

May 24, 2013

Richard E. Ayres
Counsel to Friends of the Earth
1707 L Street, N.W., Suite 850
Washington, D.C. 20036

Dear Mr. Ayres:

On behalf of the U.S. Nuclear Regulatory Commission, I am responding to your April 11, 2013 letter, which references the Friends of the Earth's (Friends) adjudicatory proceeding regarding the San Onofre Nuclear Generating Station (SONGS) Confirmatory Action Letter. You ask that the NRC Commissioners promptly post their calendars on the NRC website in order to assure the public that they have not had improper *ex parte* communications with any party to this adjudication. In particular, you ask that the Commissioners post information on each party with whom the Commissioner has met, the subject of the meeting, and any materials provided to the Commissioner in relation to the meeting.

Commissioners, like all Commission adjudicatory employees, may not engage in off-the-record (*i.e.*, *ex parte*) communications relating to the merits of any pending adjudication, as provided by agency regulations in 10 C.F.R. § 2.347. The Commission fully appreciates the importance of this prohibition in ensuring that our appellate process is fair and fully transparent and, therefore, maintains awareness of all agency adjudications to ensure that the merits of ongoing proceedings are not discussed in meetings with NRC staff involved in the subject litigation, parties to the proceeding, or members of the public. Nevertheless, our regulations provide that, in the event that *ex parte* contacts do occur, the communication and any response must be promptly served on the parties and placed in the public record of the proceeding.

The Commission is aware of Friends' pending adjudicatory proceeding regarding the SONGS Confirmatory Action Letter. As with any adjudication, each Commissioner takes precautions to ensure that he or she does not discuss the merits of that adjudication with anyone where the exchange would constitute *ex parte* communications.

NRC Commissioners handle their calendars according to their individual preferences; some are posted on the NRC website and others are not. Nonetheless, Commission records, including calendar entries relating to meetings with NRC licensees, are accessible to the public, subject to certain exceptions and exclusions, as provided by the Freedom of Information Act (FOIA). The agency is currently processing Friends' FOIA request for, among other things, records of all meetings between Southern California Edison and NRC Commissioners regarding the replacement of steam generators at SONGS.

Sincerely,

/RA/

Allison M. Macfarlane