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POLICY ISSUE
(Information)

April 24, 1992

SECY-92-150

For: The Commissioners

From: James M. Taylor
Executive Director for Operations

Subject: QUARTERLY REPORT ON THE STATUS OF PREMATURELY SHUT DOWN PLANTS

Purpose: To inform the Commission of the status of open issues and facility progress toward decommissioning.

Background: In COMSC-92-002 of March 23, 1992, the Commission directed the staff to provide quarterly reports on the status of prematurely shut down plants.

Discussion: The following is the status of plants in the decommissioning process. Future reports will contain more abbreviated summaries of the status of these plants.

I. SHOREHAM

A. Decommissioning Plan

The Long Island Power Authority (LIPA, or the licensee) submitted the Shoreham Decommissioning Plan (D-Plan) on December 29, 1990, and supplemented it on August 26, November 27, and December 6, 1991.

The staff has nearly completed its technical review of the D-Plan. In a meeting on March 23, 1992, LIPA indicated that it will be significantly affected if it does not receive a decommissioning order by May 15, 1992. LIPA represented that all decommissioning resources (including a work force of 1000 people) will be in place at the Shoreham facility at that time, and that this could cause LIPA to lose \$320,000 for each day the decommissioning activities are delayed.

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By its Order of April 3, 1992, the Commission forwarded petitions to intervene in the Shoreham D-Plan matter to the Atomic Safety and Licensing Board. The staff cannot provide a precise schedule for action on the D-Plan because of the scheduler uncertainty of the hearing process.

3. License Transfer License Amendments

The NRC transferred the Shoreham Possession-Only License (POL) from the Long Island Lighting Company (LILCO) to LIPA by Order of February 29, 1992. In issuing this Order, the Commission only transferred the POL and did not amend the transferred license to reflect the new licensee or grant the license or technical specification changes described in SECY-92-041 "Shoreham Nuclear Power Station License Transfer," of February 6, 1992. In CLI-92-04, the Commission stated that once the transfer is finalized through the post-effectiveness hearing process, license amendments could be considered to have the license changed to reflect the name of the new licensee.

The staff will consider license amendments as follows:

1. Shortly after completing the post-effectiveness hearing, the staff expects to act on administrative changes to the license and the technical specifications that reflect LIPA as the licensee.
2. In the third quarter of CY 1992, the staff will act on license and technical specification changes, not associated with a hearing.

C. Pri e-Anderson Exemption

On April 29, 1991, LILCO requested an exemption from participating in the secondary financial protection program required by 10 CFR 140.11(a)(4). On April 16, 1992, LIPA endorsed LILCO's exemption request. The staff reviewed the exemption request and will address the issue in a Commission paper in the near future.

D. License Transfer Contingency Plan

The February 29, 1992, Order transferring the Shoreham POL to the Long Island Power Authority, required, among other things, that LIPA and LILCO submit a joint contingency plan (Contingency Plan) by March 30, 1992. This contingency plan is to contain details concerning the licensee's February 27, 1992, certification that LILCO would retain the capability to assume responsibility for the license in the event LIPA ceased to exist or otherwise was found to be unqualified to hold the license. In the Order, the Commission also

required that the Shoreham license would revert to LILCO if the Contingency Plan is not approved by the Director, Office of Nuclear Reactor Regulation (Director), by April 30, 1992, or other date to be determined by the Director.

The Contingency Plan was submitted for staff review on March 27, 1992, and supplemented on April 10, 1992. The staff approved the Contingency Plan on April 20, 1992.

II. RANCHO SECC

A. Possession-Only License

According to guidance in a staff requirement memorandum (SRM) dated February 14, 1992, the staff, on March 17, 1992, issued a Possession-Only License (POL) to the Sacramento Municipal Utility District (SMUD), the licensee for the Rancho Seco Nuclear Generating Station. The POL included a two-stage administrative stay provision which allowed the POL to become effective ten working days after notice in the Federal Register and after an additional ten working days if a motion for stay was requested in Federal Court. On April 10, 1992, the Environmental Resources Conservation Organization (ECO or the Petitioner) filed a motion for a stay of the POL in the U.S. Court of Appeals in California. Resolution of the stay request in Federal Court is expected by April 24, 1992, when the NRC stay expires.

B. Decommissioning Funding Plan

On November 13, 1991, the staff issued to SMUD an exemption from the decommissioning funding requirements of 10 CFR 50.75. The staff issued this exemption according to guidance in a staff requirement memorandum (SRM) dated December 21, 1990, in which the Commission instructed the staff to consider each case individually in determining the decommissioning funding accumulation period for the current prematurely shut down plants. Consistent with the NRC's normal licensing procedures, the staff did not solicit public participation before taking final action in granting this exemption.

On April 2, 1992, ECO filed in the Ninth Circuit Court of Appeals, a motion to vacate and reverse the NRC's November 13, 1991, exemption. This court filing is based primarily on a contention that the Petitioner was not offered the opportunity to comment and otherwise participate in the decommissioning funding exemption process as the NRC had promised. The Petitioner referred to a letter to the Petitioner of November 9, 1989, in which the NRC committed to announce license amendments and other regulatory relief (concerning Rancho Seco) in Federal Register notices and to

solicit public participation before taking final action in any such matter. When this commitment was made, the staff intended to describe to the Petitioner the NRC's normal licensing process for license amendments. However, the letter of November 1989 includes the phrase "other regulatory relief" and thus inadvertently expanded the license amendment noticing procedures to include exemptions.

Based on this commitment to solicit public comment prior to granting regulatory relief to Rancho Seco, the staff on April 16, 1992, revoked the November 13, 1991, decommissioning funding exemption granted to SMUD. Additionally, the staff retracted the November 9, 1989, commitment to ECO concerning prior notice of "other regulatory relief" as this commitment does not accurately describe the NRC's licensing process for exemptions.

It is contemplated that reconsideration of the decommissioning funding exemption might take place in the same time frame as consideration of the decommissioning plan. Additional delay due to revocation of the decommissioning funding exemption is unlikely. Further, the impact on the licensee from revocation of the decommissioning funding exemption may be obviated by a contemplated amendment to the decommissioning funding regulation to deal with prematurely shut down plants. With this amendment, decommissioning funding exemptions will no longer be necessary for prematurely shut down plants.

The staff plans to resolve the Rancho Seco decommissioning funding issue under the following schedule:

1. Issue notice of the exemption request in the Federal Register by May 15, 1992.
2. Act again on the decommissioning funding exemption request after addressing any public comments; or issue approval of the Rancho Seco Decommissioning Funding Plan if it meets the criteria of the amended regulation on decommissioning funding.

C. Decommissioning Plan

The staff is performing a technical review of the Rancho Seco Decommissioning Plan, which was submitted on May 20, 1991. On March 12, 1992, the staff sent a request for additional information to the licensee and received SMUD's response on April 15, 1992. In accordance with 10 CFR 50.82(e), the staff noticed the decommissioning plan in the

Federal Register on March 19, 1992. On April 20, 1992, ECO filed before the Commission comments and a petition to intervene and request for hearing concerning the Rancho Seco Decommissioning Plan.

The staff cannot provide a precise schedule for action on the Rancho Seco Decommissioning Plan due to the uncertainties associated with the hearing process.

D. Equipment Qualification Exemption

On November 19, 1991, SMUD requested an exemption from the requirements for equipment qualification. The staff has determined that after a POL is issued and takes effect, the Equipment Qualification Rule will no longer apply. Therefore, after the POL becomes effective, the staff will inform the licensee that the exemption is unnecessary.

E. Amendment to the Appendix B - Non-Radiological Environmental Technical Specifications

On November 19, 1991, SMUD requested an amendment to delete the Appendix B non-radiological environmental technical specifications. Staff actions in response to this request are ongoing. The staff expects to act on this license amendment by June 30, 1992.

III. FORT ST. VRAIN

A. Decommissioning Plan and Technical Specifications

The Public Service Company of Colorado (the licensee) submitted the decommissioning plan and associated changes to the technical specifications on November 5, 1990, and supplemented them 22 times from December 1990 to March 1992. After issuing 5 requests for additional information and receiving 22 submittals from the licensee, the staff has nearly completed its review of the licensee's decommissioning plan and associated technical specification changes. In accordance with 10 CFR 50.82(e), the staff noticed the decommissioning plan in the Federal Register on March 13, 1992. The staff has received no comments. The staff will act on the Fort St. Vrain Decommissioning Plan and the request for a decommissioning order by July 15, 1992.

IV. YANKEE ROWE

A. Possession-Only License Amendment

In a letter of March 27, 1992, the Yankee Atomic Electric Company, the licensee for the Yankee Nuclear Power Station

(Yankee Rowe), applied for a POL. The staff published a notice of the POL request in the Federal Register on April 15, 1992 (57 FR 13140). If no requests for hearing are received, the staff will submit its proposed action on the POL amendment to the Commission for approval by May 31, 1992.

V. SAN ONOFRE 1

A. Possession-Only License Amendment

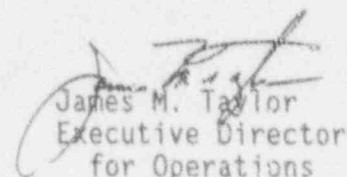
Although the San Onofre Nuclear Generating Station, Unit 1 (SONGS-1) has not been shut down, Southern California Edison (SCE), the licensee for SONGS-1, submitted its application for a POL on April 2, 1992. In the application, SCE requested that the POL be effective when it permanently shuts down the plant and removes the fuel from the reactor. The licensee's decision to permanently shut down was based on a settlement agreement that it reached with the California Public Utilities Commission (CPUC) staff, after an NRC Order of January 2, 1990, prohibited SCE from operating the plant beyond fuel cycle 11 without making improvements to the facility. The staff will publish notice of the POL request in the Federal Register in the near future. If no requests for hearing are received, the staff expects to submit its proposed action on the amendment to the Commission for approval in July 1992.

The licensee has indicated to the NRC that it may request approval to return to fuel cycle 10 to complete burnup of partially burned fuel now in the spent fuel pool before it permanently shuts down SONGS-1. This action would allow operation of SONGS-1 without the improvements and beyond the time contemplated in the January 2, 1990, Order. The licensee can extend the operation of SONGS-1 by several months by burning the cycle 10 fuel to completion before shutting down the plant. The staff has not evaluated this proposal to return cycle 10 fuel to the reactor and the extension of plant operation without the improvements set out in the Order.

Coordination:

The Office of General Counsel (OGC) has reviewed this Commission paper and has no legal objection.

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