

FEDERAL RESPONDENTS' MOTION TO DISMISS

EXHIBIT 1



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

December 16, 2010

Mr. Christopher Costanzo
Vice President, Nuclear Plant Support
NextEra Energy Duane Arnold, LLC
P.O. Box 14000
Juno Beach, FL 33408-0420

**SUBJECT: ISSUANCE OF RENEWED FACILITY OPERATING LICENSE NO. DPR-49 FOR
DUANE ARNOLD ENERGY CENTER**

Dear Mr. Costanzo:

The U.S. Nuclear Regulatory Commission (NRC) has issued Renewed Facility Operating License No. DPR-49 for the Duane Arnold Energy Center (DAEC). The NRC issued the renewed facility operating license based on the staff's review of your application dated September 30, 2008, as supplemented by letters submitted to the NRC through August 18, 2010. The technical specifications for DAEC were not amended as a result of the NRC's review.

Renewed Facility Operating License No. DPR-49 expires at midnight on February 21, 2034.

The technical basis for issuing the renewed license appears in NUREG-1955, "Safety Evaluation Report Related to the License Renewal of the Duane Arnold Energy Center," published in November 2010. The results of the environmental reviews related to the issuance of the renewed license appear in NUREG-1437, Supplement 42, "Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Duane Arnold Energy Center-Final Report," published in October 2010.

Enclosure 1 contains Renewed Facility Operating License No. DPR-49 with attachments, Appendix A, "Technical Specifications," and Appendix B, "Additional Conditions."

Enclosure 2 is a copy of the related *Federal Register* notice of issuance of the renewed license. The original has been sent to the Office of the Federal Register for publication.

C. Costanzo

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If you have any questions regarding this issue, please feel free to contact me at 301-415-2277 or by e-mail at brian.harris2@nrc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Harris", with a stylized flourish at the end.

Brian K. Harris, Project Manager
Reactor Projects Branch 1
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-331

Enclosures:
As stated

cc: See next page

UNITED STATES NUCLEAR REGULATORY COMMISSION

DOCKET NO. 50-331

NEXTERA ENERGY DUANE ARNOLD, LLC

DUANE ARNOLD ENERGY CENTER

NOTICE OF ISSUANCE OF RENEWED FACILITY

OPERATING LICENSE NO. DPR-49

FOR AN ADDITIONAL 20-YEAR PERIOD

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has issued renewed facility operating license No. DPR-49 to NextEra Energy Duane Arnold, LLC (licensee), the operator of the Duane Arnold Energy Center (DAEC). Renewed facility operating license No. DPR-49 authorizes operation of DAEC by the licensee at reactor core power levels not in excess of 1912 megawatts thermal in accordance with the provisions of the DAEC renewed license and its technical specifications.

The notice also serves as the record of decision for the renewal of facility operating license No. DPR-49, consistent with Title 10 of the *Code of Federal Regulations* Section 51.103 (10 CFR 51.103). As discussed in the final Supplemental Environmental Impact Statement (FSEIS) for DAEC, dated October 2010, the Commission has considered a range of reasonable alternatives that included generation from oil, wind, solar, hydropower, geothermal, wood waste, municipal solid waste, other biomass-derived fuels, fuel cells, delayed retirement, and conservation measures. The factors considered in the record of decision can be found in the supplemental environmental impact statement (SEIS) for DAEC.

DAEC is a boiling-water reactor located in Palo, Iowa. The application for the renewed license complied with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. As required by the Act and the Commission's regulations in 10 CFR Chapter 1, the Commission has made appropriate findings, which are set forth in the license. Prior public notice of the action involving the proposed issuance of the renewed license and of an opportunity for a hearing regarding the proposed issuance of the renewed license was published in the *Federal Register* on February 17, 2009 (73 FR 67895).

For further details with respect to this action, see: (1) FPL Duane Arnold, LLC's license renewal application for Duane Arnold Energy Center dated September 30, 2008, as supplemented by letters dated through August 18, 2010; (2) the Commission's safety evaluation report (NUREG-1955), published in November 2010 ; (3) the licensee's updated safety analysis report; and (4) the Commission's final environmental impact statement (NUREG-1437, Supplement 42), for the Duane Arnold Energy Center, published in October 2010. These documents are available at the NRC's Public Document Room, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, and can be viewed from the NRC Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>.

Copies of renewed facility operating license No. DPR-49, may be obtained by writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Director, Division of License Renewal. Copies of the Duane Arnold Energy Center safety evaluation report (NUREG-1955) and the final environmental impact statement (NUREG-1437, Supplement 42) may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161 (<http://www.ntis.gov>), 703-605-6000, or Attention: Superintendent of Documents,

(<http://www.gpoaccess.gov>), 202-512-1800. All orders should clearly identify the NRC publication number and the requestor's Government Printing Office deposit account number or VISA or MasterCard number and expiration date.

Dated at Rockville, Maryland, this 16th day of December, 2010.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in black ink, appearing to read "B. E. Holian".

Brian E. Holian, Director
Division of License Renewal
Office of Nuclear Reactor Regulation

NEXTERA ENERGY DUANE ARNOLD, LLC
CENTRAL IOWA POWER COOPERATIVE
CORN BELT POWER COOPERATIVE
DOCKET 50-331
DUANE ARNOLD ENERGY CENTER
RENEWED FACILITY OPERATING LICENSE

Renewed License No. DPR-49

1. The Nuclear Regulatory Commission (the Commission) having found that:
 - A. The application for license filed by FPL Energy Duane Arnold, LLC,^{*} Central Iowa Power Cooperative and Corn Belt Power Cooperative (the licensees) complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I and all required notifications to other agencies or bodies have been duly made;
 - B. Construction of the Duane Arnold Energy Center (facility) has been substantially completed in conformity with Construction Permit No. DPPR-70; the application, as amended; the provisions of the Act; and the rules and regulations of the Commission;
 - C. The facility will operate in conformity with the application, as amended; the provisions of the Act; and the rules and regulations of the Commission;
 - D. There is reasonable assurance: (i) that the activities authorized by this renewed operating license can be conducted without endangering the health and safety of the public; and (ii) that such activities will be conducted in compliance with the rules and regulations of the Commission;
 - E. NextEra Energy Duane Arnold, LLC is technically qualified and NextEra Energy Duane Arnold, LLC, Central Iowa Power Cooperative and Corn Belt Power Cooperative are financially qualified to engage in the activities authorized by this renewed operating license in accordance with the rules and regulations of the Commission;
 - F. The licensees have satisfied the applicable provisions of 10 CFR Part 140, "Financial Protection Requirements and Indemnity Agreements," of the Commission's regulations;
 - G. The issuance of this renewed operating license will not be inimical to the common defense and security or to the health and safety of the public;
 - H. After weighing the environmental, economic, technical, and other benefits of the facility against environmental costs and considering available alternatives, the issuance of renewed Facility Operating License No. DPR-49 is in accordance with 10 CFR Part 50, Appendix D, of the Commission's regulations and all applicable requirements of said Appendix D have been satisfied;

^{*}On April 16, 2009, the name "FPL Energy Duane Arnold, LLC" was changed to "NextEra Energy Duane Arnold, LLC."

Renewed License No. DPR-49

- I. The receipt, possession, and use of source, by-product and special nuclear material as authorized by this renewed operating license will be in accordance with the Commission's regulations in 10 CFR Part 30 and 70, including 10 CFR Section 30.33, 70.23 and 70.31.
2. Renewed Facility Operating License No. DPR-49 is hereby issued to NextEra Energy Duane Arnold, LLC, Central Iowa Power Cooperative (CIPCO) and Corn Belt Power Cooperative (Corn Belt) to read as follows:
 - A. This renewed operating license applies to the Duane Arnold Energy Center, a boiling water reactor and associated equipment (the facility), owned by NextEra Energy Duane Arnold, LLC, Central Iowa Power Cooperative and Corn Belt Power Cooperative and operated by NextEra Energy Duane Arnold, LLC. The facility is located on NextEra Energy Duane Arnold, LLC's, Central Iowa Power Cooperative's and Corn Belt Power Cooperative's site near Palo in Linn County, Iowa. This site consists of approximately 500 acres adjacent to the Cedar River and is described in the "Final Safety Analysis Report" as supplemented and amended (Amendments 1 through 14) and the Environmental Report as supplemented and amended (Supplements 1 through 5).
 - B. Subject to the conditions and requirements incorporated herein, the Commission hereby licenses:
 - (1) NextEra Energy Duane Arnold, LLC, pursuant to Section 104b of the Act and 10 CFR Part 50, "Licensing of Production and Utilization Facilities," to possess, use and operate the facility; and CIPCO and Corn Belt to possess the facility at the designated location in Linn County, Iowa, in accordance with the procedures and limitations set forth in this license;
 - (2) NextEra Energy Duane Arnold, LLC, pursuant to the Act and 10 CFR Part 70, to receive, possess and use at any time special nuclear material as reactor fuel, in accordance with the limitations for storage and amounts required for reactor operation, as described in the Updated Final Safety Analysis Report, as supplemented and amended as of June 1992 and as supplemented by letters dated March 26, 1993, and November 17, 2000.
 - (3) NextEra Energy Duane Arnold, LLC, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess and use at any time any byproduct, source and special nuclear material as sealed neutron sources for reactor startup, sealed sources for reactor instrumentation and radiation monitoring equipment calibration, and as fission detectors in amounts as required;
 - (4) NextEra Energy Duane Arnold, LLC, pursuant to the Act and 10 CFR Parts 30, 40 and 70, to receive, possess and use in amounts as required any byproduct, source or special nuclear material without restriction to chemical or physical form, for sample analysis or instrument calibration or associated radioactive apparatus components;
 - (5) NextEra Energy Duane Arnold, LLC, pursuant to the Act and 10 CFR Parts 30 and 70, to possess, but not to separate, such byproduct and special nuclear materials as may be produced by the operation of the facility.

C. This renewed operating license shall be deemed to contain and is subject to the conditions specified in the following Commission regulations in 10 CFR Chapter I; Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Sections 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70; is subject to all applicable provisions of the Act and to the rules, regulations, and orders of the Commission now or hereafter in effect; and is subject to the additional conditions specified or incorporated below:

(1) Maximum Power Level

NextEra Energy Duane Arnold, LLC is authorized to operate the Duane Arnold Energy Center at steady state reactor core power levels not in excess of 1912 megawatts (thermal).

(2) Technical Specifications

The Technical Specifications contained in Appendix A, as revised through Amendment No. 276, are hereby incorporated in the license. NextEra Energy Duane Arnold, LLC shall operate the facility in accordance with the Technical Specifications.

(a) For Surveillance Requirements (SRs) whose acceptance criteria are modified, either directly or indirectly, by the increase in authorized maximum power level in 2.C.(1) above, in accordance with Amendment No. 243 to Facility Operating License DPR-49, those SRs are not required to be performed until their next scheduled performance, which is due at the end of the first surveillance interval that begins on the date the Surveillance was last performed prior to implementation of Amendment No. 243.

(b) Deleted.

(3) Fire Protection

NextEra Energy Duane Arnold, LLC shall implement and maintain in effect all provisions of the approved fire protection program as described in the Final Safety Analysis Report for the Duane Arnold Energy Center and as approved in the SER dated June 1, 1978, and Supplement dated February 10, 1981, subject to the following provision:

NextEra Energy Duane Arnold, LLC may make changes to the approved fire protection program without prior approval of the Commission only if those changes would not adversely affect the ability to achieve and maintain safe shutdown in the event of a fire.

(4) The licensee is authorized to operate the Duane Arnold Energy Center following installation of modified safe-ends on the eight primary recirculation system inlet lines which are described in the licensee letter dated July 31, 1978, and supplemented by letter dated December 8, 1978.

(5) Physical Protection

NextEra Energy Duane Arnold, LLC shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification,

and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contains Safeguards Information protected under 10 CFR 73.21, is entitled: "Duane Arnold Energy Center Physical Security Plan," submitted by letter dated May 16, 2006.

(6) Deleted

(7) Additional Conditions

The Additional Conditions contained in Appendix B, as revised through Amendment No. 260, are hereby incorporated into this license. NextEra Energy Duane Arnold, LLC shall operate the facility in accordance with the Additional Conditions.

(8) The licensee is authorized to revise the Updated Final Safety Analysis Report by deleting the footnote for Section 9.1.4.4.5 which states: "The NRC has not endorsed the reactor building crane as single-failure proof (Reference 9)," and by deleting Reference 9 of the references for Section 9.1.

(9) Mitigation Strategy License Condition

Develop and maintain strategies for addressing large fires and explosions and that include the following key areas:

- (a) Fire fighting response strategy with the following elements:
 - 1. Pre-defined coordinated fire response strategy and guidance
 - 2. Assessment of mutual aid fire fighting assets
 - 3. Designated staging areas for equipment and materials
 - 4. Command and control
 - 5. Training of response personnel

- (b) Operations to mitigate fuel damage considering the following:
 - 1. Protection and use of personnel assets
 - 2. Communications
 - 3. Minimizing fire spread
 - 4. Procedures for implementing integrated fire response strategy
 - 5. Identification of readily-available pre-staged equipment
 - 6. Training on integrated fire response strategy
 - 7. Spent fuel pool mitigation measures

- (c) Actions to minimize release to include consideration of:
 - 1. Water spray scrubbing
 - 2. Dose to onsite responders

(10) The licensee shall implement and maintain all Actions required by Attachment 2 to NRC Order EA-06-137, issued June 20, 2006, except the last action that requires incorporation of the strategies into the site security plan, contingency plan, emergency plan and/or guard training and qualification plan, as appropriate.

- (11) The information in the UFSAR supplement, as revised, submitted pursuant to 10 CFR 54.21(d), shall be incorporated into the UFSAR no later than the next scheduled update required by 10 CFR 50.71(e) following the issuance of this renewed operating license. Until this update is complete, the licensee may not make changes to the information in the supplement. Following incorporation into the UFSAR, the need for prior Commission approval of any changes will be governed by 10 CFR 50.59.
- (12) The UFSAR supplement, as revised, submitted pursuant to 10 CFR 54.21(d), describes certain future activities to be completed prior to and/or during the period of extended operation. The licensee shall complete these activities in accordance with Appendix A of NUREG-1955, "Safety Evaluation Report Related to the License Renewal of Duane Arnold Energy Center," dated November 2010, as supplemented by letter from the licensee to the NRC dated November 23, 2010. The licensee shall notify the NRC in writing when activities to be completed prior to the period of extended operation are complete and can be verified by NRC inspection.
- (13) The licensee shall implement the most recent staff-approved version of the Boiling Water Reactor Vessels and Internals Project (BWRVIP) Integrated Surveillance Program (ISP) as the method to demonstrate compliance with the requirements of 10 CFR Part 50, Appendix H. Any changes to the BWRVIP ISP capsule withdrawal schedule must be submitted for staff review and approval. Any changes to the BWRVIP ISP capsule withdrawal schedule which affects the time of withdrawal of any surveillance capsules must be incorporated into the licensing basis. If any surveillance capsules are removed without the intent to test them, these capsules must be stored in a manner which maintains them in a condition which would support re-insertion into the reactor pressure vessel if necessary.
- D. This license is effective as of the date of issuance and shall expire at midnight February 21, 2034.

FOR THE NUCLEAR REGULATORY COMMISSION



Eric J. Leeds, Director
Office of Nuclear Reactor Regulation

Enclosures:

1. Appendix A Technical Specifications
2. Appendix B Additional Conditions

Date of Issuance: December 16, 2010

Renewed License No. DPR-49

FEDERAL RESPONDENTS' MOTION TO DISMISS

EXHIBIT 2



NRC NEWS

U.S. NUCLEAR REGULATORY COMMISSION

Office of Public Affairs Telephone: 301/415-8200

Washington, D.C. 20555-0001

E-mail: opa.resource@nrc.gov

Site: <http://www.nrc.gov>

No. 10-219

December 16, 2010

NRC RENEWS OPERATING LICENSE FOR DUANE ARNOLD NUCLEAR POWER PLANT FOR AN ADDITIONAL 20 YEARS

The Nuclear Regulatory Commission has renewed the operating license for the Duane Arnold Energy Center, located in Palo, Iowa, for an additional 20 years. The new license will expire on Feb. 21, 2034.

The decision to renew the license comes after thorough safety and environmental reviews of the application submitted Oct. 1, 2008, by the plant's operator, FPL Energy Duane Arnold. The Duane Arnold Energy Center is a boiling-water reactor, located about eight miles northwest of Cedar Rapids, Iowa.

The NRC held public meetings near the plant on March 24, 2009, April 22, 2009, and March 31, 2010, to discuss Duane Arnold's environmental review. In October, NRC staff concluded there were no environmental impacts that would preclude renewal of the license for environmental reasons.

After careful review of the plant's safety systems and specifications, the staff concluded that there were no safety concerns that would preclude license renewal and that the applicant had effectively demonstrated the capability to manage the effects of plant aging. In addition, NRC conducted inspections of the plant to verify information submitted by the applicant. On Oct. 7, the Advisory Committee on Reactor Safeguards – an independent body of technical experts that advises the Commission – issued its recommendation that license renewal for Duane Arnold should be approved.

The safety and environmental review reports, application and letters relating to the Duane Arnold license renewal are available on the NRC website at:
<http://www.nrc.gov/reactors/operating/licensing/renewal/applications/duane-arnold-energy-center.html>.

The Duane Arnold license represents the 61st reactor license renewed by the NRC. A complete listing of renewal applications can be found on the NRC website at:
<http://www.nrc.gov/reactors/operating/licensing/renewal.html>.

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News releases are available through a free *listserv* subscription at the following Web address:
<http://www.nrc.gov/public-involve/listserver.html>. The NRC homepage at www.nrc.gov also offers a SUBSCRIBE link. E-mail notifications are sent to subscribers when news releases are posted to NRC's website.

The extension was approved by the Nuclear Regulatory Commission after a 26-month review that concluded there were no environmental impacts that would preclude renewal of the license for environmental reasons.

The plant north of Palo generates enough power to supply 600,000 homes and employs 600. It would have been forced to close in 2014 had the license not been extended by the Nuclear Regulatory Commission.

“This is an important milestone for employees at Duane Arnold,” plant spokeswoman Renee Nelson said. “Our employees were excited when we filed for license extension back in 2008 and this brings that effort to a conclusion.”

Sierra Club of Iowa Attorney Wallace Taylor of Cedar Rapids said he is strongly considering legal action to block the extension after reviewing comments submitted by the United States Environmental Protection Agency.

“I think the EPA comments give us some strong support,” Taylor said.

The Sierra Club’s concerns included plant safety, water resource issues with the Cedar River and Pleasant Creek, on-site storage of spent nuclear fuel rods. Taylor said he was glad that the EPA shared his concerns about the scope of the review, believing it should have looked at whether there were more efficient and environmentally sound options to continuing to operate the plant for 20 years.

Florida-based NextEra Energy acquired the 70 percent majority stake in the plant from Alliant Energy when Alliant decided it didn’t want to go through the license extension process several years ago. The extension was a four-year process that cost \$20 million.

Nelson said the license renewal process included extensive inspections of plant equipment and replacement of equipment when needed.

“This doesn’t mean we will relax our standards for safety and equipment reliability going forward,” Nelson said.

The generating capacity of the boiling water reactor-powered generating station has been increased by 50 megawatts since it was placed in service in 1974.

Duane Arnold Energy Center is Iowa’s only nuclear power plant.

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FEDERAL RESPONDENTS' MOTION TO DISMISS

EXHIBIT 3



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Headlines

20-year license extension approved for Duane Arnold Energy Center

by [David DeWitte](#) :: UPDATED: 16 December 2010 | 4:00 pm :: in [Local News](#) :: [No Comments](#)

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Pictured from left, Ken Putnam, Duane Arnold Project Manager for License Renewal and Chris Costanzo, Site Vice President for Duane Arnold, are pictured with the Nuclear Regulatory Commission's Director for the Office of Nuclear Reactor Regulation, Eric Leeds. (undated photo courtesy of NextEra Energy)

A 20-year license extension for the Duane Arnold Energy Center has been approved over objections from some Iowa environmental groups.

The extension was approved by the Nuclear Regulatory Commission after a 26-month review that concluded there were no environmental impacts that would preclude renewal of the license for environmental reasons.

The plant north of Palo generates enough power to supply 600,000 homes and employs 600. It would have been forced to close in 2014 had the license not been extended by the Nuclear Regulatory Commission.

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FEDERAL RESPONDENTS' MOTION TO DISMISS

EXHIBIT 4

KCRG-TV9 | Cedar Rapids, Iowa News, Sports, and Weather

[Print this article](#)

20-year License Extension Approved for Duane Arnold Energy Center

Originally printed at <http://www.kcrg.com/news/local/20-year-License-Extension-Approved-for-Duane-Arnold-Energy-Center-112027294.html>

By Kelli Sutterman
December 16, 2010

CEDAR RAPIDS, Iowa - A 20-year license extension for the Duane Arnold Energy Center has been approved over objections from some Iowa environmental groups.

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