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ADDRESSEE: NRCExecSec Resource

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merize, CDO

SUBJECT: Submittal of Position Paper on San Onofre Restart from Californians for Clean and Safe Nuclear Energy

ACTION: Appropriate

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Lewis, Antoinette

From: Ted Quinn [tedquinn@cox.net]
Sent: Thursday, November 29, 2012 12:50 PM
To: NRCExecSec Resource
Cc: tedquinn@cox.net
Subject: Submittal of Position Paper on San Onofre Restart from Californians for Clean and Safe Nuclear Energy
Attachments: CCSNE Position Paper _1 USNRC Regulations for License Amendment and Regulatory Hearings Final1.pdf

Please see attached.

Sincerely yours,

Edward (Ted) Quinn
ANS Past President
Member, CCSNE
(949) 632-1369

November 29, 2012

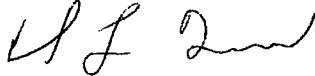
The Honorable Allison M. Macfarlane
Chairman
U.S. Nuclear Regulatory Commission
Mail Stop 0-16G4
Washington, D.C. 20555-0001

SUBJECT: Position Paper on U.S. NRC Regulations on License Amendments and Regulatory ---
Applicability to San Onofre Restart Following Steam Generator Confirmatory Action Letter
(CAL) Response.

Dear Chairman Macfarlane:

The members of the volunteer organization, Californians for Clean and Safe Nuclear Energy
(CCSNE – website www.ccsne.org) are providing this Position Paper for your review in regard
to the NRC regulatory review of the San Onofre Unit 2 Restart.

Sincerely yours,



Edward L. Quinn
ANS Past President

Attachment

cc: Commissioner Kristine L. Svinicki
Commissioner George Apostolakis
Commissioner William D. Magwood, IV
Commissioner William C. Ostendorff

Final: November, 2012

Position Paper # 1

U.S. Nuclear Regulatory Commission Regulations for License Amendments and Regulatory Hearings – Applicability to San Onofre Restart Following Steam Generator Confirmatory Action Letter (CAL) Response

Recommendations to U.S. NRC by CCSNE:

Based on the licensing precedent provided herein and formal reviews completed or underway by NRC for the review of the San Onofre Steam Generator Degradation, it is recommended that no additional License Amendment or Regulatory Hearings, beyond which are already scheduled, should be required by the US NRC for restart of San Onofre Unit 2.

This recommendation is based on the following:

- 1. Adequate review has already occurred in this initial License Amendment review and approval (See Page 5, Precedent Section of this attachment) and now in the CAL process. The technical issues have been examined in detail by NRC technical staff and their resulting questions have been answered by SCE. (Reference: CAL issued March 27, 2012 and CAL Response issued October 3, 2012. Multiple opportunities have been provided for the public to provide input.**

2. NRC regulations indicate that there is no statutory need for additional hearings, as noted in Section 2.206 (b), which states that the Director of the NRC office with the responsibility for the subject matter may either institute the requested proceedings or respond that no proceedings will be instituted(See Page 7 of this attachment)

We conclude that additional hearings are not needed from either a technical nor a regulatory point of view. We urge the NRC to proceed with your evaluation and make a decision on restart of San Onofre as soon as possible, based on the technical and regulatory issues.

ATTACHMENT A: USNRC Regulations Applicable to Facility Changes

USNRC Regulations

§ 2.105 Notice of proposed action.

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(a) If a hearing is not required by the Act or this chapter, and if the Commission has not found that a hearing is in the public interest, it will, before acting thereon, publish in the **Federal Register**, as applicable, or on the NRC's Web site, <http://www.nrc.gov>, or both, at the Commission's discretion, either a notice of intended operation under § 52.103(a) of this chapter and a proposed finding that inspections, tests, analyses, and acceptance criteria for a combined license under subpart C of part 52 have been or will be met, or a notice of proposed action with respect to an application for:

(1) A license for a facility;

.....

(3) An amendment of a license specified in paragraph (a) (1) or (2) of this section and which involves a significant hazards consideration;

(4) An amendment to an operating license, combined license, or manufacturing license for a facility licensed under §§ 50.21(b) or 50.22 of this chapter, or for a testing facility, as follows:

(i) If the Commission determines under § 50.58 of this chapter that the amendment involves no significant hazards consideration, though it will provide notice of opportunity for a hearing pursuant to this section, it may make the amendment immediately effective and grant a hearing thereafter; or

(ii) If the Commission determines under §§ 50.58 and 50.91 of this chapter that an emergency situation exists or that exigent circumstances exist and that the amendment involves no significant hazards consideration, it will provide notice of opportunity for a hearing pursuant to § 2.106 (if a hearing is requested, it will be held after issuance of the amendment);

.....

§ 50.92 Issuance of amendment

▲ TOP

(a) In determining whether an amendment to a license, construction permit, or early site permit will be issued to the applicant, the Commission will be guided by the considerations which govern the issuance of initial licenses, construction permits, or early site permits to the extent applicable and appropriate. If the application involves the material alteration of a licensed facility, a construction permit will be issued before the issuance of the amendment to the license, provided however, that if the application involves a material alteration to a nuclear power reactor manufactured under part 52 of this chapter before its installation at a site, or a combined license before the date that the Commission makes the finding under § 52.103(g) of this chapter, no application for a construction permit is required. If the amendment involves a significant hazards consideration, the Commission will give notice of its proposed action:

(1) Under § 2.105 of this chapter before acting thereon; and

(2) As soon as practicable after the application has been docketed.

(b) The Commission will be particularly sensitive to a license amendment request that involves irreversible consequences (such as one that permits a significant increase in the amount of effluents or radiation emitted by a nuclear power plant).

(c) The Commission may make a final determination, under the procedures in § 50.91, that a proposed amendment to an operating license or a combined license for a facility or reactor licensed under §§ 50.21(b) or 50.22, or for a testing facility involves **no significant hazards consideration, if operation of the facility in accordance with the proposed amendment would not:**

(1) **Involve a significant increase in the probability or consequences of an accident previously evaluated; or**

(2) **Create the possibility of a new or different kind of accident from any accident previously evaluated; or**

(3) **Involve a significant reduction in a margin of safety.**

SCE SONGS PRECEDENT

SCE applied for a License Amendment in a License Amendment Application (LAR) submitted to NRC on June 27, 2008 (ML081830421, to revise the operating licenses for San Onofre Units 2 & 3 Technical Specifications (T.S.) 3.4.17, "Steam Generator (SG) Tube Integrity, 5.5.2.11, "Steam Generator (SG) Program", 5.5.2.15, "Containment Leakage Rate Testing Program," and 5.7.2.c, "Special Programs."

These proposed changes requested were as a result of the analysis supporting the revised SG inspection and repair criteria and revised safety analysis supporting the installation of the replacement steam generators.

NRC responded in the formal issue of a Safety Evaluation Report, dated June 25, 2009 (ML09160298), approving the amendments requested in the June 27, 2007 SCE request and subsequent exchanges for Requests for Additional Information (RAI) as noted in the NRC SER.

This full scope review by NRC was consistent with many other Steam Generator replacement programs (Palo Verde, Diablo Canyon, etc) that had been conducted with prior NRC approval in the past.

ATTACHMENT B: USNRC Regulations Applicable to Public Hearings including Adjudicatory Hearings

REGULATIONS

§ 2.206 Requests for action under this subpart.

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(a) Any person may file a request to institute a proceeding pursuant to § 2.202 to modify, suspend, or revoke a license, or for any other action as may be proper. Requests must be addressed to the Executive Director for Operations and must be filed either by hand delivery to the NRC's Offices at 11555 Rockville Pike, Rockville, Maryland; by mail or telegram addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; or by electronic submissions, for example, via facsimile, Electronic Information Exchange, e-mail, or CD-ROM. Electronic submissions must be made in a manner that enables the NRC to receive, read, authenticate, distribute, and archive the submission, and process and retrieve it a single page at a time. Detailed guidance on making electronic submissions can be obtained by visiting the NRC's Web site at <http://www.nrc.gov/site-help/e-submittals.html>; by e-mail to MSHD.Resource@nrc.gov; or by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. The request must specify the action requested and set forth the facts that constitute the basis for the request. The Executive Director for Operations will refer the request to the Director of the NRC office with responsibility for the subject matter of the request for appropriate action in accordance with paragraph (b) of this section.

(b) Within a reasonable time after a request pursuant to paragraph (a) of this section has been received, the Director of the NRC office with responsibility for the subject matter of the request shall either institute the requested proceeding in accordance with this subpart or shall advise the person who made the request in writing that no proceeding will be instituted in whole or in part, with respect to the request, and the reasons for the decision.

(c)(1) Director's decisions under this section will be filed with the Office of the Secretary. Within twenty-five (25) days after the date of the Director's decision under this section that no proceeding will be instituted or other action taken in whole or in part, the Commission may on its own motion review that decision, in whole or in part, to determine if the Director has abused his discretion. This review power does not limit in any way either the Commission's supervisory power over delegated staff actions or the Commission's power to consult with the staff on a formal or informal basis regarding institution of proceedings under this section.

(2) No petition or other request for Commission review of a Director's decision under this section will be entertained by the Commission.

(3) The Secretary is authorized to extend the time for Commission review on its own motion of a Director's denial under paragraph (c) of this section.

SCE SONGS PRECEDENT

The Nuclear Regulatory Commission (NRC) issued the Confirmatory Action Letter(CAL) from MR. Elmo E. Collins (USNRC) to Mr. Peter T Dietrich (SCE), dated March 27, 2012, Confirmatory Action Letter 4-12-001, which included all of the CAL actions to be completed prior to entry of Unit 2 into Mode 2 (as defined in the SONGS Technical Specifications)

SCE responded on October 3, 2012 with a formal submission of the CAL- Actions to Address Steam Generator Tube Degradation, to the NRC to report on the completion of the Unit 2 CAL actions and support review by NRC.

A number of Confirmatory Action Letters have been issued to utilities in the past (Examples: DC Cook, Millstone,) in support of recovery efforts required to support restart.