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

November 21, 1984

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: William J. Dircks, Executive Director
for Operations

FROM: John C. Hoyle, Acting Secretary

SUBJECT: SECY-84-434 - OPTIONS FOR SAN ONOFRE 1

This is to advise you that the Commission (with Chairman Palladino and Commissioners Roberts, Bernthal and Zech agreeing) has reviewed the material provided by the staff on the restart of San Onofre 1 and believes that it may reasonably read its statutes to give it the legal authority to treat the August 1982 order either as an enforcement order amending the license or as an enforcement order which only suspended operation under the license.

Considering all relevant circumstances, the Commission has decided that the August 1982 order should not be read as having amended the license to operate the San Onofre 1 reactor. The essence of the rationale for this conclusion is:

First, the Commission believes that it needs the enforcement flexibility that orders give it, and it is concerned that treating the August 1982 order as an amendment will discourage the practice of making licensee commitments legally binding. Second, there is no contemporaneous information which suggests that the August 1982 order was intended to amend the license. Indeed, the order resulted from a voluntary agreement by the licensee to forego the submission of additional technical data demonstrating qualification of all safety systems to .5g and to instead modify the facility to a .67g level. Had this voluntary agreement not been offered and had the licensee submitted data confirming qualification of equipment to .5g, the normal SEP upgrading process would have gone forward without any necessity for a plant shutdown order. Thus, the order merely suspended authority to operate pending modifications to the facility and approval by the NRC to restart. No provision of the license itself was modified.

The staff is directed to handle the restart matter procedurally according to the foregoing conclusion. The staff prior to authorizing restart must first make all of the required safety findings as it does in any other similar situation. The basis for approval of restart would be that continued suspension of the authority to operate is no

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longer required adequately to protect public health and safety.

Commissioner Asselstine has not yet indicated his position on this matter; his views will follow.

cc: Chairman Palladino
Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech
OGC
OPE
PDR - Advance
DCS - 016 Phillips