

October 20, 2006

Mr. John S. Keenan  
Senior Vice President and Chief Nuclear Officer  
Pacific Gas and Electric Company  
Diablo Canyon Power Plant  
P.O. Box 770000  
San Francisco, CA 94177-0001

SUBJECT: DIABLO CANYON POWER PLANT, UNIT NO. 1 - NOTICE OF  
CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY  
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A  
HEARING (TAC NO. MD3334)

Dear Mr. Keenan:

Enclosed is a copy of the Notice of Consideration of Issuance of Amendment to Facility Operating License No. DPR-80, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing, for your information. This notice relates to your application for an exigent amendment dated October 18, 2006. The proposed amendment would revise Technical Specification Section 3.8.4, "DC Sources – Operating," Condition B to extend the completion time (CT) to restore an inoperable battery from 2 hours to 12 hours, provided certain required actions are taken. The extended CT would allow sufficient time to correct a degraded condition on Vital Battery 1-1 (e.g., either bypass or replace an inoperable battery cell).

This notice has been forwarded to the Office of the Federal Register for publication.

Sincerely,

*/RA/*

Alan Wang, Project Manager  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 50-275

Enclosure: Notice

cc w/encl: See next page

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Senior Vice President and Chief Nuclear Officer  
Pacific Gas and Electric Company  
Diablo Canyon Power Plant  
P.O. Box 770000  
San Francisco, CA 94177-0001

SUBJECT: DIABLO CANYON POWER PLANT, UNIT NO. 1 - NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING (TAC NO. MD3334)

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Alan Wang, Project Manager  
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**ACCESSION NO.: ML062920442**

**NRR-106**

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DATE	10/20/06	10/20/06	10/20/06

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UNITED STATES NUCLEAR REGULATORY COMMISSION

PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-275

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO  
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS  
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-80, issued to Pacific Gas and Electric Company (PG&E/the licensee), for operation of the Diablo Canyon Power Plant, Unit No. 1, located in San Luis Obispo County, California.

The proposed amendment would revise Technical Specification (TS) Section 3.8.4, "DC Sources – Operating," Condition B to extend the completion time (CT) to restore an inoperable battery from 2 hours to 12 hours, provided certain required actions are taken. The extended CT would allow sufficient time to correct a degraded condition (e.g., either bypass or replace an inoperable battery cell) without introducing time pressure as an error precursor. PG&E has requested that this amendment be processed on a one-time exigent basis to support timely corrective action for the degraded condition affecting a single cell that impacts the long-term reliability of Vital Battery 1-1. This amendment is being requested on an exigent basis so that the plant will avoid the risk of a TS-required shutdown should the degraded battery cause the Vital Battery 1-1 to be inoperable.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes add provisions to increase the completion time (CT) from two hours to twelve hours, on a one-time basis for Diablo Canyon Power Plant Unit 1 Vital Battery 1-1. Additional Required Actions are specified when this battery, associated with the plant Class 1E Direct Current (DC) electrical power subsystem, is inoperable. The proposed changes do not physically alter any plant structures, systems, or components, and are not accident initiators; therefore, there is no effect on the probability of accidents previously evaluated. As part of the single failure design feature, loss of any one DC electrical power subsystem does not prevent the minimum safety function from being performed. Also, the proposed changes do not affect the type or amounts of radionuclides release following an accident, or affect the initiation and duration of their release. Therefore, the consequences of accidents previously evaluated, which rely on the Class 1E battery to mitigate, are not significantly increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different [kind of] accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a change in design, configuration, or method of operation of the plant. The proposed changes will not alter the manner in which equipment is initiated, nor will the functional demands on credit equipment be changed. The proposed changes do not impact the interaction of

any systems whose failure or malfunction can initiate an accident. There are no identified redundant components affected by these changes and thus there are no new common cause failures or any existing common cause failures that are affected by extending the CT. The proposed changes do not create any new failure modes.

Therefore, the proposed changes do not create the possibility of a new or different [kind of] accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes are based upon both a deterministic evaluation and a risk-informed assessment.

The deterministic evaluation concluded that though one battery associated with the Class 1E DC electrical power subsystem is inoperable, the redundant operable Class 1E DC electrical power subsystems will be able to perform the safety function as described in the accident analysis.

The risk assessment performed to support this license amendment request concluded that with additional Required Actions the increase in plant risk is small and consistent with the NRC's Safety Goal Policy Statement, "Use of Probabilistic Risk Assessment Methods in Nuclear Activities: Final Policy Statement," and guidance contained in Regulatory Guides (RG) 1.174, "An Approach for using Probabilistic Risk Assessment in Risk-Informed Decisions on Plant-Specific Changes to the Licensing Basis," and RG 1.177, "An Approach for Plant-Specific Risk-Informed Decisionmaking: Technical Specifications."

Together, the deterministic evaluation and the risk-informed assessment provide assurance that the plant Class 1E DC electrical power subsystem will be able to perform its design function with a longer CT for an inoperable Unit 1 Vital Battery 1-1 and risk is not significantly impacted by the change.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the *Federal Register* a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rulemaking, Directives and Editing Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition

for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: 1) the name, address and telephone number of the requestor or petitioner; 2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; 3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and 4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of

the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner/requestor is aware and on which the petitioner/requestor intends to rely to establish those facts or expert opinion. The petitioner/requestor must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Nontimely requests and/or petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing

Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

A request for a hearing or a petition for leave to intervene must be filed by: 1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; 2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; 3) E-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or 4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to Richard F. Locke, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120, attorney for the licensee.

For further details with respect to this action, see the application for amendment dated October 18, 2006, which is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC web site <http://www.nrc.gov/reading-rm.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the

documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated at Rockville, Maryland, this 20<sup>th</sup> day of October 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

*/RA/*

Alan Wang, Project Manager  
Plant Licensing Branch IV  
Division of Operating Reactor Licensing  
Office of Nuclear Reactor Regulation

Diablo Canyon Power Plant, Units 1 and 2

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California Energy Commission  
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Diablo Canyon Operations  
and Station Director  
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March 2006