

UNITED STATES  
NUCLEAR REGULATORY COMMISSION

June 20, 1979

ADJUDICATORY ITEM  
CONSENT CALENDAR ITEM

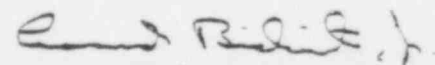
SECY-A-79-518

For: The Commissioners  
From: Leonard Bickwit, Jr., General Counsel  
Subject: Revised Draft Order in Rancho Seco\*

Discussion: The attached draft reflects revisions made in response to Commissioners' comments. Additions and deletions are indicated by underlining and lining out, respectively. The most notable addition is the provision for an informational briefing of the Commission by the Staff prior to allowing restart of the plant.

Two minor additions have been made by OGC. A clause has been added to item (1) on page 2. Its purpose is to convey with greater specificity the meaning which the deleted paragraph on the same page sought to convey in general terms -- that parties can in the hearing attack the correctness of Staff's determination that the short-term actions have been completed satisfactorily. The second addition by OGC begins on page 2 and continues onto page 3 ("Contrary to the contention...can be taken at that time."). It is designed to respond to assertions and arguments in the Friends of the Earth filing of June 8.

Further changes have been made to reflect the June 19 memorandum from Harold Denton to the Commissioners, describing the completion of the staff's review of the short-term actions.

  
Leonard Bickwit, Jr.  
General Counsel

Attachment:  
Draft Order

CONTACT:  
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\*Ref: SECY-A-79-51 and SECY-A-79-51A

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Commissioners' comments or consent should be provided directly to the Office of the Secretary by c.o.b. Wednesday, June 20, 1979.

Commission Staff Office comments, if any, should be submitted to the Commissioners NLT Noon, June 20, 1979, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

This paper is currently scheduled for affirmation at an Open Meeting on Thursday, June 21, 1979.

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**POOR ORIGINAL**

In the Matter of  
SACRAMENTO MUNICIPAL UTILITY DISTRICT  
Rancho Seco Nuclear Generating Station

Docket No. 50-312

ORDER

By a confirmatory Order dated May 7, 1979 the Commission directed that the Rancho Seco facility, then in a shutdown condition, should remain shut down until certain actions specified in the Order were satisfactorily completed, as confirmed by the Director, Office of Nuclear Reactor Regulation. The Order also directed the licensee to accomplish as promptly as practicable the long-term modifications set forth in Section II of the Order. The Order stated further:

Within twenty (20) days of the date of this Order, the licensee or any person whose interest may be affected by this Order may request a hearing with respect to this Order. Any such request shall not stay the immediate effectiveness of this Order.

Requests for a hearing have been received from Friends of the Earth and from members of the Board of Directors of the Sacramento Municipal Utility District.

The Commission hereby directs that the Chairman of the Atomic Safety and Licensing Board Panel shall, pursuant to 10 CFR 105(e), select a board to determine whether the requesters meet the requisite personal interest test and to conduct any hearing which may be required.

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The subjects to be considered at the hearing shall include:

1. Whether the actions required by subparagraphs (a) through (e) of Section IV of the Order are necessary and sufficient to provide reasonable assurance that the facility will respond safely to feedwater transients, pending completion of the long-term modifications set forth in Section II. A contention challenging the correctness of the NRC staff's conclusion that the actions described in subparagraphs (a) through (e) have been completed satisfactorily will be considered to be within the scope of the hearing. However, the filing of such a contention shall not of itself stay operation of the plant.

2. Whether the licensee should be required to accomplish, as promptly as practicable, the long-term modifications set forth in Section II of the Order.

3. Whether these long-term modifications are sufficient to ~~will~~ provide continued reasonable assurance that the facility will respond safely to feedwater transients.

~~In addition to these specific subjects, the board may consider contentions relevant to the safety of operating the Rancho Seco facility, provided that these contentions are stated with specificity and are reasonably related to the sensitivity of the reactor to feedwater transients as discussed in the Order of May 7, 1979.~~

Resumed operation of the Rancho Seco facility on terms consistent with the Order of May 7, 1979, is not stayed by the pendency of these proceedings. Contrary to the contention of the Friends of the Earth in their filing of June 8, 1979, the transcripts of the Commission proceedings of April 25 and 27 reflect no Commission intent that

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hearings necessarily precede restart of the facility. Nor is such a requirement compelled by law or by the factual circumstances before us. Mere speculation that the hearing might develop facts indicating the need for further enforcement action does not suffice to warrant a prohibition on restart of the facility. In the event that a need for further enforcement action becomes apparent, either in the course of the hearing or at any other time, appropriate action can be taken at that time.

NRC staff has now determined that the actions set forth in subparagraphs (a) through (e) have been completed satisfactorily, and it shall provide the Commission with an informational briefing as to the basis for its conclusions prior to permitting restart of the facility. That briefing will be open to the public. In receiving this briefing, the Commission will in no manner prejudge the merits of the adjudicatory hearing authorized by this Order. Any adjudicatory determination by the Commission that may arise from that hearing will be based solely on the record developed in that proceeding.

It is so ORDERED.

For the Commission

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SAMUEL J. CHILK  
Secretary of the Commission

Dated at Washington, D.C.,  
this        day of June, 1979.

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