



November 16, 2012

R. William Borchardt
Office of the Executive Director of Operations
U.S. Nuclear Regulatory Commission
Sixteenth Floor
One White Flint North
11555 Rockville Pike
Rockville, MD 20852

Re: Request for Transparency in the §2.206 Petition Review Process Regarding the 10 CFR § 50.59 Review for the Replacement Steam Generators at San Onofre Units 2 and 3.

Dear Mr. Borchardt:

The Nuclear Regulatory Commission (NRC) issued an order on November 8, 2012 in response to a petition, filed by Friends of the Earth under 10 CFR §2.309 on June 18, 2012. The petition requested permission to intervene and be provided a hearing on the de facto license amendment proceeding being conducted with respect to San Onofre Units 2 & 3, as made evident by the process set forth in the Confirmatory Action Letter (CAL) issued to the licensee, Southern California Edison (SCE), on March 27, 2012. NRC staff issued the CAL following a tube rupture and leak in Unit 3's steam generator and indications of substantial and unusual wear in the steam generator tubes in that unit as well as in Unit 2.

One of the core claims of the petition filed by Friends of the Earth is that SCE was required to obtain a license amendment when it replaced the original steam generators at San Onofre with new, significantly redesigned steam generators in 2010-11. In its order ruling on the petition, the Commission referred this claim to the staff to be examined under the process described in 10 CFR §2.206. In addition, the Commission declared that, "the NRC staff is already evaluating whether these SCE actions [replacing the steam generators in Units 2 and 3] required a license amendment."¹

The NRC staff's examination of the §50.59 issue is now part of the formal §2.206 petition review process, which must be transparent and conducted by officials who were not associated with the original staff decision to allow SCE to proceed without a license amendment. The NRC itself recognizes this concern over conflicts and requires the assigned §2.206 petition manager to consider any potential conflict arising from assigning any staff person to the §2.206 review who was previously involved in the decision giving rise to the petition, *i.e.*, the initial decision as to whether a license amendment was required.²

More broadly, the §2.206 petition review process must allow for an open dialogue between the NRC staff and the public, as recognized by the Commission in its order on Friends of the Earth's petition. Indeed, the Chairwoman of the Commission, Allison Macfarlane, recently said, "I believe it is incumbent upon us to communicate transparently with these groups and policy makers...and listen to their concerns."³

Given the Commission's stated commitment to an open process in this important matter of public safety, Friends of the Earth respectfully requests that:

¹ NRC Memorandum and Order in the Matter of Southern California Edison Co. (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-12-20, p. 4.

² Review Process for 10 CFR 2.206 Petitions, Management Directive 8.11, at 8 (2000).

³ Alison St John, *NRC Responds to Problems at San Onofre*, KPBS News, Nov. 8, 2012. (<http://www.kpbs.org/news/2012/nov/08/nrc-responds-problems-san-onofre/>).



1. The staff reveal the status of the review process that has occurred thus far and identify the staff members involved;
2. The staff who will determine Friends of the Earth's §2.206 petition to require a license amendment be named and not include anyone who was involved in the previous decision to allow SCE to proceed without a license amendment, in accordance with good practice under the Commission's own Management Directive; and
3. Friends of the Earth be afforded an opportunity to review the material being considered by the Petition Review Board charged with making a determination on the petition and be given an opportunity to present to the reviewing officials its views and independent expert findings on the matter, as prescribed in the NRC's Management Directive.

In view of the pending proposal of the Edison Company to restart Unit 2, we urge you to proceed with this proceeding as soon as possible so that the public may be assured of their safety prior to possible restart of either or both of the units at San Onofre Nuclear Generating Station.

Thank you for your immediate attention to this matter.

Sincerely,
Richard Ayres
Counsel for Friends of the Earth