



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

December 9, 2020

Mr. Don Moul
Executive Vice President, Nuclear
Division and Chief Nuclear Officer
NextEra Energy Duane Arnold, LLC
Mail Stop: EX/JB
700 Universe Blvd
Juno Beach, FL 33408

SUBJECT: DUANE ARNOLD ENERGY CENTER – WITHDRAWAL OF ORDER EA-12-051,
“ORDER MODIFYING LICENSES WITH REGARD TO RELIABLE SPENT FUEL
POOL INSTRUMENTATION” (EPID NO. L-2019-JLD-0004)

Dear Mr. Moul:

This letter documents the withdrawal of Order EA-12-051, “Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation” (the Order) at Duane Arnold Energy Center (Duane Arnold), as described below.

By letter dated March 12, 2012 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML12054A679), the U.S. Nuclear Regulatory Commission (NRC, the Commission) issued the Order to NextEra Energy Duane Arnold, LLC (NextEra, the licensee). The Order requires certain actions at Duane Arnold associated with the Fukushima Near-Term Task Force recommendations. Specifically, the Order requires that reliable spent fuel pool (SFP) instrumentation be installed and maintained in the event of a beyond-design-basis external event.

Section IV of the Order required that NextEra submit to the Commission for review an overall integrated plan by February 28, 2013, describing how Duane Arnold will achieve compliance with the requirements of the Order. The licensee responded to the Order by letter dated February 28, 2013 (ADAMS Accession No. ML13063A014). By letter dated December 8, 2016 (ADAMS Accession No. ML17130A796), the licensee notified the NRC that full compliance with the Order had been achieved at Duane Arnold. The NRC staff issued a safety evaluation describing its review of the Duane Arnold Order compliance plan on May 26, 2017 (ADAMS Accession No. ML17129A037) and documented a compliance inspection at the Duane Arnold site by letter dated October 17, 2017 (ADAMS Accession No. ML17292A738).

Section IV of the Order also stipulates that the NRC’s Director of the Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the conditions of the Order upon demonstration by the licensee of good cause.

By letter dated January 18, 2019 (ADAMS Accession No. ML19023A196), NextEra submitted to the NRC a certification of permanent cessation of operations for Duane Arnold in accordance with Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82(a)(1)(i). In this letter,

NextEra provided formal notification of the intention to permanently cease operations at Duane Arnold in the fourth quarter of 2020. This letter was supplemented by a letter dated March 2, 2020 (ADAMS Accession No. ML20062E489), to certify that NextEra plans to permanently cease power operations at Duane Arnold on October 30, 2020. By letter dated August 27, 2020 (ADAMS Accession No. ML20240A067), NextEra certified to the NRC that it had permanently ceased operations at Duane Arnold on August 10, 2020. By letter dated October 12, 2020 (ADAMS Accession No. ML20286A317), the licensee notified the NRC under 10 CFR 50.82(a)(1)(ii) that, as of October 12, 2020, all fuel has been permanently removed from the Duane Arnold reactor vessel and placed in the SFP. Further, NextEra confirmed its understanding that, under 10 CFR 50.82(a)(2), the Duane Arnold 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel.

By letter dated August 8, 2019 (ADAMS Accession No. ML19220A069), NextEra requested rescission of the Order, to be effective upon the docketing of the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel.

The licensee's August 8, 2019, rescission request letter asserts that good cause exists to rescind the requirements of the Order. The licensee's letter observes that Section III of the Order states that the Commission determined that all power reactor licensees and construction permit holders must have a reliable means of remotely monitoring wide-range SFP levels to support effective prioritization of event mitigation and recovery actions in the event of a beyond-design-basis external event. According to the licensee, this statement forms the basis of the Order and reflects the need to effectively deploy limited resources to mitigate very low frequency events with the potential to challenge both the reactor and the SFP. The licensee further states that after Duane Arnold is permanently shut down and defueled, plant staff would not have to prioritize event mitigation and recovery actions; the focus of the plant staff would be the SFP condition.

Because the licensee for Duane Arnold has docketed the 10 CFR 50.82(a)(1)(i) and (ii) certifications for permanent cessation of operations and permanent removal of fuel from the reactor vessel, and has acknowledged, consistent with 10 CFR 50.82(a)(2), that the Duane Arnold 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, the NRC staff finds that the safety of the fuel in the SFP becomes the primary safety function for site personnel. In the event of a challenge to the safety of fuel stored in the SFP, the focus of the facility staff would be the SFP condition, without the possibility of a concurrent challenge to the reactor and primary containment safety functions. Thus, in the event of a beyond-design-basis external event, effective prioritization of event mitigation and recovery actions would be simplified, and the application of the Order requirements would no longer be necessary to serve the Order's underlying purpose.

D. Moul

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Based on the above, the NRC staff concludes that the licensee has demonstrated good cause for the withdrawal of Order EA-12-051. Accordingly, the NRC is withdrawing its March 12, 2012, Order EA-12-051 with respect to Duane Arnold.

Sincerely,

Ho K. Nieh, Director
Office of Nuclear Reactor Regulation

Docket No. 50-331

cc: Listserv

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***concurrence via email**

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