

October 2, 2000

Mr. Glen R. Mills
P. O. Box 3393
Mission Viejo, CA 92690

SUBJECT: REPLY TO JULY 31, 2000, LETTER TO THE NRC's OFFICE OF THE
INSPECTOR GENERAL

Dear Mr. Mills:

In your letter to the Nuclear Regulatory Commission's (NRC's) Office of the Inspector General (OIG) dated July 31, 2000, you expressed concerns about decommissioning activities at San Onofre Nuclear Generating Station, Unit 1 (SONGS-1). You cited six concerns related to decommissioning (see enclosure) and stated that decommissioning of SONGS-1 has not adequately considered impacts on public health and safety and should be halted at once.

Because your letter requested the NRC to halt all licensee decommissioning activities at SONGS-1, the staff chose to treat your letter as a possible 10 CFR 2.206 petition in accordance with the NRC's Management Directive (MD) 8.11, "Review Process for 10 CFR 2.206 Petitions." We informed you via electronic mail (e-mail) on September 12, 14, and 18, 2000, of our plan to hold a Petition Review Board (PRB) meeting on your concerns. We also left similar messages on your telephone voice-mail. In the e-mails and voice-mails, we requested you to inform us if you would like to participate in the PRB discussion by telephone. Since you did not respond to our e-mail and voice-mail queries, we informed you in our e-mails of September 14 and 18, 2000, that we would interpret your non-response as an indication that you did not wish to participate in the PRB deliberations.

The PRB reviewed your concerns on September 19, 2000. Based on the PRB review, we find that the issues raised in your letter are either inconsistent with NRC regulations or are not factually supported. Accordingly, we have determined that your request does not meet the threshold criteria for treating your request as a 2.206 petition (Part III of MD 8.11, page 8).

Enclosed is the staff response to your specific concerns about decommissioning activities at SONGS-1, as cited in your letter. Based on the staff's findings, as documented in the enclosure, we have determined that your concerns are not substantiated and it is not necessary to initiate further action on your concerns.

We trust that this has been responsive. Should you have any questions or comments regarding these matters, please call Bill Huffman, project manager for SONGS-1 decommissioning, toll-free at 1-800-368-5642.

Sincerely,

/RA by Suzanne Black Acting for/
John A. Zwolinski, Director
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Enclosure: As stated

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/RA by Suzanne Black Acting for/
John A. Zwolinski, Director
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See previous concurrence*

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NAME	WHuffman	Djohnson for CJamerson	LRaghavan*	SRichards*	SBlack*	JZwolinski
DATE	9/28/00	9/29/00	9/25/00	9/25/00	9/27/00	9/29/00

Official Record Copy

Nuclear Regulatory Commission (NRC) Staff Response to
Mr. Glen Mills' July 31, 2000, Letter to
the NRC Office of Inspector General
Concerning Decommissioning Activities at
San Onofre Nuclear Generating Station, Unit 1 (SONGS-1)

- (1) Your letter states that no site-specific Environmental Impact Statement (EIS) has been completed for SONGS-1 to address decommissioning activities. The licensee is not required to submit an EIS to conduct decommissioning activities (see Item (2)). The licensee has performed an environmental review to evaluate all potential environmental impacts associated with the proposed decommissioning of SONGS-1. The review concluded that the impacts of decommissioning SONGS-1 are bounded by the evaluations in the "Final Generic Environmental Impact Statement on Decommissioning Nuclear Facilities," NUREG-0586, dated August 1988, and by the NRC site-specific environmental assessment for SONGS-1, dated September 16, 1991.
- (2) Your letter states that lack of an EIS for SONGS-1 is in violation of the appellate court decision in *CAN versus NRC* where you say the court found that decommissioning is a major Federal action requiring National Environmental Policy Act (NEPA) compliance. The appellate court actually found that the NRC policy at the time of the decision (July 1995) lacked a rational basis and remanded it back to the NRC for further action. The NRC subsequently revised its rules to clarify that decommissioning activities after permanent shutdown of a nuclear power plant do not require a license amendment and, therefore, decommissioning is not a Federal action requiring the issuance of an environmental assessment or EIS. This is reflected in NRC decommissioning regulations contained in Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.82. The NRC is not in violation of the appellate court decision.
- (3) Your letter states that license termination decisions are not based on well-defined criteria and regulations. Specifically,
 - there is no decommissioning finality
 - there is no regulatory authority for residual radioactive material after license termination
 - there are no regulations for solid radioactive effluent release

NRC regulations for nuclear power plant license termination are provided in 10 CFR 50.82. Criteria for license termination is specified in 10 CFR Part 20, Subpart E, "Radiological Criteria for License Termination." The regulations recognize that there is no assurance of finality in license termination of a decommissioning facility. The licensee may still be subject to restrictions after license termination or may be subject to additional Commission requirements if new information inconsistent with NRC regulations is revealed after license termination has been granted. In addition, the NRC cannot categorically exclude other regulatory authorities from imposing separate requirements on a decommissioned nuclear power plant after NRC license termination

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has been granted. However, license termination by the NRC reflects that there is no threat to public health and safety when the criteria for unrestricted license termination criteria has been met and, therefore, no further NRC regulation is necessary. You are correct that there are no NRC regulations for solid radioactive effluent releases. The NRC is currently exploring the need for such regulations. However, in the absence of a regulatory limit in 10 CFR Part 20, Subpart K, for the release of solid radioactive effluent, licensees must perform a sensitive radiation survey of potentially contaminated materials to ensure that there is no detectable licensed radioactive material prior to its unrestricted release. Otherwise, the licensee must send the material to a waste processor or to a low level waste disposal facility.

- (4) Your letter states that it is unacceptable that residual radioactivity above background levels can be left at a site following license termination. The regulations in 10 CFR Part 20, Subpart E, do not require that residual radioactivity at a site be restored to background levels for license termination. The NRC has determined that the residual radioactivity criteria in 10 CFR Part 20, Subpart E, for unrestricted use following license termination is adequate to protect public health and safety.
- (5) Your letter states that dry cask storage regulatory requirements fail to cover high burnup fuel. High burnup spent fuel concerns are not relevant to SONGS-1 because all spent fuel generated by SONGS-1 is at a burnup level less than 45,000 MWd/MTU and is within the range of fuel burnup that is routinely found acceptable for dry cask storage.
- (6) Your letter states dry cask quality assurance issues exist. There are no quality assurance issues that the NRC is aware of concerning the design, construction, or operation of the dry casks that are anticipated to be used for storage of SONGS-1 spent fuel. The staff finds this to be a general assertion unsupported by facts.

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