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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

July 23, 2010

EA-10-120

Mr. James Becker
Pacific Gas & Electric
P.O. Box 3, Mail Station 104/6/601
Avila Beach, CA 93424

SUBJECT: DIABLO CANYON NUCLEAR POWER PLANT PHYSICAL SECURITY
BASELINE INSPECTION 05000275/2010201 AND 05000323/2010201;
PRELIMINARY GREATER THAN GREEN FINDING

Dear Mr. Becker:

This letter transmits findings that have preliminarily been determined to be Greater than Green – i.e., a finding of greater than very low security significance that may result in the need for further evaluation to determine significance, and therefore the need for additional U.S. Nuclear Regulatory Commission (NRC) action. The enclosed inspection report documents the inspection results, which were discussed on March 26, 2010, May 11, 2010, and July 7, 2010 with you and other members of your staff. The findings were assessed based on the best available information, using the Physical Security Significance Determination Process (PPSDP). In addition, four findings of very low security significance i.e. Green as determined by the PPSDP were also identified in the enclosed inspection report.

The findings are also associated with apparent violations of the NRC requirements that are being considered for escalated enforcement actions in accordance with the NRC Enforcement Policy. The current Enforcement Policy is included on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/enforcement>. These findings had cross-cutting aspects in the area of Human Performance within the area of Decision Making under H1.b, "Conservative Assumptions" for failure to use conservative assumptions in decision making, Human Performance within the area of Work Practices under H4.a, "Human Error Prevention Techniques" for failure to communicate human error prevention techniques as a standard work practice, and Problem Identification and Resolution with the area of Self and Independent Assessments under P3.a, "Frequent/Comprehensive" for failure to conduct adequate self and independent assessments.

Regarding the four findings of very low security significance, because of the very low security significance and because they were entered into your corrective action program, the NRC is treating these violations as non-cited violations consistent with Section VI.A.1 of the NRC Enforcement Policy. If you disagree with the characterization of any finding in this report, you

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should provide a response within 30 days of the date of this inspection report, with the basis for your disagreement, to the Director, Nuclear Security and Incident Response, and to the Branch Chief, Security Performance Evaluation Branch.

In accordance with the NRC Inspection Manual Chapter (IMC) 0609, "Significance Determination Process," we intend to complete our evaluation using the best available information and issue our final determination of safety significance within 90 days of the date of this letter. The significance determination process encourages an open dialogue between the NRC staff and the licensee; however, the dialogue should not impact the timeliness of the staff's final determination.

Before we make a final decision on this matter, we are providing you an opportunity to: (1) present to the NRC your perspectives on the facts and assumptions, used by the NRC to arrive at the finding and its significance, at a Regulatory Conference; or (2) submit your position on the finding to the NRC in writing. If you request a Regulatory Conference, it should be held within 30 days of the receipt of this letter and we encourage you to submit supporting documentation at least one week prior to the conference in an effort to make the conference more efficient and effective.

If a Regulatory Conference is held, it will be closed to public observation because of the discussion of security-related information. If you decide to submit only a written response, such submittal should be sent to the NRC within 30 days of the receipt of this letter.

If you decline to request a Regulatory Conference or to submit a written response, you relinquish your right to appeal the final significance determination process decision, in that, by not doing either, you fail to meet the appeal requirements stated in the Prerequisite and Limitation sections of Attachment 2 of IMC 0609.

Please contact Mr. Clay Johnson, Chief, Security Performance Evaluation Branch, Division of Security Operations, at 301-415-6640 within 10 business days of the date of receipt of this letter to notify the NRC of your intentions. If we have not heard from you within 10 days, we will continue with our significance determination and enforcement decision. The final resolution of this matter will be conveyed in separate correspondence.

Because the NRC has not made a final determination in this matter, no Notice of Violation is being issued for the inspection finding at this time. In addition, please be advised that the number and characterization of the apparent violation described in the enclosed inspection report may change as a result of further NRC review.

In accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) 2.390 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's Agencywide Document Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (The Public Electronic Reading Room). However, because of the security-related concerns contained in the

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enclosure, and in accordance with 10 CFR 2.390, a copy of this letter's enclosures will not be available for public inspection.

Because this issue involves security-related information, your response, should you choose to respond in writing, will not be made available electronically for public inspection in the NRC Public Document Room or from the NRC's document system, ADAMS accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>. If Safeguards Information is necessary to provide an acceptable response, please provide the level of protection described in 10 CFR 73.21. Otherwise, mark your entire response "Security-Related Information-Withhold under 10 CFR 2.390" and follow the instructions for withholding in 10 CFR 2.390(b)(1). In accordance with 10 CFR 2.390(b)(1)(ii), the NRC is waiving the affidavit for your response.

Sincerely,



Ralph Way, PhD, Acting Director
Division of Security Operations
Office of Nuclear Security and Incident Response

Docket No.: 50-275; 50-323
License No.: DPR-80; DPR-82

Enclosure: NRC Inspection Report No. 05000275/2010201 and 05000323/2010201

cc w/encl: J. Conway, Pacific Gas and Electric Company

cc w/o encl: J. Post, Pacific Gas and Electric Company
J. Tang, United States Senator Barbara Boxer

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