



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

February 19, 2013

SECRETARY

Mr. Erich Pica, President
Friends of the Earth
1100 15th Street, NW
11th Floor
Washington, D.C. 20005

Dear Mr. Pica:

The Commission received your letter, dated February 4, 2013, addressing the then-upcoming February 7, 2013, public Commission meeting on steam generator tube degradation. Your letter raised concerns that, because of ongoing NRC proceedings regarding the San Onofre Nuclear Generating Station (SONGS), this public Commission meeting would violate NRC's own regulations on *ex parte* communications.

As you are aware, the Commission decided to proceed with the meeting, holding it as scheduled on February 7th. The purpose of the meeting was to address, generically, the issue of steam generator tube degradation. A complete webcast of the meeting is available for viewing on NRC's public website at <http://video.nrc.gov/>.

The agency took precautions to ensure that the meeting would not address pending disputed issues involving SONGS. First, on February 5, 2013, the Office of the Secretary advised the meeting participants in writing that they must not address either of the two pending disputed issues being addressed by an Atomic Safety and Licensing Board, namely: (1) whether NRC's March 27, 2012, Confirmatory Action Letter to Southern California Edison regarding SONGS constitutes a *de facto* license amendment that would trigger a hearing opportunity under the Atomic Energy Act, and (2), if the letter is a *de facto* license amendment giving rise to a hearing opportunity, whether your organization's pending intervention petition satisfies the procedural requirements for a petition to intervene. Second, at the outset of the February 7th meeting, the NRC Chairman reiterated this reminder, again specifying the pending disputed issues and cautioning participants not to discuss them.

Nonetheless, if there were an *ex-parte* communication, the agency would be required to serve the parties in the adjudicatory proceeding with a copy of the communication. 10 C.F.R. § 2.347(c). Out of an abundance of caution, the Office of the Secretary will be serving the NRC transcript of the February 7th public meeting on all the parties to the SONGS proceeding to address any *ex parte* concerns.

Sincerely,

A handwritten signature in black ink that reads "Annette Vietti-Cook".

Annette L. Vietti-Cook