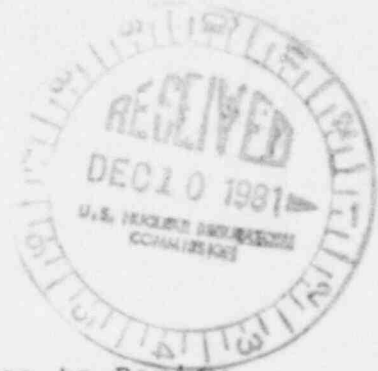




UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
OFFICE OF COASTAL ZONE MANAGEMENT  
Washington, D.C. 20235

GCZ:JA

DEC 4 - 1981



Mr. Harold Denton  
Director, Office of Nuclear  
Reactor Regulation  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Re: California Coastal Commission's Notice to Review  
Southern California Edison Company's Application for a  
License to Operate San Onofre Nuclear Generating  
Station, Unit II, at Low Power as an "Unlisted  
Activity"

Dear Mr. Denton:

By letter dated October 8, 1981, the California Coastal Commission (Commission) notified the Office of Coastal Zone Management (OCZM) that the Commission intended to review an application submitted to the Nuclear Regulatory Commission (NRC) by Southern California Edison Company (Applicant) for a license to operate the San Onofre Nuclear Generating Station, Unit II, (SONGS II), at low power for consistency with the Federally-approved policies of the California Coastal Management Program. The Commission's October 8th letter proposed to review the application for a low power license as an application to conduct an "unlisted Federal license activity" (i.e., an activity not listed in the State Coastal Management Program), subject to consistency review pursuant to Section 307(c)(3)(A) of the Coastal Zone Management Act of 1972, as amended (CZMA), and NOAA regulations at 15 C.F.R. §930.54. For the reasons discussed below, I have decided that operating SONGS II at low power is an activity already listed in the California Coastal Management Program and that it is unnecessary for the Commission to invoke the procedures described at 15 C.F.R. §930.54 concerning "unlisted Federal license activities."

After receiving the Commission's October 8th letter, OCZM informed both the Applicant and NRC by letter dated November 2, 1981, that the Commission had formally notified OCZM of its intention to review the low power application for consistency with its Coastal Management Program, and that the NRC and the Applicant may comment on the Commission's decision within a 15 day period beginning the day each party received notice of the Commission's decision. OCZM has received comments within the



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time period from both the NRC, by letter dated November 17, 1981, and the Applicant, by letter dated November 16, 1981, concerning the Commission's decision.

NRC's November 17th letter noted, in part:

...as to whether the application is for a "listed or "unlisted" activity under 15 C.F.R. §930.54, it would appear to us that this application should be considered a "listed" activity. The language of the California Coastal Management Program expressly lists, with respect to NRC activities, "[p]ermits and licenses required for siting and operation of nuclear power plants". This language, in our view, encompasses applications for operating licenses, and...operating licenses limited to low power.

The Applicant submitted a similar comment in its November 16th letter to OCZM:

The Federal license and permit list contained in the California Coastal Zone Management Plan ("CCZMP") refers generally to "Permits and Licenses required for the siting and operation of nuclear power plants." [Emphasis added] [CCZMP, Chapter II, Section B(b)(i), at page 92]. No distinction is made based upon the purpose, power-level or other characteristics of operation.

Further, the Commission's October 8th letter, in addition to notifying OCZM of the Commission's decision to review the application to operate SONGS II at low power as an unlisted activity, stated that "the low power operating license can probably be considered a 'listed activity,'" and quoted the same section from the California Coastal Management Program referred to by the NRC and the Applicant. All parties agree concerning this issue and I find that operation of SONGS II at low power is a listed NRC activity so that the Commission need not seek to review the low power operation of SONGS II as an unlisted activity, pursuant to 15 C.F.R. §930.54.

Comments submitted by both NRC and the Applicant have noted that the initial application for operating licenses for the San Onofre Nuclear Generating Station was filed with the NRC by the Applicant on November 30, 1976, and docketed by the NRC on March 23, 1977, prior to approval of the California Coastal Management Program by the Secretary of Commerce on November 7, 1977. Both NRC and the Applicant have asserted that the Applicant's request for NRC's permission to operate SONGS II at low power was encompassed by this initial application and, therefore, is not subject to the consistency provisions of

Section 307(c)(3)(A) of the CZMA because it is "grandfathered" under the terms of Section 307(c)(3)(A) and 15 C.F.R. §930.52.

Applications for Federal licenses or permits filed prior to program approval are excluded from consistency review under the CZMA (Section 307(c)(3)(A)) and NOAA regulations (15 C.F.R. §930.52). However, renewals of "grandfathered" applications, or major amendments to them, are subject to consistency review by Federally-approved State coastal management programs (See 15 C.F.R. §930.51(b)(1) and Comment). Whether the Applicant's request to operate SONGS II at low power is subsumed under a "grandfathered" application or whether the application has been substantially amended are essentially factual determinations properly made by the Federal and State agencies involved. In any event, it is my view that it is improper for OCZM to consider the factual issues concerning the NRC application filed on November 30, 1976, in the present context. Of course, mediation by the Secretary of Commerce of a serious disagreement between a Federal and State agency whether a listed or unlisted Federal license or permit activity is subject to consistency review may be requested by either party (Section 307(h) of the CZMA and 15 C.F.R. §930.55).

If you have any questions concerning my decision in this matter, please contact John Milholland or Jack Archer at (202) 254-7512.

Sincerely,



William Matuszeski  
Acting Assistant Administrator

cc: Michael Dudley  
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Identical letters also sent to: Michael Fischer  
Charles Kocher