

September 11, 2007

Mr. John S. Keenan
Senior Vice President – Generation and Chief Nuclear Officer
Pacific Gas and Electric Company
PO Box 770000
Mail Code B32
San Francisco, CA 94177-0001

SUBJECT: HUMBOLDT BAY POWER PLANT UNIT 3 - ISSUANCE OF AMENDMENT
REGARDING NEW LICENSE CONDITION 2.C.4 (TAC NO. J00325)

Dear Mr. Keenan:

The U.S. Nuclear Regulatory Commission has issued the enclosed Amendment No. 40 to Facility Operating License No. DPR-7 for the Humboldt Bay Power Plant, Unit 3. The amendment consists of changes to the License in response to your application dated April 4, 2007.

The amendment revises the license to allow the results of near-term surveys, performed on a portion of the plant site, to be included in the eventual Final Status Survey for license termination.

A copy of our related Safety Evaluation is also enclosed. The Notice of Issuance will be included in the Commission's next biweekly *Federal Register* notice.

Sincerely,

/RA/

John B. Hickman, Project Manager
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Docket No.: 50-133

Enclosures:

1. Amendment No. 40 to DPR-7
2. Safety Evaluation

cc w/encls: See next page

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DATE	9/11/2007	5 / 22 / 2007	8 / 8 / 2007	8 / 9 / 2007	9/11/2007

OFFICIAL RECORD COPY

Humboldt Bay Power Plant, Unit 3 Service List

cc:

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PACIFIC GAS AND ELECTRIC COMPANY

DOCKET NO. 50-133

HUMBOLDT BAY POWER PLANT, UNIT 3

AMENDMENT TO FACILITY OPERATING LICENSE

Amendment No. 40
License No. DPR-7

1. The Nuclear Regulatory Commission (the Commission) has found that:
 - A. The application for amendment by Pacific Gas and Electric Company (the licensee), dated April 4, 2007, complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations set forth in 10 CFR Chapter I;
 - B. The facility will be maintained in conformity with the license, as amended, the provisions of the Act, and the applicable rules and regulations of the Commission;
 - C. There is reasonable assurance: 1) that the activities authorized by this amendment can be conducted without endangering the health and safety of the public; and 2) that such activities will be conducted in compliance with applicable portions of the Commission's regulations;
 - D. The issuance of this amendment 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 amendment is in accordance with 10 CFR Part 51 of the Commission's regulations and all applicable requirements have been satisfied.
2. Accordingly, the license is hereby amended by changes to Possession Only License No. DPR-7 as follows:

Paragraph 2.C.4. is added to read as follows:

To demonstrate compliance with the NRC License Termination Rule, the Final Status Survey for Humboldt Bay Power Plant, Unit No. 3 license termination may utilize the results of the licensee's surveys of the area underlying the new fossil generation facility, referred to as the Humboldt Bay Repowering Project, provided a cross contamination prevention and monitoring plan is maintained.

3. This license amendment is effective as of the date of its issuance and shall be implemented when a cross contamination prevention and monitoring plan is implemented.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Keith I. McConnell, Deputy Director
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Attachment: Revised License Pages

Date of Issuance: September 11, 2007

ATTACHMENT TO LICENSE AMENDMENT NO. 40

POSSESSION ONLY LICENSE NO. DPR-7

DOCKET NO. 50-133

Replace the following pages of the License with the attached revised pages. The revised pages are identified by amendment number and contain marginal lines indicating the areas of change.

REMOVE

- 3 -
-

INSERT

- 3 -
- 4 -

- | | | |
|--|---|---|
| 5. | Pursuant to the Act and Title 10, CFR, Chapter I, Parts 30 and 70, to possess, but not to separate, such by product and special nuclear materials which were produced by operation of the reactor. |] Amndt
#39
4/17/07 |
| C. This license shall be deemed to contain and is subject to the conditions specified in Part 20, Section 30.34 of Part 30, Section 40.41 of Part 40, Section 50.54 and 50.59 of Part 50, and Section 70.32 of Part 70 of the Commission's regulations, and is subject to all applicable regulations and orders of the Commission now or hereafter in effect, and is subject to the additional conditions specified or incorporated below. | | |
| 1. | The licensee shall fully implement and maintain in effect all provisions of the physical security plan previously approved by the Commission and all amendments and revisions made pursuant to the authority of 10 CFR Part 50.90 and 10 CFR Part 50.54(p). The plan, which contains Safeguards Information protected under 10 CFR Part 73.21, is entitled: "Humboldt Bay Power Plant, Unit No. 3, Physical Security Plan," with revisions submitted through November 17, 1986. The Guard Training and Qualification Plan and the Safeguards Contingency Plan are incorporated into the Physical Security Plan as Chapters 6 and 9, respectively. | |
| 2. | <u>Technical Specifications</u>

The Technical Specifications contained in Appendix A, as revised through Amendment No. 38, are hereby incorporated in the license. Pacific Gas and Electric Company shall maintain the facility in accordance with the Technical Specifications. | |
| 3. | With respect to changes to the facility or procedures described in the Decommissioning Plan, or changes to the Decommissioning Plan, and the conduct of tests and experiments not described in the Decommissioning Plan, the provisions of 10 CFR 50.59 shall apply. |] Added
per
Amdt.
#29
7-7-95 |
| 4. | To demonstrate compliance with the NRC License Termination Rule, the Final Status Survey for Humboldt Bay Power Plant, Unit No. 3 license termination may utilize the results of the licensee's surveys of the area underlying the new fossil generation facility, referred to as the Humboldt Bay Repowering Project, provided a cross contamination prevention and monitoring plan is maintained. |] Added
per
Amdt.
#40
9-11-07 |

- D. This license amendment is effective as of the date of issuance and shall expire at midnight, November 9, 2015.

FOR THE NUCLEAR REGULATORY COMMISSION

Lester S. Rubenstein, Acting Director
Standardization and Non-Power
Reactor Project Directorate
Division of Reactor Projects III, IV,
V and Special Projects
Office of Nuclear Reactor Regulation

Enclosure:
Appendix A - Technical
Specifications

Date of Issuance: July 19, 1988

SAFETY EVALUATION BY OFFICE OF FEDERAL AND STATE MATERIALS
AND ENVIRONMENTAL MANAGEMENT PROGRAMS
RELATED TO AMENDMENT NO. 40 TO FACILITY OPERATING LICENSE NO. DPR-7
PACIFIC GAS AND ELECTRIC COMPANY
HUMBOLDT BAY POWER PLANT, UNIT 3
DOCKET NO. 50-133

1.0 INTRODUCTION

By letter dated April 4, 2007, Pacific Gas and Electric Company (PG&E, the licensee) submitted a request for an amendment to Facility Operating License No. DPR-7 that would add a new license condition 2.C.4 which would allow the results of near-term surveys, performed on a portion of the plant site, to be included in the eventual Final Status Survey (FSS) for license termination.

2.0 BACKGROUND

Humboldt Bay Power Plant (HBPP) Unit 3 was permanently shut down in July 1976, and, until recently, was in safe storage condition (SAFSTOR). SAFSTOR is the decommissioning method in which a nuclear facility is placed and maintained in a condition that allows the safe storage of radioactive components of the nuclear plant and subsequent decontamination to levels that permit license termination. A Decommissioning Plan (DP) was approved in July 1988. Subsequent to the 1996 License Termination rule, the licensee converted its DP into its Defueled Safety Analysis Report which is updated every two years. A Post Shutdown Decommissioning Activities Report was issued by the licensee in February 1998. The licensee is now engaged in some incremental decommissioning activities. In December 2003, PG&E formally submitted a license application to the U.S. Nuclear Regulatory Commission (NRC) for approval of a dry-cask Independent Spent Fuel Storage Installation (ISFSI) at the Humboldt Bay site. A license and safety evaluation report for the Humboldt Bay ISFSI were issued on November 17, 2005.

Currently, there are two fossil steam units (HBPP Units 1 and 2) and two combustion turbines, all approximately 50 years old, operating in close proximity to Unit 3 and within the licensed site area. Due to the age of the existing units and continuing power needs for the area, PG&E plans to begin construction in early 2008 of a new fossil generation plant to replace the existing Units 1 and 2 and the two combustion turbines. Due to the difficulty in siting new generating units, the new fossil generating plant will be located within the existing licensed site area. Full scale decommissioning of Units 1, 2, and 3 will begin after the replacement generating units are in service.

10 CFR 50.82(a)(9) states in part:

All power reactor licensees must submit an application for termination of license. The application for termination of license must be accompanied or preceded by a license termination plan to be submitted for NRC approval.

10 CFR 50.82(a)(11) states in part:

The Commission shall terminate the license if it determines that--

(ii) The final radiation survey and associated documentation, including an assessment of dose contributions associated with parts released for use before approval of the license termination plan, demonstrate that the facility and site have met the criteria for decommissioning in 10 CFR part 20, subpart E.

3.0 TECHNICAL EVALUATION

The construction of the new fossil generating plant on a portion of the licensed site area will require removal of old buildings and remediation of an impacted area. The licensee plans on performing radiological surveys of the site of the new generating plant site before construction begins to verify adequate radiological cleanup. To ensure that the radiological surveys performed are adequate to meet the Final Status Survey (FSS) requirements for NRC license termination, the licensee is proposing to implement a cross contamination prevention and monitoring plan. The licensee has proposed a new license condition to address this proposal. The proposed License Condition 2.C.4. would read:

"To demonstrate compliance with the NRC License Termination Rule, the Final Status Survey for Humboldt Bay Power Plant, Unit No. 3 license termination may utilize the results of the licensee's surveys of the area underlying the new fossil generation facility, referred to as the Humboldt Bay Repowering Project, provided a cross contamination prevention and monitoring plan is maintained."

Typically, licensees conduct a FSS following decommissioning of a nuclear facility in preparation for license termination. The FSS provides assurance that the area being released meets the NRC radiological requirements to ensure projected doses to people are within regulatory limits. The proposed change is intended to alleviate the need for additional surveys under the new facility as access to that area will be impractical once the new unit is constructed. The NRC has previously accepted the use of surveys performed prior to construction of new facilities on plant sites (i.e. for ISFSIs) to meet FSS requirements for license termination. Additionally, in this case, the licensee will be implementing a cross contamination prevention and monitoring plan which should provide reasonable assurance that the results of the surveys performed prior to Unit 3 decommissioning, will remain a valid characterization of radiological conditions existing in the area of the new generating plant.

Based on the prior NRC acceptance of radiological surveys performed before the completion of decommissioning to satisfy FSS requirements, and the implementation of a contamination prevention and monitoring program to limit and detect cross contamination of the surveyed area, the NRC has determined that the licensees request and proposed license condition are acceptable.

4.0 SUMMARY

The changes proposed by this license amendment request will allow the results of near-term surveys, performed on a portion of the plant site, to be included in the eventual Final Status Survey (FSS) for license termination. The NRC staff has reviewed the request and concluded that the licensee's request is consistent with established NRC policy and is therefore, acceptable.

5.0 STATE CONSULTATION

In accordance with the Commission's regulations, the State of California was notified of the proposed issuance of the amendment. The State had no comments.

6.0 ENVIRONMENTAL CONSIDERATION

The amendment changes a requirement with respect to an inspection and surveillance requirement. The NRC staff has determined that the amendment involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite, and that there is no significant increase in individual or cumulative occupational radiation exposure. The Commission has previously issued a proposed finding that the amendment involves no significant hazards consideration, and there has been no public comment on such finding (72 FR 41787) . Accordingly, the amendment meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the amendment.

7.0 CONCLUSION

The staff has concluded, based on the considerations discussed above, that: 1) there is reasonable assurance that the health and safety of the public will not be endangered by operation in the proposed manner, and; 2) such activities will be conducted in compliance with the Commission's regulations, and the issuance of the amendment will not be inimical to the common defense and security nor to the health and safety of the public.

Principal Contributor: John Hickman

Date: September 11, 2007