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ASLB: San Onofre Confirmatory Action Letter Process Offers Opportunity for Adjudicatory Hearing

The Atomic Safety and Licensing Board (ASLB) has decided partially in favor of a public interest group that petitioned for a hearing on the NRC's Confirmatory Action Letter process regarding steam generator issues at the San Onofre nuclear power plant in California. The ASLB is a three-member board of administrative judges independent of the NRC staff that conducts adjudicatory hearings on major agency licensing actions.

The board's decision concludes that this particular Confirmatory Action Letter process, in which San Onofre seeks to restart Unit 2, is effectively a license amendment proceeding. Therefore the Atomic Energy Act and NRC rules give the public the opportunity for an adjudicatory hearing. The Board's decision provided the public interest group, Friends of the Earth, with the relief it requested – namely, the opportunity for a hearing on the license amendment. Accordingly, the Board's decision terminates the proceeding at the Board level. The Board also offered reasons why this decision applies only to the unusual facts in the San Onofre process and not to the whole category of Confirmatory Action Letters.

San Onofre discovered unexpectedly severe levels of wear in its steam generator tubes in early 2012, and the NRC issued the Confirmatory Action Letter in March 2012 to ensure the plant would appropriately explain and account for the steam generator wear before the plant could restart. In June 2012, Friends of the Earth asked the five-member Commission in charge of the agency to require an adjudicatory hearing. The Commission instructed the ASLB in November 2012 to examine whether the NRC's procedures mandated an adjudicatory hearing in this particular case. On March 22, 2013, the board heard arguments from the plant owner, Southern California Edison, from Friends of the Earth, and from NRC legal staff.

Southern California Edison applied for a related license amendment on April 5, 2013, and the NRC issued a *Federal Register* notice on April 16, providing the public the opportunity to request a hearing.

The ASLB's decision can be appealed to the Commission. Documents related to the [San Onofre steam generator issue](#) are available on the NRC website. Documents regarding this ASLB proceeding, including today's decision, will be available on the NRC's [Electronic Hearing Docket](#) by clicking on the folder entitled "San_Onofre_50-361&50-362-CAL" on the left side of the page. More information about the [role of the ASLB](#) in the licensing process is available on the NRC website.

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