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February 12, 2013

Mr. Sher Bahadur  
Chairman, Petition Review Board  
U.S. Nuclear Regulatory Commission  
Sixteenth Floor  
One White Flint North  
11555 Rockville Pike  
Rockville, MD 20852

Re: Request for Disclosure of MHI Report 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 Chairman Bahadur:

On February 6, 2013, Senator Barbara Boxer and Congressman Edward Markey sent a letter to NRC Chairwoman Allison Macfarlane referring to a 2012 Mitsubishi Heavy Industries (MHI) document entitled, "Root Cause Analysis Report for tube wear identified in the Unit 2 and Unit 3 Steam Generators at San Onofre Generating Station" (Report). The Report's contents as described by their letter have direct bearing on the matters raised by the June 18, 2012 petition filed by Friends of the Earth (FoE), which the NRC is considering under 10 C.F.R. § 2.206. In the interest of a complete and accurate record in NRC's review of FoE's petition, FoE requests that the 2012 MHI Report and all other documents in the possession of the staff or Commission regarding the void fraction and potential for fluid elastic instability (FEI) in San Onofre Units 2 or 3 be included in the record of this proceeding and publicly released.

According to the Boxer/Markey letter, the MHI Report shows that (1) not only were Southern California Edison (SCE) and MHI aware that there were design problems with the replacement steam generators (RSGs) at San Onofre, but also that (2) SCE and MHI rejected modifications that could have mitigated these safety risks because the changes would have triggered a license amendment process under 10 C.F.R. § 50.59. According to the Members of Congress, the Report states, "Among the difficulties associated with the potential changes was the possibility that making them could impede the ability to justify the RSG design" without triggering the need for a license amendment, a process which, to SCE, was as an "unacceptable consequence."

In its response to the SCE submission filed February 6, 2013, FoE stated that SCE was aware of the prospect that the design of the RSGs would result in FEI that could damage the tubes in the RSG. As the basis for this contention, FoE quoted a colloquy between the NRC's inspection lead at San Onofre and SCE's Vice President for Engineering during the November 30, 2012, NRC Meeting in Laguna Hills, California. In that conversation, the SCE official admitted that SCE understood that in their design the void fraction would be too high, leaving the tubes open to the effects of FEI.

According to the Boxer/Markey letter, the information in the MHI Report confirms FoE's statement that SCE had knowledge of the safety risks presented by the design of the RSGs, notwithstanding SCE's claims to the contrary in its January 9, 2013 "Response to Friends of the Earth 10 CFR 2.206 Petition." In the context of an argument that § 50.59 did not require a license amendment for the RSGs, SCE conceded that the conditions resulting in the tube leak in Unit 2 were "adverse" to a design function but then stated categorically that no license amendment was needed under § 50.59 because SCE did not know about those conditions.<sup>1</sup> It would appear that the MHI document referred to by Senator Boxer and Representative Markey provides proof that the SCE statement is untrue.

The Boxer/Markey letter raises serious questions about SCE's representations to the NRC about the state of its knowledge at the time it performed the 50.59 analysis – questions which could confirm Mr. Gundersen's contention that SCE was more intent on avoiding a regulatory program than in assuring the health and safety of the millions of people who live in proximity to the San Onofre plant.

In the interest of assuring that the 2.206 panel has a complete and accurate record before it, FoE calls upon the Chairman to direct that the MHI Report and other documents regarding the void fraction and potential for FEI in San Onofre Units 2 or 3 be placed in the record of this proceeding and made available to the members of this panel and all the parties. Given the Commission's stated commitment to an open and transparent process in this important matter of public safety, these documents should also be publicly disclosed in full.

Sincerely,

/s/ Richard Ayres

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<sup>1</sup> Southern California Edison Company, Response to Friends of the Earth 10 CFR 2.206 Petition (Jan. 9, 2013) at 9. See also page 11 ("That concern [FEI], however, was not known during the design and manufacturing of the RSGs.") and page 12 ("If the RSGs had been designed and manufactured in accordance with the procurement specification, the leak and tube wear would not have occurred.").

Cc: Brian Benney, Petition Manager  
Lee Banic, Petition Coordinator  
Molly Barkman March, Office of General Counsel  
David Beaulieu, Office of Nuclear Reactor Regulation  
Art Howell, Region IV  
Greg Werner, Region IV

Enclosure: Letter to Chairwoman Macfarlane from Senator Boxer and Representative Markey

# Congress of the United States

Washington, DC 20515

February 6, 2013

The Honorable Allison M. Macfarlane  
Chairman  
Nuclear Regulatory Commission  
11555 Rockville Pike  
Rockville, MD 20852

Dear Chairman Macfarlane:

We have become aware of new information contained in a 2012 Mitsubishi Heavy Industries (MHI) document entitled "Root Cause Analysis Report for tube wear identified in the Unit 2 and Unit 3 Steam Generators of San Onofre Generating Station" (Report).

We strongly urge the Nuclear Regulatory Commission (NRC) to promptly initiate an investigation concerning the troubling information contained in this Report.

The Report indicates that Southern California Edison (SCE) and MHI were aware of serious problems with the design of San Onofre nuclear power plant's replacement steam generators before they were installed. Further, the Report asserts that SCE and MHI rejected enhanced safety modifications and avoided triggering a more rigorous license amendment and safety review process.

For example, the Report states that although SCE and MHI accepted some adjustments to the replacement steam generators, further safety modifications were found to have "unacceptable consequences" and were rejected: "Among the difficulties associated with the potential changes was the possibility that making them could impede the ability to justify the RSG [replacement steam generator] design" without the requirement for a license amendment. The Report also indicates that SCE's and MHI's decision to reject additional safety modifications contributed to the faulty steam generators and the shutdown of reactor Units 2 and 3.

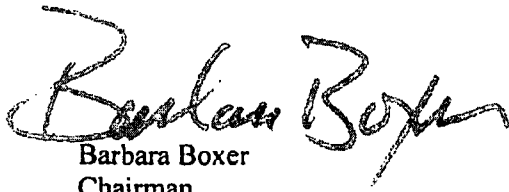
This newly-obtained information concerns us greatly, and we urge the NRC to immediately conduct a thorough investigation into whether SCE and MHI did in fact fail to make needed safety enhancements to avoid the license amendment process.

All people in our nation, including the 8.7 million people who live within 50 miles of the San Onofre plant, must have confidence in the NRC's commitment to put safety before any other concern.

We believe this alarming Report raises serious concerns about SCE's and MHI's past actions. Safety, not regulatory short cuts, must be the driving factor in the design of nuclear facilities, as well as NRC's determination on whether Units 2 and 3 can be restarted.

We look forward to your prompt response detailing how public safety will be assured in light of this information. If you have any questions, please have your staff contact Dr. Michal Freedhoff of Rep. Markey's staff at 202-225-2836 or Grant Cope of Chairman Boxer's staff at 202-224-8832.

Sincerely,



Barbara Boxer  
Chairman  
Senate Committee on Environment and Public Works



Edward J. Markey  
Member of Congress