications to Diablo Canyon would be required to address seismic design issues. The NRC could order the Utility to cease operations until the modifications were made or the Utility could voluntarily cease operations if it determined that the modifications were not economical or feasible.<sup>3</sup>*

The fourth quarter 2011 NRC onsite inspections at Diablo Canyon identified the same evaluative deficiency, albeit in the type of backsliding language A4NR has come to associate with the NRC's look-the-other-way oversight of the plant:

*The inspectors determined that the licensee's failure to promptly evaluate the new seismic information against the plant design and licensing bases was a performance deficiency. The finding was more than minor because the performance deficiency was associated with the Mitigating Systems Cornerstone initial design control attribute and affected the cornerstone objective to ensure the availability, reliability, and capability of systems that respond to initiating events to prevent undesirable consequences. The senior reactor analyst evaluated the significance of the finding using a Phase 3 analysis because the inspectors were unable to confirm that the operability of plant systems was not impacted. The senior reactor analyst concluded that the finding was of very low risk significance (Green) because no significant change in overall core damage frequency resulted from the new seismic hazards. This finding had a cross-cutting aspect in the area of human performance associated with the decision-making component because the licensee used non-conservative assumptions in deciding not to evaluate the new seismic information against the current plant design and licensing bases [H.1.(b)] (Section 1R15.2).<sup>4</sup>*

More recently, the NRC staff has suggested to A4NR that the seismic evaluation process initiated for all licensees pursuant to 10 CFR 50.54(f) on March 12, 2012 raises "a possibility that PG&E

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<sup>2</sup> PG&E, "License Amendment Request 11-05, 'Evaluation Process for New Seismic Information and Clarifying the Diablo Canyon Power Plant Safe Shutdown Earthquake,'" October 20, 2011, accessible at <http://pbadupws.nrc.gov/docs/ML1131/ML11312A166.pdf>

<sup>3</sup> PG&E Corporation, Form 10-Q filing, November 3, 2011, p. 63.

<sup>4</sup> Neil O'Keefe, NRC Branch Chief, Project Branch B, Division of Reactor Projects, February 14, 2012, p. 5, accessible at <http://pbadupws.nrc.gov/docs/ML1204/ML120450843.pdf>

may withdraw the amendment.”<sup>5</sup> This would be consistent with what a PG&E official admitted April 18, 2012 under cross-examination in a California Public Utilities Commission proceeding: “I believe it has a potential to provide a different mechanism for being able to address the points raised under the license amendment request. It may provide a path to rescind the license amendment.”<sup>6</sup> The same PG&E official testified that the 50.54(f) process would extend the evaluation of a new seismic hazard by six years, or to March 12, 2018.<sup>7</sup>

A4NR is hopeful that you will quickly rectify this unconscionable situation. We doubt that PG&E has failed to evaluate the Shoreline Fault information against the two more demanding elements of the plant’s seismic design basis, but find it quite plausible that the company would refuse to submit this analysis to the NRC because of dissatisfaction with the assessment. We are unable to evaluate the seriousness of this omission, and so are you, until PG&E is required to adhere to the terms of its license.

We ask that the NRC do so immediately.

Sincerely,

/s/

Rochelle Becker  
Executive Director

cc: U.S. Senator Dianne Feinstein  
U.S. Senator Barbara Boxer  
Congresswoman Lois Capps  
California Energy Commission Chair Robert B. Weisenmiller

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<sup>5</sup> Joseph Sebrosky, NRC Project Manager (Diablo Canyon Power Plant), Division of Operating Reactor Licensing, email to Rochelle Becker, A4NR Executive Director, May 24, 2012.

<sup>6</sup> Jearl Strickland, PG&E Director of Nuclear Projects, CPUC Transcript in A.10-01-014, April 18, 2012, p. 52.

<sup>7</sup> *Ibid.*, p. 53.