

May 15, 2014

10 CFR 50.90
10 CFR 50.73; 73.51 and 73.55
18 U. S. C. 922 note
42 U. S. C. 2201a

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington D.C. 20555-0001

Subject: **Docket Nos. 50-361 and 50-362**
Responses to Requests for Additional Information on Federal Preemption
San Onofre Nuclear Generating Station, Units 2 and 3

- References:
1. NRC Order EA 13-092 dated June 5, 2013, Order Designating an Interim Class of NRC-Licensed Facilities that are Eligible to Apply to the Commission for Authorization to Use the Authority Under the Provisions of Section 161a of the Atomic Energy Act of 1954, as Amended
 2. Letter from Douglas Bauder (SCE) to NRC dated August 31, 2013, Amendment Applications 264 and 249
 3. Letter from Tom Palmisano (SCE) to NRC, dated December 31, 2014, Notification of Firearms Background Check Completion
 4. NRC Requests for Additional Information from Michelle Evans (NRC) to the Interim Eligible Class NRC Licensed Facilities, dated May 1, 2014

Dear Sir or Madam:

Southern California Edison (SCE) requested (Reference 2) preemption under Section 161A of the Atomic Energy Act of 1954 as Amended, to resolve conflicts between Local, State and/or Federal Law and NRC Imposed Security Requirements at the San Onofre Nuclear Generating Station (SONGS). NRC Order EA 13-092 (Reference 1) identified SONGS as an eligible facility and established the requirements for seeking such preemption.

SONGS established the specific programmatic requirements such as records retention, notification requirements and reinvestigations detailed in Attachment 3 of EA 13-092 and began processing the requisite background checks necessary to comply with Section 103(b) of the Brady Handgun Violence Prevention Act (Public Law 103-159, 18 U.S.C. 922 note). On December 31, 2013 (Reference 3) SCE notified the NRC that a sufficient number of personnel had successfully completed the requisite firearms background checks as of December 9, 2013 as required by EA 13-092, Attachment 3.

SCE did not and was not aware of a need to explicitly confirm completion of or compliance with the other items in Attachment 3. Reference 4 requested that SCE and the other reactor licensees confirm compliance with a number of these requirements. Attachment 1 to this letter provides the requested confirmation(s).

If there are any questions or if additional information is needed, please contact Mr. John Brabec at (949)368-7418.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 5/15/2014
(Date)

Sincerely,



Attachment

1. Responses to Requests for Additional Information in Support of Amendment Requests 264 and 269

cc: Mark Dapas, Regional Administrator, NRC Region IV
M. Chernoff, NRC Project Manager, San Onofre Units 2 and 3 Decommissioning
E. Jones, NRC Senior Project Manager, Division of Operating Reactor Licensing
R. E. Lantz, NRC Region IV, San Onofre Units 2 and 3
G. G. Warrick, NRC Senior Resident Inspector, San Onofre Units and 2

ATTACHMENT 1
RESPONSES TO REQUESTS FOR ADDITIONAL INFORMATION IN SUPPORT OF
AMENDMENT REQUESTS 264 AND 269

REQUEST FOR ADDITIONAL INFORMATION
PREEMPTION AUTHORITY

1. On June 5, 2013, the U.S. Nuclear Regulatory Commission (NRC or Commission) issued Order EA-13-092 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML 13121A459), (the Order), designating certain NRC licensed facilities as eligible to request preemption authority. Attachment 3 of the Order contained requirements in support of conducting firearms background checks. Verification that these items are complete or will be completed prior to implementation of preemption authority, should it be granted, is required.

General Response:

As part of the development and processing of license amendment requests, the SONGS standard practice is to establish an implementation plan. That was true in this case. Following receipt of Order EA-13-092, the specific attributes identified in Attachment 3 were implemented to varying degrees of formality (standing orders or otherwise). Additional formal procedure changes were anticipated but had not yet been processed as revisions at the time Southern California Edison (SCE) requested preemption authority pursuant to Order EA-13-092. Upon receipt of these Requests for Additional Information (RAIs), SONGS Security Staff revisited each and processed the necessary revisions. Thus, each RAI response indicates that no further revisions are required.

Specific RAIs and Responses:

- a. Address whether the site training and qualification program has been revised, or is being revised, to provide each individual with instructions on identifying events or status that would disqualify the individual from possession or use of firearms and the continuing responsibility of each individual to promptly notify the licensee of the occurrence of any such event or status. If the training and qualification program is not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Further revisions to the training and qualification procedures are not necessary. Procedure SO123-SE-1, Security, and Procedure SO123-IV-5.200, Security Training Program Description, requires Members of the Security Organization (MSO) who have duties in which a firearm is required, to report any event or status change that could disqualify them from carrying or possessing a firearm to security management within three days of the occurrence or existence of such disqualifying event or status change. Additionally, armed MSOs are required to annually acknowledge their understanding of the requirements as well as reviewing a description of the disqualifying events.

- b. Verify that either the security plan and/or associated security procedures currently require or shall require, for the purpose of assuring correct and complete information, that the licensee shall provide to each individual the contents of records obtained from the Federal Bureau of Investigation (FBI) before making any final adverse determination. If the security plan and/or associated security procedures are not being revised, provide an explanation

ATTACHMENT 1

why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. SO123-XXIII-4.2, Personnel Screening Programs for Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, require for the purpose of assuring correct and complete information, that the licensee shall provide to each individual the contents of records obtained from the Federal Bureau of Investigation (FBI) before making any final adverse determination.

- c. Verify that either the security plan and/or associated security procedures currently require or shall require that confirmation of receipt by the individual of the contents of records obtained from the FBI must be maintained by the licensee for a period of five years from the date of the notification. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, and SONGS Record Processing Agreement (RPA) 14-002, National Instant Criminal Background Check System (NICS) Investigations/Records Pertaining to SONGS Security Officers, requires confirmation by the individual of the contents of the records obtained from the FBI, and requires maintenance of these records for a period of five years from the date of the notification from the FBI.

- d. Verify that either the security plan and/or associated security procedures currently require or shall require the retention of a copy of all information submitted and received for firearms background checks for a minimum of five years after the information is superseded through periodic reinvestigation or the termination of an individual's access to firearms. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, and SONGS Record Processing Agreement (RPA) 14-002, National Instant Criminal Background Check System (NICS) Investigations/Records Pertaining to SONGS Security Officers, require the retention of a copy of all information

ATTACHMENT 1

submitted and received for firearms background checks for a minimum of five years after the information is superseded through periodic reinvestigation or the termination of an individual's access to firearms.

- e. Verify that either the security plan and/or associated security procedures currently require or shall require that as of 180 days after the effective date of Commission Order EA-13-092, which was December 22, 2013, the licensee shall not assign any individual to any armed duties unless the individual has completed a satisfactory firearms background check. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. Procedure SO123-SE-1, Security, and Procedure SO123-IV-5.200, Security Training Program Description, SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, prohibits any individual being assigned any armed duties unless the individual has completed a satisfactory FBI NICS Firearm Background Check. Additionally, Procedure SO123-IV-5.200, Attachment 3 identifies the required training for armed officers, which includes the requirement that an officer be listed as qualified in the SONGS training and qualification data base. To be listed as qualified in this training database, the officer must have received a satisfactory firearms background check.

- f. Verify that either the security plan and/or associated security procedures currently require or shall require that the licensee remove from armed duties, without delay, any individual who has received a "denied" response from the FBI and that the licensee may return an individual to armed duties only after the individual receives a "proceed" response from the FBI, subsequent to receiving a "delayed" or "denied" response. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. Procedure SO123-SE-1, Security, and Procedure SO123-IV-5.200, Security Training Program Description, SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, requires SONGS Security to remove from armed duties, without delay, any individual who has received a "denied" response from the FBI and that SONGS Security may return an individual to armed duties only after the individual receives a "proceed" response from the FBI, subsequent to receiving a "delayed" or "denied" response.

ATTACHMENT 1

- g. Verify that either the security plan and/or associated security procedures currently require or shall require that all personnel subject to a firearms background check be provided with instructions for appealing "delayed" or "denied" responses and that **these instructions will continue to be provided to all personnel subject to a firearms background check**. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. Procedure SO123-IV-5.200, Security Training Program Description, SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, require that all personnel subject to a firearms background check be provided with instructions for appealing "delayed" or "denied" responses and that these instructions will continue to be provided to all personnel subject to a firearms background check.

- h. Verify that either the security plan and/or associated security procedures currently require or shall require all personnel subject to a firearms background check to notify the licensee's security management within three working days of the occurrence or existence of any disqualifying event or status. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require revision. Procedure SO123-SE-1, Security, and Procedure SO123-IV-5.200, Security Training Program Description, require all personnel subject to a firearms background check to notify the licensee's security management within three working days of the occurrence or existence of any disqualifying event or status.

- i. Verify that either the security plan and/or associated security procedures currently require or shall require that the licensee remove from armed duties, without delay, any individual for whom disqualifying information has become known or where a satisfactory firearms background check reinvestigation has not been completed. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. Procedures SO123-SE-1, Security, and SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access, and Form AD(123) 42-1, Receipt of "Delayed" or "Denied" Federal Bureau of Investigation (FBI), National Instant Criminal Background Check System (NICS) Investigation or Re-investigation Checklist, require that the

licensee remove from armed duties, without delay, any individual for whom disqualifying information has become known or where a satisfactory firearms background check reinvestigation has not been completed.

- j. Confirm that the removal from armed duties of any individual for whom disqualifying information has become known or where a satisfactory firearms background check reinvestigation has not been completed, will be completed within the timeframe specified for reconstitution of the minimum security organization staffing levels described in the licensee's current NRC-approved security plans, or sooner if practicable. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Neither the SONGS Physical Security Plan (PSP) nor associated procedures require further revision. The removal from armed duties of any individual for whom disqualifying information has become known or where a satisfactory firearms background check reinvestigation has not been completed, will be completed within the timeframe specified in the SONGS PSP. The SONGS PSP and SO123-IV-13.100, Security Tactical Response Plan, requires SONGS Security to maintain specified minimum Security organization staffing levels. The SONGS Safeguards Contingency Plan (SCP) and procedure SO123-IV-6.8.5, Security Compensatory Measures establishes the actions the on-duty Security Shift Supervisor is to take if the on-duty staffing levels fall below the minimum number of staff committed to in the SONGS PSP. These documents ensure that the minimum number of staff committed to in the PSP are reconstituted within the required timeframe should the numbers fall below the minimum security organization staffing levels.

- k. Verify that either the security plan and/or associated security procedures currently require or shall require that all individuals who require access to firearms as part of their official duties complete a periodic firearms background check re-investigation at least once every five years, following the initial or most recent satisfactory firearms background check. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. Procedure SO123-XXIII-4.2, Personnel Screening Programs For Unescorted Access and Safeguards Information Access require that all individuals who require access to firearms as part of their official duties complete a periodic firearms background check re-investigation at least once every three years, following the initial or most recent satisfactory firearms background check. The SONGS requirement is more restrictive than required by Order EA-13-092, as it aligns the firearm background check with the Access Authorization background check that is performed every three years.

ATTACHMENT 1

- I. Verify that either the security plan and/or associated security procedures currently require or shall require that the licensee shall complete a "new" firearms background check or reinvestigation for all individuals who have had a break in employment of greater than seven consecutive calendar days or who have transferred to the employment of the licensee or the licensee's contractor. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. Procedure SO123-XXIII-4.2, Personnel Screening Programs for Unescorted Access and Safeguards Information Access require that the licensee shall complete a "new" firearms background check or reinvestigation for all individuals who have had a break in employment of greater than seven consecutive calendar days or who have transferred to the employment of the licensee or the licensee's contractor.

- m. Verify that either the security plan and/or associated security procedures currently require or shall require that the licensee will notify the NRC Headquarters Operations Center by telephone within 72 hours after removing an individual from armed duties as a result of the discovery of any disqualifying status or event. If the security plan and/or associated security procedures are not being revised, provide an explanation why and/or identify the existing security plan or site procedure that contains the appropriate instructions.

Response:

Security procedures do not require further revision. SONGS security procedure SO123-IV-11.2, Reporting Safeguards Events, currently requires SONGS to notify the NRC Headquarters Operations Center by Telephone within 72 hours after removing an individual from armed duties as a result of the discovery of any disqualifying status or event.