

FOIA Resource

From: Ulrich, Kendra [KUlrich@foe.org]
Sent: Wednesday, August 29, 2012 3:54 PM
To: FOIA Resource
Subject: FOE FOIA Request
Attachments: FOE FOIA SO 08_29_12.pdf

FOIA/PA REQUEST
Case No.: 2012-0311
Date Rec'd: 8/29/12
Specialist: McClellan
Related Cases: _____


Dear Ms. Sealing,

Friends of the Earth submitted a FOIA request on July 24th, 2012 regarding to the San Onofre Nuclear Generating Station. We are submitting the attached FOIA request to ensure we receive all documentation requested that has been submitted since that date, July 24th, and today, August 29th, 2012.

Please let me know if you have further questions.

Best,

Kendra Ulrich

Nuclear Campaigner
 **Friends of the Earth**
1100 15th Street NW
11th Floor
Washington, DC 20005
Office: 202-222-0715
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August 29th, 2012

Donna L. Sealing
NRC FOIA/Privacy Officer
U.S. Nuclear Regulatory Commission
Mailstop T5-F09
Washington, DC 20555-0001

FOIA/PA REQUEST

Case No.: 2012-0311
Date Rec'd: 8/29/12
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Related Case: _____

Re: Freedom of Information Act Request – Expedited Processing Requested

Dear NRC FOIA/Privacy Officer:

On behalf of Friends of the Earth (FoE), and pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and 10 C.F.R. § 9.23(b), I am writing to request you to provide all documents and records from November 1, 2001 to the present between the Southern California Edison Corp. (SCE or Edison), the Nuclear Regulatory Commission (NRC), and/or Mitsubishi Heavy Industries, Ltd. (Mitsubishi) regarding the San Onofre Nuclear Generating Station (San Onofre). Specifically we are requesting all documents pertain to SCE's decision to replace steam generators in Unit 2 and Unit 3 at San Onofre.

The requested documentation includes, but should not be limited to:

- (1) All communication between Edison, NRC, and/or Mitsubishi regarding the replacement steam generator application, installation, monitoring and inspection;
- (2) All materials and communication regarding the 10 Code of Federal Regulations § 50.59 licensing process; all communication of all kinds related to the shutdown of San Onofre Units 2 and 3 since January 2012;
- (3) The Augmented Inspection Team (AIT) process, as applied to the steam generator issue at San Onofre, inside the NRC, between the NRC and Edison, Edison and Mitsubishi, and/or between the NRC and Mitsubishi;
- (4) All materials and communication in regard to the completion of the AIT final report and the drafting and finalization of the press release of July 19, 2012 issued by the NRC.

For purposes of this request, the term "documents" means: (1) any written, printed, or typed material of any kind, including without limitation all correspondence, memoranda, notes, messages, letters, cards, telegrams, teletypes, facsimiles, briefing papers, cables, forms, records, telephone messages, diaries, schedules, calendars, chronological data, meeting and teleconference agenda, meeting and teleconference attendee lists, dates, minutes, phone logs, books, reports, charts, lists, ledgers, invoices, worksheets, spreadsheets, receipts, returns, computer printouts, printed matter, prospectuses, statements, checks, statistics, surveys, affidavits, contracts, agreements, transcripts, magazines or newspaper articles or press releases; (2) any electronically, magnetically, or mechanically stored material of any kind, including without limitation all electronic mail or e-mail, meaning any electronically transmitted text or graphic communication created upon and transmitted or received by any computer or other electronic device, and all materials stored on compact disk, computer disk, diskette, hard

drive, server, or tape; (3) any audio, aural, visual, or video records, telephone and all other recordings, or representations of any kind, including without limitation all cassette tapes, compact disks, digital video disks, microfiche, microfilm, motion pictures, pictures, photographs, or videotapes; (4) any graphic materials and data compilations from which information can be obtained; (5) any materials using other means of preserving thought or expression; and (6) any tangible things from which data or information can be obtained, processed, recorded, or transcribed. The term "record" also includes any drafts, alterations, amendments, changes, or modifications of or to any of the foregoing.

If all or any parts of this request are denied, please cite the specific exemptions on which you rely in refusing to release the documents and identify which documents are being withheld. Further, since the Freedom of Information Act provides that the remainder of a file must be released if only portions are exempt from disclosure, we request that we be provided with all non-exempt portions.

Request for Expedited Review

Pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 10 Code of Federal Regulations § 9.25(e), *Friends of the Earth requests expedited processing of this FOIA request due to our compelling need for the information requested.*¹ A "compelling need" exists where the requester is "primarily engaged in disseminating information" and can demonstrate that "[t]he information is urgently needed ... in order to inform the public concerning actual or alleged Federal Government activity." 10 C.F.R. § 9.25(e)(1)(ii); *see also* 5 U.S.C. § 552(a)(6)(E)(v). As stated above, Friends of the Earth is a non-profit organization primarily engaged in information dissemination, public education and advocacy on environmental issues. Friends of the Earth urgently needs this information because the documents and information sought concern an "[a]ctual or alleged Federal Government activity" as they pertain to the NRC's review and inspection of Units 2 and 3 at San Onofre. Units 2 and 3 at San Onofre have been shut down since January, yet Edison continues its efforts to restart the reactors without a full license amendment process and adjudicatory hearing and the NRC continues to state that Edison did not mislead the government about the replacement generators for Units 2 and 3 at San Onofre. The NRC's actions regarding San Onofre are "actual or alleged Federal Government activity." 10 C.F.R. § 9.25(e). Friends of the Earth also reserves the right to appeal any denial of our request for expedited processing of this request.

Request for Waiver of Fees

FoE hereby requests that all fees in connection with this FOIA request be waived in accordance with 10 C.F.R. §§ 9.39(a) and 9.41(c). As provided in § 9.41(c), the NRC must:

waive or reduce fees, without further specific information from the requester if, from information provided with the request for agency records made under § 9.23(b), it can determine that disclosure of the information in the agency records is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the Federal Government and is not primarily in the commercial interest of the requester.

FoE satisfies the NRC's criteria for a fee waiver in the following respects:

a. The requested disclosures concern the operations and activities of the Federal Government because they seek information regarding the current status of a major public concern regarding the assessment of the operational status of the Unit 2 and Unit 3 reactors of the San Onofre Nuclear Generating Station. In particular, FoE seeks to inform the public regarding the potential health hazards and confirm that SCE and the NRC are taking full precautionary measures to ensure the safety of the area surrounding the plant.

b. The disclosure of the requested documents will significantly contribute to the public's understanding of the operations and activities of the NRC with respect to nuclear regulatory matters. In particular, the documents will shed light on the question of whether the NRC has ensured the safety of the surrounding residents of San Onofre Nuclear Generating Station and whether the SCE plans to make sufficient changes in the operational structure of the plant to ensure such safety. FoE believes it to be extremely important that the public stay informed on matters regarding potential hazards and that SCE and NRC work together to protect the residents of Southern California.

FoE also has the capacity and commitment to analyze the requested documents and educate the public about their contents. Founded in 1969, with more than 155,000 members and activists in every state in the country, FoE uses policy analysis and advocacy to work for a healthier and just world. FoE believes that the NRC must take strong and reasonable measures regarding SCE and operational status of Units 2 and 3 at San Onofre in order to fulfil its mission to "regulate the civilian uses of nuclear materials in the United States to protect public health and safety, the environment, and the common defense and security." FoE will disseminate the disclosed information to the public through its website, www.foe.org, through its media communications program, and through educational programs and events.

c. The materials will not be used for FoE's commercial use or gain. FoE is a non-profit organization whose sole purpose in requesting the documents is to educate itself, its members, and the general public regarding the NRC's regulatory process. FoE intends to use the requested information in furtherance of its goal of educating the public on the contribution of regulatory policies to the risks associated with nuclear energy.

Accordingly, we request that you waive all fees for locating and duplicating the requested records. If, however, a waiver is not granted, then please advise FoE of the amount of any proposed search, review, and reproduction charges before those activities are carried out.

Please respond within 20 business days, as provided by 5 U.S.C. § 552(a)(6)(A)(i). If you have any questions regarding this request, please contact me at (202) 587-5242.

Thank you very much for your attention to this matter.

Sincerely,

Damon Moglen
Director, Climate and Energy Program
Friends of the Earth

1100 15th St NW
11th Floor
Washington, DC 20005

Marcie Keever
Legal Director
Friends of the Earth

David Brower Center
2150 Allston Way, Ste. 240
Berkeley, CA 94704

ⁱ I, Damon Moglen, certify that Friends of the Earth has a compelling and urgent need for the requested documents and that this statement is true and correct to the best of my knowledge and belief.