



OFFICE OF THE
CHAIRMAN

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

20

February 28, 1985

MEMORANDUM TO THE FILES

FROM: C. W. Reamer *CW*

SUBJ: SAN ONOFRE UNIT 1 RESTART --
MINUTES OF MEETING HELD NOVEMBER 6, 1984

A meeting was held in the Chairman's Conference Room at 10:00 am on Tuesday, November 6, 1984. The meeting was scheduled as a briefing and discussion concerning the staff's technical review, OGC's legal reviews, and OI's activities regarding the investigation at San Onofre Unit 1. The Chairman and Commissioner Zech, as well as others, attended. (See attached attendance list).

The Chairman opened the meeting by suggesting that the NRC staff representatives address the technical issues first.

Mr. Grimes stated that the NRC staff was preparing a Safety Evaluation Report (SER) which would be an extension of the staff's February 1984 Return to Service scope SER. He said the SER would rely principally on audits of licensee analyses, field inspections and staff analysis of licensee supplied reports. He said that staff needed two weeks after receipt of needed information to complete the SER. He said that the staff had received information from SCE the previous day and that it appeared the staff now had all the material it needed from SCE to complete the restart evaluation. He also noted the recurrent question of "to what extent does non-upgraded equipment meet 0.5g?" He said the staff had received information and supporting documentation from SCE on the .5g question.

The Chairman asked what the staff's technical conclusion would be if the staff could conclude that non-upgraded portions of Unit 1 met .5g. Mr. Grimes responded that the staff believed the capability of Unit 1 to achieve hot stand-by was sufficient to protect public health and safety. He said that if the non-upgraded portions of the plant meet .5g, then the basis for the staff's safety conclusion would be strengthened. He noted that the non-upgraded aspects of the plant would be integrated into the Systematic Evaluation Program (SEP) for completion of action and that Unit 1 SEP action was scheduled for completion by the second refueling outage after restart. He said that

8508190603 850709
PDR FOIA
BELL84-885 PDR

F/1

modifications of Unit 1 would likely be necessary to meet .67 even assuming Unit 1 meets .5g.

Commissioner Zech asked what the staff's analysis covered and what the basis was for the NRC's confidence. Mr. Grimes responded that the basis of the staff's review of the plant's capability to withstand 0.5g is based on sample analyses, that SCE selected the sample, and that the staff satisfied itself that SCE picked the key systems in its sampling and that additional samples were not necessary.

Commissioner Zech asked what confidence the staff had in .5g for other equipment at Unit 1. Mr. Case responded that, on the basis of the way Unit 1 is built and configured today, the staff believes it meets .5g. He said it was impossible today to say whether or not Unit 1 met .5g at the time of licensing. He said the staff understands the licensees' methods and stress criteria but has not reviewed their application and analyses.

The Chairman asked whether or not that was usual practice and Mr. Case said it was consistent with staff practice to rely on licensee assertions that it has completed the necessary steps and has come out okay.

Commissioner Zech asked whether or not the staff has adequate information to decide that the licensees' analyses look sound and their conclusions right. Mr. Case responded that the staff had satisfied itself that today's methods of the licensee were okay.

Mr. Dircks noted that once the legal, technical and investigative inputs are received they will need to be assembled in a decision document and the Commission will need to address the question of who's going to make the decision.

The Chairman asked what the staff would ordinarily do on the question of who makes the decision, and Mr. Dircks responded that the significance of the case made it extraordinary. The Chairman asked what were the policy issues in the case. Mr. Dircks responded that the magnitude of the case meant that the restart decision would have policy consequences. He said that the potential consequences included the impact of the Sholly procedure on the nuclear industry, and the effect of the Unit 1 decision on the Integrated Safety Assessment Program (ISAP) program, or the staff's ability to obtain safety concessions from licensees, and on NRC practices regarding confirmatory orders.

The Chairman then asked whether more discussion was needed on the technical issues. Mr. Grimes responded that there were non-seismic issues involving reactor trip breaker testing, TDI diesels and environmental qualification of plant electrical

equipment. He said the staff believed that it should update the technical status of the plant on these non-seismic issues before a restart decision.

Mr. Malsch asked whether the licensee had accounted for all overstresses identified in the licensee's 1982 submittals and Mr. Grimes said he believed the licensee had but, if it had not, the basis for the sample would have to be justified.

Commissioner Zech asked how many exemptions from the Commission's general design criteria would be needed. Mr. Case responded that the SER would make clear that, for the Unit 1 return to service, some systems would be required to meet .5g and other systems required to meet .67g and that no exemptions would be needed. Mr. Grimes observed that Unit 1 was not unique in the SEP and that the staff was not applying present-day criteria for the safe shutdown earthquake to other SEP plants. Mr. Chandler noted that the question of exemptions depended on what design basis was being applied to Unit 1. He said that if .5g were the design basis and the staff was satisfied that the facility met .5g, then no exemptions would be needed but if .67g were used, then exemptions to GDC 2, 34 and possibly other GDC's may be needed.

The Chairman asked how it would be decided whether .5g or .67g is the design basis, and Mr. Case said he would use the latest information which would be .67g, the design basis for Units 2 and 3. Mr. Malsch stated the issue was whether or not the GDC applied to Unit 1, and he said the staff's "working view" was that the GDC do apply to the SEP. Mr. Case said the GDC would apply to the SEP plants "over time." Commissioner Zech asked whether or not one could use .5g, and Mr. Case responded that one could, for some period of time. Mr. Malsch stated that there was a question of what label should be applied to this process of applying the GDC over time to SEP plants. He said the most straight-forward label was "exemption" but that "SEP" might be another acceptable label.

The Chairman asked what procedure would apply if exemptions were needed, and Mr. Malsch responded that the procedural issue was very complicated. He said that an exemption issue would remain, even if the 1982 order were not deemed to be an amendment. He said that hearing rights and the Sholly procedure might be argued to apply to exemptions.

The Chairman asked whether or not a significant hazards consideration was involved, and Mr. Case responded that if the 1982 order were viewed as an amendment, then the answer would be "yes."

Mr. Malsch then reviewed the conclusions of the OGC legal analysis of the "order or amendment" issue. He said OGC's

analysis assumes the plant meets .5g. He said OGC concluded that the substance of the order rather than its label is important. He said that a restart order (i.e., a return-to-service authorization) would be an amendment if the 1982 order is deemed to be an amendment. He said that the Commission has discretion to issue enforcement orders that are not license amendments. He said that under NRC regulations an order would necessarily be an amendment either if it is in conflict with technical specifications in the license or if it is issued in response to a licensee request for a physical change in the plant that involves an unreviewed safety question. He said that the 1982 order would not be an amendment under either description and, thus, need not be regarded as an amendment under NRC regulations. He said, however, that certain orders effecting major and permanent changes in the plant may be viewed as amendments notwithstanding the regulations, and there was no clear judicial or statutory guidance on the question of whether or not the order was an amendment under the Atomic Energy Act. He said that two underlying policies of the Act -- public participation and enforcement flexibility--were in conflict and led to opposing conclusions. He said that, in OGC's judgment, a Court would probably resolve the conflict in favor of an amendment in this particular case because the consequences of the 1982 order were substantial, far-reaching and fairly permanent.

The Chairman asked what the possible outcomes would be if the Commission were to conclude that the order was not an amendment. Mr. Malsch said that the worst outcome would be a broad Court ruling that could severely restrict Commission enforcement discretion, but that a more likely outcome would be a Court ruling applicable only to the Unit 1 case. Mr. Chandler said that an important fact was that the 1982 order could be read to have changed the basis underlying plant operation but Mr. Malsch responded that Mr. Chandler's analysis was too restrictive and that the issue depended upon how major, substantial and permanent the change was. The Chairman asked whether or not the interim nature of the order would change the outcome, and Mr. Malsch answered "no." The Chairman asked what the relevance was of the licensees' assertions regarding staff representations and conduct, and Mr. Malsch answered "none." Mr. Cunningham noted that while the equities would not likely influence the legal issue, they might affect the Court's decision on whether or not to stay operation. Mr. Malsch noted that consideration of the equities might include more than agency conduct, for example, how consumers would be affected.

The Chairman asked what the next steps should be, and Mr. Dircks stated that the Commission could give guidance on the legal issue or it could involve itself in the technical issue as well. Mr. Sohinki stated that Commissioner Bernthal's

position had been that the staff should provide its recommendation on the technical and legal issues, and Commissioner Zech stated that he agreed. Mr. Dircks stated that he had sought policy guidance from the Commission and would prefer to avoid giving a recommendation which might lessen the Commission's flexibility in exercising its policy prerogatives. Mr. Zech stated that his main concerns were the technical matters and that the legal matters were also important in that the Commission could not do something that was illegal. Mr. Grimes responded that the staff was convinced in February 1984 that the restart plan for Unit 1 would be safe enough. The Chairman said he was undecided on whether to request staff recommendations, and Mr. Cutchin indicated he would consult Commissioner Roberts. Commissioner Zech said the Commission needed a discussion of options, including the pro's and con's, and Mr. Malsch offered that OGC could prepare an options paper in a couple of days. Mr. Austin said that, in the past, Commissioner Asselstine wanted a staff recommendation on the order vs. amendment issue and also wanted the issue brought before the Commission in a public meeting.

The meeting then moved to OI information (See attachment).

Mr. Cunningham stated that the California PUC deadline was January 1, 1985, extendable to February 1, 1985 for cause.

The Chairman said that Commissioner offices should respond on whether they wanted an options paper which included pro's and con's on policy and legal considerations. He said the staff would continue its work on the technical review and that OI should give priority to the investigation. He noted that the Commissioners needed to decide whether or not to hold a public meeting.

The meeting closed at approximately 12:15 pm.

Attachments:

1. List of Attendees
2. Minutes of OI Presentation
(Limited Distribution)



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

11/8
5

November 7, 1984

COMNP 84-45

MEMORANDUM FOR: Commissioner Roberts
Commissioner Asselstine
Commissioner Bernthal
Commissioner Zech

FROM: Nunzio J. Palladino *NJP*

SUBJECT: DECISION REGARDING RESTART OF THE SAN
ONOFRE NUCLEAR GENERATING PLANT, UNIT 1

Yesterday morning Commissioner Zech and I met with NRC staff, OGC, OI and others to discuss the above subject.

As a separate matter, my office received a call from a Southern California Edison (SCE) representative on Tuesday morning. My office returned the call that afternoon and was informed by the SCE representative that SCE believed the Commission needed to act by the end of next week if SCE is to satisfy the conditions set by the California PUC. My office has not sought to verify the SCE statement with the NRC staff so as not to

~~8411260036~~

F/2

delay this memo. By copy of this memo, I request EDO's view on the SCE statement.

cc: EDO
OGC
OPE
OI
SECY