

April 26, 2013

The Honorable Barbara Boxer
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510

Dear Madam Chairman:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter of April 9, 2013, as a follow-up to my letter dated February 8, 2013. In your letter, you seek confirmation that we will complete our ongoing efforts to fully investigate the issues regarding steam generator tubes at the San Onofre Nuclear Generating Station (SONGS) and will provide a full opportunity for public participation before the NRC takes any action that could lead to any restart of SONGS. In particular, you express specific concerns about Southern California Edison's (Edison's) April 5, 2013 license amendment request for Unit 2.

I want to assure you that the NRC will not approve the amendment request unless it concludes there is reasonable assurance that public health and safety will not be endangered and that such approval will not be inimical to the common defense and security.¹ I also want to emphasize that even if the NRC approves a license amendment for SONGS Unit 2, that decision would not authorize restart of SONGS Unit 2. Edison must meet the terms of the NRC's March 27, 2012 Confirmatory Action Letter before returning SONGS Units 2 or 3 to service.

You have expressed concern about Edison's recent license amendment request for SONGS Unit 2 and opportunities for the public to participate in the license amendment review process. I want to assure you that the NRC recognizes the importance of providing opportunities for the public to be engaged in these matters. For example, at the most recent public meeting held on April 3, 2013, members of the public were able to ask questions on Edison's plans to submit the license amendment for more than 90 minutes.

Regarding Edison's license amendment request specifically, on April 16, 2013, the NRC published in the *Federal Register* a notice of this request. The public may request a hearing on the proposed amendment, and submit comments concerning the proposed "no significant hazards consideration" analysis and determination.

¹ The issuance of an amendment is governed by Section 189a of the Atomic Energy Act of 1954, as amended, which allows members of the public to request a hearing. Section 189a(2)(A) permits the NRC to make immediately effective any amendment to an operating license approved by the agency upon a determination by the Commission that such amendment involves "no significant hazards consideration," notwithstanding a request for a hearing or a hearing pending before the Commission. This determination does not prejudge the NRC's final public health and safety decision to grant or deny the amendment request.

The NRC will consider all public comments received within 30 days after the publication of the April 16, 2013 notice before making any final determination. The public has 60 days after the publication of the April 16, 2013 notice to request a public hearing on Edison's amendment request. In this matter, the NRC will not make a determination regarding approval of the license amendment, nor issue a final "no significant hazards consideration" determination, until at least 60 days after publication of the notice.

As I stated in my February 8 letter, the NRC continues to use a variety of regulatory actions to ensure that the agency comprehensively addresses the issues that have arisen at SONGS. Among its actions in this regard, the agency is actively assessing Edison's response to the Confirmatory Action Letter and subsequent NRC requests for additional information. The staff is also conducting inspections and completing its technical review of operational assessments for the steam generators. Consistent with my October 12, 2012 letter, please be assured that the NRC will continue these independent, in-depth inspections and detailed technical reviews of the issues at SONGS, and will not permit SONGS Units 2 or 3, respectively, to restart until the agency has concluded that that the respective unit is safe to operate and is in compliance with NRC regulations.

Both the NRC Office of Investigations (OI) and the NRC Office of the Inspector General (OIG) are conducting independent investigations at SONGS. Each of these ongoing investigations focuses on allegations of willful wrongdoing and is separate in scope and purpose from the NRC staff's ongoing safety evaluations. While these investigations are not focused on technical safety issues concerning the steam generators at SONGS, let me be clear that any information that appears to have the potential to impact public health and safety will be immediately provided by the investigators to the NRC staff.

Information from ongoing investigations is sensitive and not publicly released. The NRC staff, however, will document in its technical safety evaluations and determinations information it considered and evaluated.

Finally, I am conducting weekly status meetings with the NRC staff to be kept apprised of all the steps the agency is taking to ensure public safety with regard to SONGS. Our Office of Congressional Affairs will continue to update your staff regarding NRC actions, planned public meetings, and other new information related to SONGS. If you need any additional information, please contact me or Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

/RA/

Allison M. Macfarlane

cc: Senator David Vitter

Identical letter sent to:

The Honorable Barbara Boxer
Chairman, Committee on Environment
and Public Works
United States Senate
Washington, D.C. 20510
cc: Senator David Vitter

The Honorable Edward J. Markey
Ranking Member, Natural
Resources Committee
United States House of Representatives
Washington, D.C. 20515