7590-01

UNITED STATES OF AMERICA

NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
PACIFIC GAS AND ELECTRIC COMPANY	)	Docket No. 50-275
Diablo Canyon Nuclear Power Plant, Unit 1	)	

EXEMPTION

I.

The Pacific Gas & Electric Company (the licensee or PG&E) was issued Facility Operating License No. DPR-76 on September 22, 1981, authorizing PG&E to load fuel in the Diablo Canyon, Unit 1 reactor and conduct low power testing up to five percent of rated power. Subsequently, prior to any fuel being loaded into the reactor vessel, the Commission issued an Order, CLI-81-30, on November 19, 1981 which suspended the authority to load fuel and conduct low power testing on the basis of the discovery of certain seismic design discrepancies at the facility. Nevertheless, the license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect. The facility is a pressurized water reactor (PWR) located at the licensee's site in San Luis Obispo County, California.

II.

Among the provisions of the Commission's regulations are requirements relating to physical security measures required for facilities which have been issued operating licenses. In particular, 10 CFR §73.55 and Appendices B and C to 10 CFR Part 73 address the requirements of physical security, guard training

and qualification, and safeguards contingency planning for nuclear power reactors. 10 CFR §73.55 became effective on March 28, 1977, and Appendices B and C became effective on October 23, 1978, and June 6, 1978 respectively. These requirements are reflected in a license condition in paragraph 2.E.

By letter dated February 25, 1983, the licensee requested a temporary exemption from the requirements of 10 CFR §73.55(b) through (h) and Appendix C of 10 CFR 73, which would relax physical security measures currently implemented in connection with Unit 1. This exemption will require an amendment to the foregoing license condition. In support of this request, the licensee notes that there are major construction activities underway at the facility, there is no fuel in the reactor core, and there is no irradiated fuel at the facility.

III.

The Nuclear Regulatory Commission (NRC) staff has reviewed the licensee's exemption request. 10 CFR §73.55 requires that each applicant for a license to operate a nuclear power reactor pursuant to 10 CFR Part 50 establish, prior to receipt of the license, a physical protection system designed to protect the facility against radiological sabotage from a specified design basis threat. The licensee has complied with this requirement, and an NRC-approved security system has been in place and in effect since September 1981, the date the operating license was issued. At the time 10 CFR §73.55 was promulgated, it was not anticipated that significant time would elapse between the date of operating license issuance and fuel loading. Accordingly, no explicit provisions were made for relaxation of security requirements for those instances where this interval was extensive.

Since the reactor at this facility has never been loaded with fuel and thus no criticality has been achieved, no irradiated fuel is on site and, accordingly, there is no current potential for radiological sabotage. (From a practical standpoint the facility is still in the construction stage. There are no activities on site related to reactor operation and no areas or equipment need to be designated as vital during this period.) Without safeguards in place, there is, however, the possibility of illegal activities designed to damage the plant or compromise the security system at some future date after operation has commenced. (This same potential exists at all new reactors prior to the issuance of the operating license.) To compensate for these concerns, the licensee has committed to an extensive return-to-service alignment, test, and inspection program of both vital plant components and intrusion alarm systems. The staff believes that the licensee's return-to-service program which is designed to ensure (i) the operability of vital plant systems, (ii) the integrity of the intrusion alarm and access control systems, and (iii) that sabotage or sabotage materials have not been introduced into the vital areas, is acceptable. To provide additional assurance, during any period of reduced safeguards, the licensee will be required to continue to (i) control and limit site access to individuals having work-related needs, and (ii) maintain the tamper protection capability of the intrusion alarms, as currently required by the approved plans.

In regard to the fresh fuel stored on site, NRC safeguards regulations only require protection of the material against theft since low enriched uranium

fuel poses little radiation risk to the public safety. The licensee's program for the protection of the Unit 1 fuel assemblies will be similar to that presently in effect for Unit 2 and is considered to satisfy the requirements of 10 CFR §73.67 for material of low strategic significance.

It is the staff's judgement, that the temporary suspension of those provisions of the licensee's security plan relative to the requirements of 10 CFR §73.55(b) through (h) prior to fuel loading satisfies the purpose and intent of the general performance requirements of 10 CFR §73.55 and will not significantly increase the risk of radiological sabotage at the present time or over the life of the facility. In addition, on its own initiative, the Commission is extending the exemption to include Section 73.55(a) in order to remove any uncertainty regarding the extent to which the licensee is released from its Plan commitments.

IV.

Accordingly, the staff has determined that, pursuant to 10 CFR §73.5 an exemption is authorized by law and will not endanger life or property or common defense and security and is otherwise in the public interest, and hereby grants a temporary exemption from the requirements of Section 10 CFR §73.55(a) through (h) and Appendix C of 10 CFR Part 73 as stated in the Diablo Canyon Physical Security Plan and the Diablo Canyon Safeguards Contingency Plan.

The staff has determined that the granting of this exemption and amendment does not authorize a change in effluent types or total amounts nor an increase in power level and will not result in any significant environmental impact. Having made this determination, we have further concluded that the granting of this exemption and amendment involves an action which is insignificant from the standpoint of an environmental impact and, pursuant to 10 CFR §51.5(d)(4), that an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of these actions.

The staff has also concluded, based on the considerations discussed above, that: (1) because the granting of this exemption and amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated, does not create the possibility of an accident of a type different from any evaluated previously, and does not involve a significant reduction in a margin of safety, the granting of this exemption and amendment does not involve a significant hazards consideration; (2) there is reasonable assurance that the health and safety of the public will not be endangered by these actions; and (3) such activities will be conducted in compliance with the Commission's regulations and the granting of this exemption and issuance of this amendment will not be inimical to the common defense and security or to the health and safety of the public.

FOR THE NUCLEAR REGULATORY COMMISSION

Darrell G. Eisenhut, Director
Division of Licensing
Office of Nuclear Reactor Regulation

Dated at Bethesda, Maryland
this 11th day of March 1983.