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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 PACIFIC GAS AND ELECTRIC COMPANY for
 a certificate of public convenience
 and necessity to construct, install,
 operate and maintain Unit No. 1, a
 nuclear power unit, at its Bodega
 Bay Atomic Park.

(Electric)

Application No. 43808

ORDER DENYING REOPENING

The Northern California Association to Preserve Bodega Head and Harbor, Inc., filed its petition to reopen the above proceeding for the purpose of holding further public hearings in said matter, based upon its contention that it has not had an opportunity to cross-examine applicant concerning late-filed Exhibit No. 48. That exhibit in essence consists of consultants' reports of geologic and seismic conditions at the site of the proposed Bodega Bay power plant from the standpoint of safety of the site. The exhibit was filed on July 9, 1962.

Neither petitioner nor its unincorporated predecessor sought reopening for the purpose of cross-examination and Interim Decision No. 64537 was issued on November 8, 1962. Thereafter petitioner's unincorporated predecessor sought rehearing on November 28, 1962, but did not mention Exhibit 48 or ask for an opportunity to cross-examine the applicant on its contents. Rehearing was denied on January 2, 1963.

Approximately ten months after the filing of Exhibit 48 petitioner asserts for the first time that it has been denied due process, and alleges that it can now produce experts on seismology and earthquake hazards. Their proposed testimony is characterized only in the most general language as that which "will give the Commission sufficient grounds to doubt the safety of the plant."

Interim Decision No. 64537 was conditioned upon applicant's receiving every permit and license required by law for the construction and operation of the proposed plant, including a construction permit and a license from the Atomic Energy Commission. Congress has enacted the Atomic Energy Act of 1954 (42 USCA 2011 et seq.) which provides a complete scheme of regulation of nuclear materials and of their utilization for research and development and industrial uses. Permits and licenses must be obtained from the Atomic Energy Commission for all activities in these fields. (Sections 2073, 2093, 2111, 2133, 2134, and 2235.)

While in 1959 the Atomic Energy Commission was given authority to enter into agreements with individual states providing for state regulation of nuclear materials formerly licensed and regulated by the Atomic Energy Commission (Section 2021), the following excerpts from the 1959 U. S. Code Congressional and Administrative News adequately summarize the intent of Congress to preempt the legislative field:

"SUMMARY OF BILL ...

In summary, the principal provisions of the bill authorize the Commission to withdraw its responsibility for regulation of certain materials -- principally radioisotopes -- but not over more hazardous activities such as the licensing and regulation of reactors." (p. 2874.)

"COMMENTS BY THE JOINT COMMITTEE

2. (b) The bill applies to some, but not all, atomic energy activities now regulated exclusively by AEC. It applies principally to radioisotopes, whose use and present

licensing by AEC is widespread, but whose hazard is local and limited. Moreover, the radiation hazard from radioisotopes has similarities to that from other radiation sources already regulated by States--such as x-ray machines and radium. Licensing and regulation of more dangerous activities--such as nuclear reactors--will remain the exclusive responsibility of the Commission. Thus a line is drawn between types of activities deemed appropriate for regulation by individual States at this time, and other activities where continued AEC regulation is necessary." (p. 2879.) (Emphasis added.)

"3. It is not intended to leave any room for the exercise of dual or concurrent jurisdiction by States to control radiation hazards by regulating byproduct, source, or special nuclear materials. The intent is to have the material regulated and licensed either by the Commission, or by the State and local governments, but not by both." (p. 2879.) (Emphasis added.)

The Atomic Energy Commission has scheduled hearings in California in which testimony on the safety of the proposed site of the nuclear reactor and standards of its construction and operation will be produced. It would seem that petitioner's expert testimony might better be considered by the AEC than this Commission. AEC's rules provide:

"Any person whose interest may be affected by a proceeding and who desires to participate as a party shall file a written petition under oath or affirmation for leave to intervene not later than five (5) days before the commencement of the hearing or within such other time as may be specified in the notice, or as permitted by the presiding officer. The petition shall set forth the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner." (10 CFR 2.714(a).)

For all of the foregoing reasons, IT IS HEREBY ORDERED that the petition of the Northern California Association to Preserve Bodega Head and Harbor, Inc. to reopen the above entitled proceeding is hereby denied.

Dated at San Francisco, California, this 9th day of

July, 1963.

I would grant the petition for reasons to be set forth below

*I will file a concurring opinion,
C. E. Mitchell*

President
George T. Hoover

Fredrick B. Hubloff

Commissioners

BENNETT, William M., Commissioner - This is the highly controversial Bodega Bay nuclear power unit controversy. It has become the subject of public dialogue and has evoked spirited public opposition. The Pacific Gas and Electric Company (P.G.& E.), applicant, has requested approval of its proposal in the name of the public convenience and necessity.

The matter is now before this Commission upon a pleading styled "A Petition to Reopen and For Further Hearing." This petition was filed on May 6, 1963, by the Northern California Association to Preserve Bodega Head and Harbor, Inc., (the Association).

The Association evokes the broad discretion of the Public Utilities Commission of the State of California (Commission) to review the record herein and the decision and order made. This is a matter of such import as to call for my complete review of the record. I did not previously participate in this matter, not then being a member of this Commission.

From a complete review of the record herein, I am compelled to the conclusion that a nuclear power unit at Bodega Bay is not compatible with the public convenience and necessity. Let me articulate those things and reasons which drew me to this result.

THE PUBLIC CONVENIENCE AND NECESSITY

Public convenience and necessity is not so precise a concept as to be subject to exact interpretation. It is an elastic standard but by law its interpretation and application to a given set of facts and circumstances as pertains to California public utilities rests with this Commission. This Commission is the economic court of California and it represents the people of this state in approving or disapproving on their behalf, proposals made

by public utilities. In arriving at the true public interest a variety of factors, and in this case a variety of special circumstances, must be given proper weight.

In considering public convenience and necessity in this case we are met with a showing of strong public opposition to the project; a strong public concern for public safety because of the proximity of this proposed plant to an active fault line; and a strong public opposition to the location of this plant at Bodega Bay because of its impact upon the natural beauty of the area. All of these things have a bearing upon my position herein.

THE STATED PUBLIC POSITION

The proposed plant of P.G. & E. is regarded as an unwanted intruder by an impressive public representation. Individuals, speaking out in protection of their interests as they conceive them to be affected, have been quite vocal in their opposition. Public witnesses expressed concern as to the location of the proposed plant and public witnesses expressed grave concern for their future safety as residents of the area in the event the plant were constructed. The Sierra Club of California presented a spokesman on behalf of its numerically substantial membership to voice its displeasure and opposition to the chosen site because of its claimed impact upon the natural beauty of the area.

The public opposition is not, of course, measured here by so clear and conclusive a process as the popular vote might be. Nonetheless the record gives the clear impression that the vast majority of the public does not want this unit at this place at this time. The Commission, consistent with its genesis, is bound to give weight to this public expression.

BODEGA BAY AS A NUCLEAR SITE

We are here talking about Bodega Bay, so-called after Juan Francisco de la Bodega y Cuadra, Captain of the Spanish ship, Sonora, the first spear point of the Spanish in their explorations of the northern coast of California. As it is related: "On October 3, 1775, the weary voyagers found themselves in a bay about four leagues to the north of Point Reyes, on whose beautiful green banks bear and deer could be seen peacefully feeding. In honor of the captain of the ship the bay was named Bodega, a name which it still bears." ("A Short History of California" by Rockwell D. Hunt, Ph.D., and Nellie Van De Grift Sanchez (1929) at page 141.) While the bears have long since gone, still an occasional deer crosses the landscape and aside from the intrusions of roads and casual structures, Bodega remains substantially as it was when first seen by the Spanish.

Bodega is one of those places which is a unique combination of sky, land and water. It is a joy to the eye -- a pleasure to behold! The sea coast, the wash of the ocean, the rolling hills with their seasonal colors, these have been made by the hand of God. There is only one Bodega Bay and there will never be another.

It is to be noted that Bodega, while it has not been reserved by Government as one of the playgrounds of the future, nonetheless is part and parcel of that recreational complex which stretches from Stinson Beach on and up the Marin and Sonoma coast line. The region is frequented by beaches, intermittent State parks and recreational retreats. It enjoys the advantages of possessing great and rare natural beauty and most importantly is in close proximity to the population of the Bay Area. A nuclear plant in the heart of this area is out of place. Indeed there is an inherent dissonance in the concept of a nuclear plant at Bodega Bay.

I believe that the public wishes to guard and to care for its natural heritage. Theodore Roosevelt and Gifford Pinchot made conservation a national ideal. Today as the natural places of this country, and of California in particular, become more compressed, conservation becomes critical and should properly figure in a determination of the public convenience and necessity. While there is a narrow utilitarian cost and value to a nuclear plant at Bodega, there is a far greater social benefit, in my opinion, to California, in preserving Bodega Bay so far as possible even though such social benefit cannot be precisely measured.

Projects so distasteful and so offensive to the broad standard of public aesthetics are not, nor can argument make them, in the true public convenience and necessity. Accordingly, I would disapprove this application because of the location selected as well as for other reasons to be given herein.

THE NUCLEAR PLANT AND THE SAN ANDREAS FAULT LINE

The chosen site, in proximity to the San Andreas Fault, placed upon P.G.& E. the high burden of satisfying this Commission as to the absolute safety of its proposal. This fault has been described as the earth's greatest continental rift. San Franciscans and North Bay residents do not need any special reminder as to its destructive potential. The mere mention of 1906 suggests a catastrophe to most people.

It is only a matter of common sense that great concern exists and should exist as to this issue in these proceedings.

The record is plain that the proposed nuclear unit will be in close proximity to the fault line. A dispute exists as to the precise distance between the unit and the San Andreas fault line. However, in the words of P.G.& E.'s expert, Professor G. W. Housner,

(Exhibit 48, Tab 12, letter of January, 1961), "This site is close to the San Andreas Fault Zone which passes a mile or so to the east."

The report of Clark E. McHuron , P.G.& E. consulting engineering geologist, says: "The general site of the proposed Bodega Bay Power Plant is known and recognized to be within and very close to the San Andreas Fault Zone. The San Andreas Fault is known to be active and to have been active in the past." (Exhibit 48, Tab 3.)

Other opinions place the Fault Line in closer relationship to the plant but regardless of the exact distance it is a fact that this plant will be very close to the earth's greatest continental active fault line -- and there is no other accurate way to state it!

The opinion of this Commission heretofore issued, states: "... in addition to the San Andreas Fault Zone which according to the record is more than one fourth mile east of the proposed reactor site ..." The confusion as to the precise distance between the proposed nuclear plant and the fault line is evident, but it is safe to conclude that despite the lack of clarity in the record, the plant is none the less in proximity to the fault line.

FUTURE QUAKE ACTIVITY CONSIDERED

The San Andreas Fault Line has been active for thousands of years and will probably continue to be active for thousands more. It has visited its rolls and shocks upon this area, either mildly or with some severity, almost without surcease. That it will continue is stated in Exhibit 48, Tab 12 by the P.G.& E. expert, Prof. G. W. Housner: "The proposed site is a region of high seismic activity ... It has been estimated that a large earthquake such as the 1906 shock may be expected to occur along the San Andreas Fault in the Bodega Bay region perhaps three or four times per one thousand years.

Less intense ground motion can be expected to occur with greater frequency ..." Geology, as it furnishes the basis for human opinions as to future fault line activity is not free from human error. Some experts expect more frequent occurrences of violent activity upon this line and no experts can state precisely the date of such future happenings nor the seismic intensity thereof.

It seems safe to conclude then that despite the range of opinion as to future occurrences that there is a consensus that there will be future occurrences and that some of them may well be quite severe.

THE DEFECT IN P.G.& E's SHOWING

The issue of safety loomed large in these proceedings and P.G.& E. carried the burden of meeting that issue. Early in the proceedings P.G.& E. related that it had retained Dr. Tocher, a consulting seismologist, Dr. Quaide, consultant geologist, Professor Housner, professor of applied mechanics, Dames and Moore, soil mechanics engineers, and others. Their employ was for the purpose of studying the proposed site in terms of its safety aspects. Their opinions, then, were crucial since they formed the basis upon which P.G.& E. elected to proceed at Bodega Bay.

During the first day of hearing Commission counsel inquired of P.G.& E. as to whether any of the reports of its experts were going to be available or were going to be put into evidence. P.G.& E. stated: "Well, we didn't intend to put any of them in. They are quite lengthy, they are quite voluminous. Certainly they were available for the Commission staff to look at and to study. ..." At this point staff counsel replied: "... it appears to me that the Commission may in not requiring a full record in this matter be satisfied with just one or two sentences, in effect that the doctors

say that it is O.K. with reference to such an important matter, I think deserves the consideration of the bench, and I think that we should have available to us some of this information."

(R.T. 38,39.)

Despite this exchange the hearing proceeded and the opinions, reports and other information of the selected experts of P.G.& E. were given through the mouth of one J. D. Worthington, Chief Civil Engineer of the P.G.& E. No one of the experts retained by P.G.& E. came forward upon oath to throw his opinion into the turbulent arena of cross-examination. Their judgments were and remain untested!

Turning to the last day of hearing, demand was made that P.G.& E. present the reports of its experts. The experts' opinion, it was then agreed, should be received as a late-filed exhibit designated Exhibit No. 48, and in closing the Examiner stated: "... and the applicant has the responsibility of submitting a late-filed Exhibit No. 48." (Reporter's Transcript 1497.)

And so, on June 7, 1962 these proceedings closed and on July 9, 1962 late-filed Exhibit 48 was furnished.

THE LACK OF CROSS-EXAMINATION

It is evident that Exhibit 48 was perhaps the most single important exhibit in these proceedings. It contained the written reports and opinions of P.G.& E.'s experts and it certainly formed the basis for critical cross-examination. Unfortunately, however, parties to these proceedings unskilled in Commission practice and indeed, in legal procedure, were not quick to insist upon their right to examination of the document, and, secondly, they were not quick to demand that P.G.& E.'s experts give their respective opinions upon oath.

The chance abilities or disabilities of the parties to these proceedings does not excuse the obligation of this Commission to insist upon a complete record, nor can we throw our responsibility to the Atomic Energy Commission. These proceedings represent more than a game in which the clever side most conversant with procedure and method wins the prize. There is a basic proposition which must be reached here and we did not get to it in this case upon a complete record simply because of the unwillingness of the P.G.& E. to expose its experts to cross-examination. This poses a fatal deficiency. The complete exploration of expert opinion which was not permitted here has resulted in an approval which should not have been issued in the first instance in view of the record. Rudiments of fair play and due process suggest to me that there has not been a full hearing here particularly in the matter of such public importance as this.

EXHIBIT 48 ANALYZED

I have read Exhibit 48 in detail. It is at best a curious document. It is a thick compendium of reports - each bearing a convenient tab and running from Tab 1 through Tab 24. At the outset is a purported typewritten resume of the contents of Exhibit 48, unexplained as to the manner of its preparation and by whom. The resume refers to "a number of conversations with the consultants" and to "investigations and results" both oral and written. These are as the resume says "in addition to the material contained." By P.G& E.'s own words the conversations and oral results, whatever they were, were not presented to the Commission.

The reports are arranged in chronological order and significantly each report bears the month, the day and the year given - that is, save one - and this is significant! It should be noted as well that following the first report each subsequent report builds in part upon its predecessor as the basis of the opinions given.

Prof. G. W. Housner, the expert with the final say upon the safety of this plant, was asked whether a power plant of the nature and location as proposed could be safely built to withstand earthquakes in this area. By letter styled "George W. Housner, ... 3 January 1961," to Mr. J. D. Worthington, Chief Civil Engineer of P.G.& E., Professor Housner stated: "In my opinion a power plant of the nature and location shown as Scheme 7 can be safely built to withstand earthquake in this area if the design and construction are done in accordance with proper seismic specifications. (Tab 13.)

Strangely, however, Tab 12 the report immediately preceding Tab 13 is unlike every other dated document and merely states "January 1961" - the day of the month being omitted. In this report labeled "January 1961" Professor Housner says this: "Since it is quite impossible to design a power plant to survive without damage the large permanent ground surface displacements that might occur if the earthquake fault slippage occurred on the site, this possibility must be given special consideration."

I can only speculate what cross-examination might have been done with these two reports, laying in Exhibit 48 next to each other. Was Tab 12 merely dated January 1961 rendered before or after the written opinion of Professor Housner on 3 January 1961, wherein he opined that a power plant could be safely built?

Why was the Tab 12 report merely dated January 1961? The wealth of questions which occurs to one when confronted with this date discrepancy need not be discussed in detail. But I am intrigued with the possible reasons for the sharp change in Prof. Housner's opinions from "January 1961" to "3 January 1961." Or suppose the "January 1961" report was written after the "3 January 1961" report!

I remind the reader that Exhibit 48 represents an accumulation of independent expert opinions, each opinion serving as the foundation of subsequent opinions. Dames and Moore, consultants in applied earth sciences, rendered reports on January 25, 1960 (Tab 5), and on December 2, 1960 (Tab 10) in which they ventured the opinions that the site was safe as a building location and that "The probability of significant structural damage from the San Andreas Fault System is remote during the life of the proposed construction." But then, as Tab 17 discloses, on April 30, 1962 Dames and Moore reported to P.G. & E.: "We do not know of any sound method of interpretation for this case, therefore we conclude that at this site the results of the seismic studies should be disregarded."

This revised opinion, of course, came more than a year after the opinion of Professor Housner, rendered on 3 January 1961, in which he said that a plant could safely be built - "in accordance with proper seismic specifications." But now say Dames and Moore "The results of the seismic studies should be disregarded." What change in position would have resulted on the part of Professor Housner in view of the change of position by Dames and Moore? We do not know and we are entitled to know.

It must be apparent by now that the failure to test Exhibit 48 by cross-examination, and, in particular, the specific deficiencies I have pointed out, resulted in an approval which should not have been issued in the first instance, considering the state of the record.

I can only speculate as to how firm the opinions of the experts would be after exposure to keen questioning. Even without cross-examination the opinions and reports of the experts are contradictory and confusing. They leave much to be desired and do not

satisfy my concern as to the future safety of the proposed plant. It stands out in Exhibit 48 that there is lacking any clear and qualified expert judgment that this plant can be built with safety and, of course, this Commission is entitled to no less an opinion than that.

EXHIBIT 48 AND THE COMMISSION OPINION

That Exhibit 48 played a decisive role in the decision of the Commission is evident. In that portion of the opinion styled "Safety" at Page 19, the Commission seeks to allay public concern as to quake activity by citing by way of rebuttal "applicant's civil engineering witness" -- Worthington -- who gave the opinion of the consulting geologist -- hearsay! And then to buttress the hearsay, the Commission found: "This testimony was supplemented and substantiated by applicant's late-filed Exhibit 48." (Page 20 of Opinion.)

The reliability of Exhibit 48 has been discussed above. This is hardly the way to make a complete record and the enormity of things left untested and unproven leaves a record which in my opinion cannot possibly furnish the basis for the authority previously granted.

WHY TAKE THE RISK?

We are met here with applicant's assertion as to the need for this unit. P.G.& E. spelled out such need. It is not necessary to dispute the applicant's contention as to its future energy requirements to judge the merits of the proposal here offered. We are here dealing so far as seismic activity is concerned with a voluntary exposure to risk. It is obvious that a few ventures are entirely risk free but this is not to say that risk should be courted unnecessarily. In this case, fortunately, we are not faced with meeting future power requirements of P.G.& E. by placing a plant at

this site or in the alternative failing to meet such power requirements. This is not the only site available to applicant. There exist other areas in the northern coast territory which may not be as ideal as applicant wishes but which contain geological features suited to the building of a facility such as this. It is quite possible for applicant to relocate this facility, removing its proposed plant from such close proximity to the San Andreas Fault Line and at the same time thus preserving the natural beauty of Bodega Bay. Only blind compulsion would insist upon placing this plant in the heart of one of nature's choicest areas and in frightening proximity to an active fault line.

Both California history and the opinions in this record make plain the reality of future earthquake activity. The reports of Prof. Housner speak of future large quakes. Common sense and expert opinion place no limit upon the potential severity of a future quake. Thus all of the opinions as to safety and design are necessarily qualified. Even the best opinion of the best expert must acknowledge that seismology has been developed almost wholly since the beginning of the nineteenth century and must still be regarded as in the early stages of its progress.

In this case approval was given upon such assurances as an inexact science might furnish and upon unexamined opinions. In my view the risk which inheres in this project is not to be assumed upon such a dubious showing.

NUCLEAR PLANTS IN CALIFORNIA

This opinion is not to be construed as a position upon my part of opposition to nuclear plants. Obviously, their use will be more and more widespread and they will take an important place

in our economy. Indeed, P.G.& E. is to be commended for keeping abreast of the latest technological developments in the energy field.

I am addressing myself only and to this particular project. If we were confronted with a power shortage, present or imminent, somewhat in the nature of a crisis or an emergency, then, of course, such might pose other and different facts. My experience, however, dictates that there is no power crisis and that other sites exist. This is a real factor in judging the necessity for this project at this location.

SOME RELEVANT OBSERVATIONS

Obviously there is a highest and a best use of land. A myopic business judgment has missed it here. In the pursuit of its public utility function alone, P.G.& E. has overlooked so much!

As one Commissioner, and a Californian, I am of the firm opinion that we should keep for ourselves and our grandchildren all of the natural grandeur of Bodega Bay. As the population grows and as life becomes ever more complex, Californians will have a keen need for some escape from the quiet desperations of tomorrow.

Bodega Bay is being lost to future generations and by virtue of a private decision made with none of the checks and balances of governmental action. The land acquisition, the use permit acquisition, the authority previously granted by this Commission -- all of these were done separately and unrelated. Piecemeal decisions, none of which in my opinion looked at the total public interest, have now permitted P.G.& E. to change the land at Bodega Bay. And this despite the fact that the ultimate necessary authority from the Atomic Energy Commission has not yet been obtained. The access road at Bodega Bay, now in the process of construction, has already wrought harm to the natural beauty of

the area and has undoubtedly had a devastating effect upon the community ecology of the Bay.

I am unaware of any persuasive showing here or anyplace as to the public safety so far as future radiation effects are concerned. There is a relationship among all producers of radiation so far as public safety is concerned. When it is realized that a significant portion of total utility capacity will be nuclear in the future, then it is imperative that the total cumulative radiation impact be measured with some precision. The total radiation contribution of this plant, as well as those in being and those to be constructed, must be measured by some adequate standards and not upon a piecemeal basis. Speaking as one individual, this case and others to follow demonstrate the necessity of adequate standards from the Federal Radiation Council or other competent agencies whereby an individual state Commissioner may know the permissible limits of total cumulative radiation. Confessing my personal inability to render a judgment upon this question, I am quick to point out that it is imperative for total national public safety that the Atomic Energy Commission meet this responsibility.

I am also compelled to point out that these proceedings point to the necessity for active participation herein by representatives of other state agencies concerned with questions of conservation and health so that this Commission may render a judgment which takes into account broad social values rather than the conventionally narrow issues which might otherwise be encountered here.

CONCLUSION

Accordingly, taking into account the location of the plant, the questions of the public safety as evoked by the location; the failure of P.G.& E. to meet the safety issue; the clear public desire to keep Bodega inviolate -- all of these things and cumulatively lead me to the conclusion that the authority heretofore given should not have been issued and should be rescinded.

P.G.& E. is not giving proper weight to the total social values which inhere in the Bodega Bay site and which are being destroyed. Steel, concrete and energy are not a fair exchange for precious and beautiful land, sea and sky. P.G.& E. has in the past shown its concern for public opinion. I suggest that it reconsider its decision to place a nuclear plant at Bodega Bay, that it withdraw from the site, and that it select another.


WILLIAM M. BENNETT, Commissioner

I concur in the Order denying the petition of the Northern California Association to Preserve Godega Head and Harbor, Inc., to reopen the application of the Pacific Gas & Electric Company to install a nuclear power unit at its Bodega Bay Atomic Park.

Such concurrence results from a complete review of the sworn evidence adduced before the California Public Utilities Commission after eight days of public hearing. It does not result from any belief on my part that this Commission does not have a responsibility to pass upon public utility matters affecting the safety, health, and general well-being of the citizens of California. Categorically, we do and I so accept that responsibility.

It is true that the Atomic Energy Commission has been vested by Congress with the power to license and regulate nuclear reactors. It is not true, however, that the California Public Utilities Commission is automatically divested thereby of its duty and obligation to protect the welfare of the inhabitants of this State. Action by the Federal Government herein is not exclusive. The Atomic Energy Commission does not occupy the entire field of power regulation to the preclusion of the State. It is patently obvious that California interest in this plant is equal to if, indeed, it does not outweigh, any national interest. To espouse the majority opinion would logically make impotent any future orders by this Commission in the field of power regulation. I am not prepared to adopt such a position.


This Commission must and does make its decisions on sworn public testimony and can give no credence to unverified allegations or unsubstantiated arguments such as those advanced by the protestants. The application for a nuclear power plant to be constructed at Bodega Bay was filed by the Pacific Gas & Electric Company on October 4, 1961. Since that date, protestants and all other interested parties have had ample opportunity to present convincing evidence to this Commission why the application should not be granted. If, as the protestants allege, such evidence exists, it has not been submitted to this Commission under oath (or even by way of affidavits, to this date).

Commission personnel especially trained in the nuclear field, experts produced by the applicant, and other disinterested experts have all testified before the Commission in support of the plant at Bodega Bay. I do not demean the seriousness of the issues or the protestants' concern (nor our own concern). But the speculation and conjecture raised by the protestants is of no weight balanced against the expert testimony presented to this Commission. Indeed, the continuance of such unsubstantiated speculation and conjecture without verification is not in the public interest.

There are now at least eleven nuclear plants plus innumerable nuclear pilot units operative in the United States. In California, the Humboldt Bay Plant in Northern California is already successfully furnishing power. There are three other nuclear plants in California apparently ready for construction. The Bodega Bay plant of the Pacific Gas & Electric Company is within the Bay Area complex; the Malibu plant of City of Los Angeles Department of Water

and Power will be in the Los Angeles Area; the San Clemente plant of Southern California Edison and San Diego Gas & Electric is to be located on the coast between Los Angeles and San Diego.

It is apparent that the pilot plant stage of nuclear power development has been completed. Atomic energy is now considered competitive with fossil fuels. Objections primarily appear to be based on fundamental misunderstanding of nuclear power to generate electricity. The evidence to date (including that gathered by the Atomic Energy Commission) indicates nuclear power plants presently operating contain as much if not greater safety protection than competitive power plants.


Peter E. Mitchell, Commissioner