



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 26, 2020

Mr. Charles G. La Bella
Barnes & Thornburg LLP
655 West Broadway, Suite 900
San Diego, California 92101

SUBJECT: PETITION REQUESTING ENFORCEMENT ACTION UNDER SECTION 2.206 OF TITLE 10 OF THE *CODE OF FEDERAL REGULATIONS* AGAINST SOUTHERN CALIFORNIA EDISON RELATED TO DECOMMISSIONING OPERATIONS AT THE SAN ONOFRE NUCLEAR GENERATING STATION UNITS 2 AND 3

Dear Mr. La Bella:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to the petition submitted pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.206, "Requests for action under this subpart," dated September 24, 2019 (Agencywide Documents Access and Management System [ADAMS] Accession Nos. ML19309D323 and ML19311C699), as supplemented on January 21, 2020 (ADAMS Accession No. ML20023A182). The NRC's Executive Director for Operations referred your petition to the Office of Nuclear Material Safety and Safeguards (NMSS) for appropriate review or action.

Petition

In the petition, you requested that the NRC immediately suspend all decommissioning operations at the San Onofre Nuclear Generating Station (SONGS) and require Southern California Edison (SCE or the licensee) to submit an amended decommissioning plan to account for spent nuclear fuel being placed in storage at SONGS. As the basis for the request you stated: burial of spent nuclear fuel at SONGS poses an immediate threat to public safety (for example, integrity of fuel canisters); the licensee's estimated cost of decommissioning SONGS is based on unreasonable and fundamentally flawed assumptions; and the NRC has not considered the environmental and safety effects of sea level rise caused by climate change and has not addressed the environmental impacts of decommissioning on environmental justice, threatened and endangered species, offsite land use, offsite aquatic and terrestrial ecology, and certain cultural and historic resources.

Staff Action

On October 25, 2019, the NRC provided a response to Public Watchdogs by e-mail (ADAMS Accession No. ML19326A969) stating that the NRC staff concluded, in accordance with Section II.B.1 of Management Directive (MD) 8.11 "Review Process for 10 CFR 2.206 Petitions" (ADAMS Accession No. ML18296A043), that the request does not warrant immediate action. The NRC staff has determined that the decommissioning activities at SONGS do not constitute an immediate threat to public health and safety.

On December 18, 2019, the NRC informed you via e-mail (ADAMS Accession No. ML19353A048) that the petition review board (PRB) concluded that the petition did not meet the criteria for consideration under 10 CFR 2.206 because it appears that all of the issues raised in the petition have previously been the subject of NRC staff review, and do not raise concerns that the NRC staff has not previously considered and resolved. On January 21, 2020, the PRB conducted a public teleconference with Public Watchdogs at your request, to discuss the PRB's initial assessment and any supplemental information for the PRB's consideration. The transcript for the January 21st public meeting can be found at ADAMS Accession No. ML20028E467. The PRB considered the information presented during the January 21, 2020, discussion, as well as the original petition and the supplemental information submitted in reaching its final determination, as discussed below.

NRC Staff Response to Specific Concerns

Protection of Public Health and Safety. The NRC has continued to carefully regulate the licensee's decommissioning activities at SONGS, which include its review of the fuel storage facility design, inspections encompassing the physical facility as well as the licensee's operational performance, and appropriate enforcement actions. More specifically, the NRC performed a thorough review of the UMAX Independent Spent Fuel Storage Installation (ISFSI) design used at SONGS, a design the NRC approved in 2017 through a public rulemaking (ADAMS Accession No. ML16341B061). In addition, NRC staff continually performs oversight to ensure that the storage of spent nuclear fuel at SONGS does not pose a threat to public health and safety. NRC inspections of decommissioning activities at SONGS, including inspections related to the ISFSI, are documented in inspection reports that are publicly available. See for example ADAMS Accession Nos. ML18200A400 and ML19316A762.

The NRC staff has also considered the events described in the petition regarding the licensee's fuel loading operations and potential scratching of the fuel canisters. See ADAMS Accession No. ML19190A217. The NRC's regulatory review and oversight actions included a detailed assessment of the significance of the events, specific enforcement actions, and subsequent consideration of the licensee's corrective actions. Specifically, regarding integrity of the fuel canisters, NRC inspectors concluded that localized scratches (peak stresses) on the canisters are not a safety concern (using the ASME Code Section III, Subsection NB stress intensity limits as reference). NRC inspectors also concluded that canister evaluations performed by SCE using visual scratch assessments and statistical evaluations acceptable. These evaluations were adequate to demonstrate that canister scratches from incidental contact for previous and future canisters, will continue to meet the confinement design functions as specified in the UMAX Final Safety Analysis Report and ASME Code Section III canister wall thickness tolerances.

As a result, the NRC remains confident that reasonable assurance of adequate protection of the public health and safety can be maintained for as long as fuel is stored in accordance with the requirements of the SONGS license, the certificate of compliance for the UMAX system (and any other licensed systems that may be implemented in the future at the SONGS site), and other applicable requirements.

Decommissioning Cost Estimate. Regarding your concern about the estimated cost of completing decommissioning at SONGS, the NRC staff concluded in its review of the SONGS Decommissioning Cost Estimate (DCE) (ADAMS Accession No. ML15204A383) that the site-specific DCE and the cost of long-term storage of spent fuel for SONGS, Units 2 and 3, are reasonable and provide a sufficient level of detail on the funding mechanisms to meet the

requirements of 10 CFR 50.82(a)(4)(i). In addition, the NRC staff reviewed the 2019 Decommissioning Funding Status (DFS) report for SONGS and determined that the licensee complies with the decommissioning funding assurance requirements of 10 CFR 50.75 and 10 CFR 50.82, as applicable, for the 2019 DFS reporting cycle (ADAMS Accession No. ML19346E375). The SONGS DFS reports are submitted and reviewed annually by the NRC staff to ensure continued compliance with the decommissioning financial assurance requirements. Finally, the NRC safety evaluation for the SONGS Irradiated Fuel Management Plan (IFMP) (ADAMS Accession No. ML15182A256) states that "the NRC staff finds the SONGS IFMP estimates to be reasonable, based on a cost comparison with similar decommissioning reactors...."

Environmental Impacts. Regarding your concern about the environmental impacts of the decommissioning activities, the NRC staff concluded in its review of the SONGS Post Shutdown Decommissioning Activities Report (ADAMS Accession No. ML15204A383) that these activities are bounded by the previously issued NUREG-0586, "Final Generic Environmental Impact Statement [GEIS] on Decommissioning of Nuclear Facilities," and its supplements, and did not find any deviations from the previously issued Environmental Statement for SONGS (ADAMS Accession No. ML18239A414). Therefore, the NRC is confident that the environment can be adequately protected, and all impacts bounded, during decommissioning activities at SONGS.

Retrievability of Spent Fuel. On January 21, 2020, you raised concerns regarding spent nuclear fuel currently stored at SONGS being non-retrievable, in violation of 10 CFR 72.122(l), and with potential impacts from flooding. Specifically, you stated that "although the Holtec Final Safety Analysis Report and Certificates of Compliance clearly contemplate a potential flooding event and state that a site-specific analysis will be submitted by Licensees, Public Watchdogs is not aware that any such analysis has been performed or submitted."

Interim Staff Guidance No. 2, Revision 2, "Fuel Retrievability in Spent Fuel Storage Applications" (ADAMS Accession No. ML16117A080), defines ready retrieval as "the ability to safely remove the spent fuel from storage for further processing or disposal." A licensee can demonstrate the ability for ready retrieval by demonstrating that it can remove a canister loaded with spent fuel assemblies from a storage cask/overpack. As discussed in NRC Supplemental Inspection Report 2018-002 for SONGS (ADAMS Accession No. ML19190A217), the NRC inspection team observed the licensee implementing all the corrective action enhancements to download and retrieve a simulated canister at the SONGS ISFSI pad, during exercises conducted between January 28-30, 2019. SCE was fully successful in downloading and retrieving the canister during the exercises, and the corrective actions taken were determined by the NRC inspectors to be adequate.

Flood Analysis. Regarding your concerns with flooding at the SONGS ISFSI, SCE's flood analyses determined that the UMAX maximum design flood parameters envelope the SONGS site flooding parameters. The NRC staff verified this flood evaluation in the SONGS 10 CFR 72.212 report to qualify the use of the UMAX system at SONGS, and the NRC documented this in an inspection report (ADAMS Accession No. ML18200A400). The NRC did not identify any issues as a result of its review of the flood evaluation for SONGS.

Having considered the results of recent inspections, the NRC's evaluation of past SONGS DFS reports, the applicable environmental documents, and the supplemental information provided, the PRB's final determination is that your petition does not meet the acceptance criteria in

MD 8.11, Section III.C.1(b), because the issues raised in the petition have been “the subject of a facility-specific or generic NRC staff review,” and none of the circumstances in Section III.C.1(b)(ii) applies. The NMSS Office Director was briefed on and supported this conclusion.

Thank you for bringing these issues to the attention of the NRC.

Sincerely,

Kevin Williams, Deputy Director
Division of Materials Safety, Security, State,
and Tribal Programs
Office of Nuclear Material Safety
and Safeguards

Docket No(s). 50-361 and 50-362

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