



SECRETARY

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

June 18, 2015

COMMISSION VOTING RECORD

DECISION ITEM: SECY-15-0047

TITLE: REQUEST FOR APPROVAL OF STAFF
RECOMMENDATION TO AUTHORIZE SAN ONOFRE
NUCLEAR GENERATING STATION AND DIABLO CANYON
POWER PLANT TO USE SECTION 161A PREEMPTION
AUTHORITY

The Commission (with all Commissioners agreeing) approved the subject paper as recorded in the Staff Requirements Memorandum (SRM) of June 18, 2015.

This Record contains a summary of voting on this matter together with the individual vote sheets, views and comments of the Commission.

A handwritten signature in blue ink, reading "Annette L. Vietti-Cook", written over a horizontal line.

Annette L. Vietti-Cook
Secretary of the Commission

Enclosures:

1. Voting Summary
2. Commissioner Vote Sheets

cc: Chairman Burns
Commissioner Svinicki
Commissioner Ostendorff
Commissioner Baran
OGC
EDO
PDR

VOTING SUMMARY - SECY-15-0047

RECORDED VOTES

| | <u>APRVD</u> | <u>DISAPRVD</u> | <u>ABSTAIN</u> | <u>NOT PARTICIP</u> | <u>COMMENTS</u> | <u>DATE</u> |
|------------------|--------------|-----------------|----------------|-------------------------|-----------------|-------------|
| CHRM. BURNS | X | | | | X | 5/22/15 |
| COMR. SVINICKI | X | | | | | 6/10/15 |
| COMR. OSTENDORFF | X | | | | | 4/07/15 |
| COMR. BARAN | X | | | | X | 6/10/15 |

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Chairman Burns
SUBJECT: SECY-15-0047: Request for Approval of Staff Recommendation to San Onofre Nuclear Generating Station and Diablo Canyon Power Plant to Use Section 161A Preemption Authority

Approved Disapproved Abstain

Not Participating

COMMENTS: Below Attached None

I approve the authorization for use of Atomic Energy Act Section 161A preemption authority by Southern California Edison at its San Onofre Nuclear Generating Station and by Pacific Gas and Electric at its Diablo Canyon Power Plant and Diablo Canyon specific-license independent spent fuel storage installation. I authorize the Director of the Office of Nuclear Reactor Regulation to complete the required license amendment actions and issue the draft Final Confirmatory Orders included in SECY-15-0047, subject to the attached edit being made to each of the Orders. I approve finalization and issuance of the letter to the Governor of California and staff coordination with SECY to support issuance of the letter concurrent with issuance of the final Confirmatory Orders and the associated *Federal Register* notice.



SIGNATURE

22 May 2015

DATE

Entered on "STARS" Yes No

II.

By application dated August 28, 2013 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML13242A277), as supplemented by letters dated December 31, 2013 (ADAMS Accession No. ML14007A496), May 15, 2014 (ADAMS Accession No. ML14139A424), and February 10, 2015 (ADAMS Accession No. ML15044A047), SCE requested, under Commission Order EA-13-092, that under the provisions of Section 161A of the Atomic Energy Act of 1954, as amended, the Commission permit the transfer, receipt, possession, transport, import, and use of certain firearms and large-capacity ammunition-feeding devices by security personnel who protect a facility owned or operated by a licensee or certificate holder of the Commission that is designated by the Commission. Section 161A confers on the Commission the authority to permit a licensee's security personnel to possess and use firearms, ammunition, or devices, notwithstanding local, State, and certain Federal firearms laws (including regulations) that may prohibit such possession and use.

On review of the SCE application for Commission authorization to use Section 161A preemption authority at SONGS, the NRC staff has found the following:

- (1) SCE's application complies with the standards and requirements of Section 161A and the Commission's rules and regulations set forth in 10 CFR Part 73, "Physical Protection of Plants and Materials."
- (2) There is reasonable assurance that the facilities will operate in conformance to the application; the provisions of the Atomic Energy Act of 1954, as amended; and the rules and regulations of the Commission.

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER SVINICKI
SUBJECT: SECY-15-0047: Request for Approval of Staff Recommendation to San Onofre Nuclear Generating Station and Diablo Canyon Power Plant to Use Section 161A Preemption Authority

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached ___ None XX



SIGNATURE

06/10/15

DATE

Entered on "STARS" Yes No _____

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: COMMISSIONER OSTENDORFF
SUBJECT: SECY-15-0047: Request for Approval of Staff Recommendation to San Onofre Nuclear Generating Station and Diablo Canyon Power Plant to Use Section 161A Preemption Authority

Approved X Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below ___ Attached ___ None X



SIGNATURE

4/7/15

DATE

Entered on "STARS" Yes ___ No ___

NOTATION VOTE

RESPONSE SHEET

TO: Annette Vietti-Cook, Secretary
FROM: Commissioner Baran
SUBJECT: SECY-15-0047: Request for Approval of Staff
Recommendation to San Onofre Nuclear Generating
Station and Diablo Canyon Power Plant to Use
Section 161A Preemption Authority

Approved XX Disapproved _____ Abstain _____

Not Participating _____

COMMENTS: Below _____ Attached XX None _____



SIGNATURE

6/10/15

DATE

Entered on "STARS" Yes XX No _____

Commissioner Baran's Comments on SECY-15-0047, "Request for Approval of Staff Recommendation to Authorize San Onofre Nuclear Generating Station and Diablo Canyon Power Plant to Use Section 161A Preemption Authority"

Southern California Edison and Pacific Gas and Electric Company have requested to use the preemption authority granted to the Commission under Section 161A of the Atomic Energy Act at San Onofre and Diablo Canyon, respectively. The NRC staff found that the firearms, weapons, and devices identified by the licensees are currently in use at the two sites, are necessary for the protection of the facilities and associated special nuclear materials, and are subject to state law that would restrict the possession and use of such firearms, weapons, and devices at the plants. The staff has determined that the requests for preemption authority meet the requirements of the designation order,¹ Section 161A, and applicable NRC regulations and recommends that the Commission approve the requests.

Accordingly, I authorize the use of Section 161A preemption authority by Southern California Edison at San Onofre and Pacific Gas and Electric Company at Diablo Canyon. I authorize the Director of the Office of Nuclear Reactor Regulation and the Director of the Office of Nuclear Material Safety and Safeguards to complete the required license amendment actions and to issue the draft final confirmatory orders included in SECY-15-0047, subject to the attached edit being made to each of the orders. I approve issuance of the notification letter to the Governor of California, subject to the attached edits, and staff coordination with SECY to support the issuance of the letter concurrent with the issuance of the final confirmatory orders and associated *Federal Register* notice.

¹ The designation order issued by the staff on June 5, 2013, designated a limited class of facilities as eligible to apply for Commission authorization to use the authority of Section 161A. The reactors at San Onofre and Diablo Canyon and the independent spent fuel storage installation at Diablo Canyon are all covered by the designation order.

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On review of the SCE application for Commission authorization to use Section 161A preemption authority at SONGS, the NRC staff has found the following:

- (1) SCE's application complies with the standards and requirements of Section 161A and the Commission's rules and regulations set forth in 10 CFR Part 73, "Physical Protection of Plants and Materials."
- (2) There is reasonable assurance that the facilities will operate in conformance to the application; the provisions of the Atomic Energy Act of 1954, as amended; and the rules and regulations of the Commission.

The Honorable Jerry Brown
Governor of California
Sacramento, CA 95814

Dear Governor Brown:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am ~~informing-writing to inform you of an action that~~ the Commission is ~~taking-to-granting~~ a limited class of NRC-licensed facilities in the State of California permission to use the preemption authority granted to the Commission under Section 161A of the Atomic Energy Act of 1954 (AEA), as amended, ~~(42 United States Code § 2201a)~~. This authority permits the licensee to transfer, receive, possess, transport, import, and use certain weapons, ammunition and other devices ~~notwithstanding local, State, local~~ and certain Federal firearms laws ~~(including regulations)~~ that would otherwise prohibit such actions.

The NRC is taking this action to ensure ~~the~~ continued ~~implementation of effective physical security strategies maintenance of the necessary security posture~~ at designated NRC-licensed facilities in advance of a final rulemaking on this matter. A letter dated May 31, 2013, informed you of the Commission's intent to implement its authority under Section 161A ~~of the Atomic Energy Act of 1954, as amended,~~ through the issuance of Orders in advance of a final rulemaking on this matter. Subsequently, on

June 5, 2013, ~~the~~ Commission issued an order ~~(Enforcement Action 13-092) entitled,~~ "Order Designating an Interim Class of NRC-Licensed Facilities that are Eligible to Apply to the Commission for Authorization to use the Authority Granted Under the Provisions of Section 161A of the Atomic Energy Act of 1954, as Amended." A copy of this order is available in the NRC's Agencywide Documents Access and Management System (ADAMS) under Accession No. ML13121A459.

~~The order designat~~ing San Onofre Nuclear Generating Station, and Diablo Canyon Power Plant as eligible to apply to the Commission for authorization to use Section 161A preemption authority. In response to the order, the licensees of the above designated facilities submitted to the Commission a request that the NRC grant the authority to use Section 161A at these designated facilities. The Commission has reviewed these requests and is approving the use of Section 161A preemption authority at these facilities.

The NRC's granting of this authority will be documented in a confirmatory order issued separately to each of the above facilities ~~by the appropriate NRC licensing office. These confirmatory orders will be issued~~ in accordance with established NRC processes.

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