

SAFEGUARDS INFORMATION

October 28, 2004

Mr. Gregory M. Rueger
Senior Vice President
Generation and Chief Nuclear Officer
Pacific Gas and Electric Company
Diablo Canyon Nuclear Power Plant, Units 1 and 2
P. O. Box 3
Avila Beach, CA 93424

SUBJECT: DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 AND 2 -
ADMINISTRATIVE CHANGE TO FACILITY OPERATING LICENSES IN
CONJUNCTION WITH THE COMMISSION ORDER EA-03-086 REGARDING
REVISED DESIGN BASIS THREAT (DBT); AND REVISIONS TO PHYSICAL
SECURITY PLAN, TRAINING AND QUALIFICATION PLAN, AND
SAFEGUARDS CONTINGENCY PLAN (TAC NOS. MC2913 AND MC2914)

Dear Mr. Rueger:

By letter dated April 29, 2004, Pacific Gas and Electric Company submitted a supplemental response in accordance with Order EA-03-086, the Order requiring compliance with the revised design basis threat, dated April 29, 2003, (DBT Order) for the Diablo Canyon Nuclear Power Plant, Units 1 and 2. Section III.A of the DBT Order required licensees to revise physical security plans (PSPs), training and qualification plans (T&Q Plans), and safeguards contingency plans (SCPs) to provide protection against the revised DBT set forth in Attachment 2 to the DBT Order. These revised plans, along with an implementation schedule, were required to be submitted to the Nuclear Regulatory Commission (NRC or the Commission) for review and approval no later than April 29, 2004.

In the revised security plans for Diablo Canyon Nuclear Power Plant, Units 1 and 2, you included information related to the independent spent fuel storage installation (ISFSI) co-located at the site. The DBT Order did not require this information to be included in the revised security plans for Diablo Canyon Nuclear Power Plant, Units 1 and 2. However, Order EA-02-104, dated October 16, 2002, required licensees to comply with the requirements, set forth in an attachment to the Order, that described the compensatory measures necessary to protect the ISFSI as a result of the heightened threat environment following the September 11, 2001, terrorist attacks. On September 10, 2004, the NRC staff requested that you clarify whether the information provided in the revised security plans for Diablo Canyon Nuclear Power Plant, Units 1 and 2 related to the ISFSI, modified the response you provided to Order EA-02-104.

NOTICE: Enclosure 2 contains Safeguards Information. Upon separation from Enclosure 2, this letter and Enclosure 1 are DECONTROLLED.

SAFEGUARDS INFORMATION

By letter dated September 23, 2004, you indicated that the actions you have taken in response to Order EA-02-104 remain essentially unchanged and therefore, there is no decrease in effectiveness of the protective measures in place for the ISFSI. The effectiveness of these security provisions will continue to be the subject of NRC review and inspection.

The NRC staff's review of the Diablo Canyon Nuclear Power Plant, Units 1 and 2 PSP, SCP, and T&Q Plan submitted in your letter dated April 28, 2004, as supplemented on July 8, 2004, July 23, 2004, August 4, 2004, August 5, 2004, August 11, 2004, August 13, 2004, September 8, 2004, October 1, 2004, October 8, 2004, October 14, 2004, and October 19, 2004, has focused on ensuring the necessary programmatic elements are contained in these plans in order to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety.

The NRC staff has determined that subject to subsequent inspection and evaluation, these plans contain the necessary programmatic elements that, when effectively implemented, will provide the required high assurance that Diablo Canyon Nuclear Power Plant, Units 1 and 2 will be protected against the revised DBT. The NRC staff, therefore, approves the **PSP, SCP, and T&Q Plan** for Diablo Canyon Nuclear Power Plant, Units 1 and 2. However, ultimately the effectiveness of these plans will be judged on your ability to meet regulatory requirements through facility implementing procedures and site practices. As such your facility implementing procedures and practices will continue to be subject to future NRC review and inspection, including NRC-conducted, force-on-force exercises.

In addition, the NRC staff noted that your PSP included alternatives to certain requirements of Title 10 of the *Code of Federal Regulations* (10 CFR) Section 73.55. In each case, the NRC staff found that the alternative measures provide an equivalent level of protection to that of the associated requirement and meet the high assurance objective of 10 CFR 73.55(a). The NRC staff, therefore, approves the alternatives shown in the table below. The NRC staff's evaluation is discussed further in the enclosed Safety Evaluation (SE).

Approved Alternatives to the Requirements of 10 CFR Part 73

SE Section	PSP Section	Alternative to 10 CFR	Description
3.6.2	6.2	73.55(c)(3)	Isolation Zones
3.9.4.3	9.4.3	73.55(d)(4)	Protected Area (PA) vehicle search requirements
3.9.4.4	9.4.4	73.55(d)(1)	PA personnel search requirements
3.9.5.2	9.5	73.55(d)(1) 73.55(d)(4)	PA access control requirements
3.10.1	10.1	73.55(c)(5)	PA illumination requirements
3.13.1	14.1	73.55(c)(1) 73.55(d)(7)(i)(B)	Temporary reclassification of Vital Areas to PA status (devitalization)

Finally, consistent with the DBT Order, conforming administrative changes to Facility Operating Licenses (FOLs) are required to ensure implementation of DBT Order requirements. Therefore, administrative license changes to FOL Nos. DPR-80 and DPR-82 are being made to incorporate the reference to the revised PSP, SCP, and T&Q Plan required by the DBT Order. These changes comply with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I.

Please replace the enclosed pages to your FOLs as indicated in Enclosure 1.

A copy of our SE with regard to your security plans (designated as Safeguards Information) is provided in Enclosure 2.

Sincerely,

/RA/

John A. Nakoski, Chief
Security Plan Review Team
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket Nos. 50-275 and 50-323

Enclosures: 1. Administrative Change to FOL Nos. DPR-80 and DPR-82
2. SE Regarding the Security Plans (**SAFEGUARDS INFORMATION**)

cc w/encl 1 only: See mailing list 1
cc w/encls 1 and 2: Mr. Ron Todaro

Finally, consistent with the DBT Order, conforming administrative changes to Facility Operating Licenses (FOLs) are required to ensure implementation of DBT Order requirements. Therefore, an administrative license change to FOL Nos. DPR-80 and DPR-82 is being made to incorporate the reference to the revised PSP, SCP, and T&Q Plan required by the DBT Order. These changes comply with the standards and requirements of the Atomic Energy Act of 1954, as amended, and the Commission's rules and regulations set forth in 10 CFR Chapter I.

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John A. Nakoski, Chief
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Project Directorate II
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Docket Nos. 50-275 and 50-323

Enclosures: 1. Administrative Change to FOL Nos. DPR-80 and DPR-82
2. Safety Evaluation Regarding the Security Plans (**SAFEGUARDS INFORMATION**)

cc w/encl 1 only: See mailing list 1
cc w/encls 1 and 2: Mr. Ron Todaro

Distribution w/o Enclosure 2

PUBLIC	SPRT R/F	OGC	ACRS	EPeyton	GShukla
SDembek	HBerkow	GHill (4)	DLPM DPR	TBoyce	AHowell, RIV

Accession No.:

OFFICE	SPRT/TL	SPRT/PM	SPRT/LA	SPRT/PL	OGC	NSIR/ SC	NRR/SC
NAME				JPeralta		SMorris	JNakoski
DATE	10/24/04	10/24/04	10/24/04	10/24/04	10/24/04	10/28/04	10/28/04

OFFICIAL RECORD COPY

Diablo Canyon Power Plant, Units 1 and 2

cc w/o encl.:

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Mr. Gregory M. Rueger
Senior Vice President, Generation and
Chief Nuclear Officer
Pacific Gas & Electric Company
Diablo Canyon Power Plant
P.O. Box 3
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PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-275

DIABLO CANYON NUCLEAR POWER PLANT, UNIT 1

ADMINISTRATIVE LICENSE CHANGE TO FACILITY OPERATING LICENSE

License No. DPR-80

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. Consistent with Order EA-03-086, the Order requiring compliance with the revised design basis threat, (DBT Order) issued on April 29, 2003, conforming administrative changes to Facility Operating Licenses (FOLs) are required to ensure implementation of DBT Order requirements. Therefore, an administrative license change to FOL No. DPR-80 is being made to incorporate the reference to the revised Physical Security Plan, Safeguards Contingency Plan, and Training and Qualification Plan required by the DBT Order. These changes comply with the standards and requirements of the Atomic Energy Act (the Act) of 1954, as amended and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this administrative license change can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this administrative license change will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this administrative license change is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

Enclosure 1

2. Accordingly, the FOL is changed as indicated in the Attachment.
3. This administrative license change is effective as of its date of issuance and shall be implemented on or before October 29, 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

John A. Nakoski, Chief
Security Plan Review Team
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the FOL

Date of Issuance: October 28, 2004

CHANGES TO FACILITY OPERATING LICENSE NO. DPR-80

DOCKET NO. 50-275

Replace the following page of the Facility Operating License No. DPR-80 with the attached revised page as indicated. The revised page is identified by a revision date and contains marginal lines indicating the area of change.

Remove Page

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Insert Page

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E. Physical Protection

The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans including amendments made pursuant to provisions of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contains Safeguards Information protected under 10 CFR 73.21, is entitled: "Diablo Canyon Power Plant, Units 1 and 2 Physical Security Plan, by Training and Qualification Plan, and Safeguards Contingency Plan," submitted by letter dated October 8, 2004, as supplemented by letters dated October 14, 2004 and October 19, 2004.

F. Antitrust

Pacific Gas and Electric Company shall comply with the antitrust conditions in Appendix C to this license.

G. Reporting

PG&E shall report any violations of the requirements contained in Sections 2.C(3) and 2.C(4), 2.C(6) through 2.C(10), 2.E and 2.F, of this License within 24 hours. Initial notification shall be made in accordance with the provisions of 10 CFR 50.72, with written follow-up in accordance with the procedures described in 10 CFR 50.73(b), (c), (d) and (e).

H. Financial Protection

PG&E shall have and maintain financial protection of such type and in such amounts as the Commission shall require in accordance with Section 170 of the Atomic Energy Act of 1954, as amended, to cover public liability claims.

I. Term of License

This License is effective as of the date of issuance and shall expire at midnight on September 22, 2021.

FOR THE NUCLEAR REGULATORY COMMISSION

Original Signed by:
Edson G. Case for
Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Attachments:

1. Appendix A - Technical Specifications
2. Appendix B - Environmental Protection Plan
3. Appendix C - Antitrust Conditions
4. Appendix D - Additional Conditions

Date of Issuance: November 2, 1984

Amendment No. ~~32,75,97,120~~
Revised by letter dated October 28, 2004

PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-323

DIABLO CANYON NUCLEAR POWER PLANT, UNIT 2

ADMINISTRATIVE LICENSE CHANGE TO FACILITY OPERATING LICENSE

License No. DPR-82

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. Consistent with Order EA-03-086, the Order requiring compliance with the revised design basis threat, (DBT Order) issued on April 29, 2003, conforming administrative changes to Facility Operating Licenses (FOLs) are required to ensure implementation of DBT Order requirements. Therefore, an administrative license change to FOL No. DPR-82 is being made to incorporate the reference to the revised Physical Security Plan, Safeguards Contingency Plan, and Training and Qualification Plan required by the DBT Order. These changes comply with the standards and requirements of the Atomic Energy Act (the Act) of 1954, as amended and the Commission's rules and regulations set forth in 10 CFR Chapter I;
 - B. The facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission;
 - C. There is reasonable assurance (i) that the activities authorized by this administrative license change can be conducted without endangering the health and safety of the public, and (ii) that such activities will be conducted in compliance with the Commission's regulations;
 - D. The issuance of this administrative license change will not be inimical to the common defense and security or to the health and safety of the public; and
 - E. The issuance of this administrative license change is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.

2. Accordingly, the FOL is changed as indicated in the Attachment.
3. This administrative license change is effective as of its date of issuance and shall be implemented on or before October 29, 2004.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

John A. Nakoski, Chief
Security Plan Review Team
Project Directorate II
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Attachment: Changes to the FOL

Date of Issuance: October 28, 2004

CHANGES TO FACILITY OPERATING LICENSE NO. DPR-82

DOCKET NO. 50-323

Replace the following page of the Facility Operating License No. DPR-82 with the attached revised page as indicated. The revised page is identified by a revision date and contains marginal lines indicating the area of change.

Remove Page

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Insert Page

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(10) Pipeway Structure DE and DDE Analysis (SBER 32. Section 4)

Prior to start-up following the first refueling outage PG&E shall complete a confirmatory analysis for the pipeway structure to further demonstrate the adequacy of the pipeway structure for load combinations that include the design earthquake (DE) and double design earthquake (DDE).

(11) Spent Fuel Pool Modification

The licensee is authorized to modify the spent fuel pool as described in the application dated October 30, 1985 (LAR 85-13) as supplemented. Amendment No. 6 issued on May 30, 1986 and stayed by the U.S. Court of Appeals for the Ninth Circuit pending completion of NRC hearings is reinstated.

Prior to final conversion to the modified rack design, fuel may be stored, as needed, in either the modified storage racks described in Technical Specification 5.6.1.1 or in the unmodified storage racks (or both) which are designed and shall be maintained with a nominal 21-inch center-to-center distance between fuel assemblies placed in the storage racks.

(12) Additional Conditions

The Additional Conditions contained in Appendix D, as revised through Amendment No. 118, are hereby incorporated into this license. Pacific Gas and Electric Company shall operate the facility in accordance with the Additional Conditions.

D. Exemption (SSER 31, Section 6.2.6)

An exemption from certain requirements of Appendix J to 10 CFR Part 50 is described in the Office of Nuclear Reactor Regulation's Safety Evaluation Report, Supplement No. 9. This exemption is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest. Therefore, this exemption previously granted in Facility Operating License No. DPR-81 pursuant to 10 CFR 50.12 is hereby reaffirmed. The facility will operate, with the exemption authorized, in conformity with the application, as amended, the provisions of the Act, and the regulations of the Commission.

E. Physical Protection

The licensee shall fully implement and maintain in effect all provisions of the Commission-approved physical security, training and qualification, and safeguards contingency plans including amendments made pursuant to provision of the Miscellaneous Amendments and Search Requirements revisions to 10 CFR 73.55 (51 FR 27817 and 27822) and to the authority of 10 CFR 50.90 and 10 CFR 50.54(p). The combined set of plans, which contains Safeguards Information protected under 10 CFR 73.21, is entitled: "Diablo Canyon Power Plant, Units 1 and 2 Physical Security Plan, Training and Qualification Plan and Safeguards Contingency Plan," submitted by letter dated October 8, 2004, as supplemented by letters dated October 14, 2004, and October 19, 2004.