

September 24, 2014

MEMORANDUM TO: Michael A. Dusaniwskyj, Acting Chief  
Financial Analysis and International Projects Branch  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation

FROM: Richard H. Turtill, Senior Financial Analyst */RA/*  
Financial Analysis and International Projects Branch  
Division of Inspection and Regional Support  
Office of Nuclear Reactor Regulation

SUBJECT: SUMMARY OF SEPTEMBER 15, 2014, MEETING BETWEEN  
U.S. NUCLEAR REGULATORY COMMISSION STAFF AND  
BRUCE LACY, LACY CONSULTING GROUP, LLC.

Staff from the Financial Analysis and International Projects Branch (IFIB), Division of Inspection and Regional Support, Office of Nuclear Reactor Regulation (NRR), from the Office of the general Counsel, and from the Plant Licensing IV-2 and Decommissioning Transition Branch, Division of Operator Reactor Licensing, NRR, met with Mr. Bruce Lacy on September 15, 2014, to answer his questions about the management of and commingling of funds within the decommissioning trusts maintained by power reactor licensees per Title 10 of the *Code of Federal Regulations* Section 50.75, "Reporting and recordkeeping for decommissioning planning." The meeting was arranged per a request from Mr. Lacy following his phone calls to IFIB staff to better understand the U.S. Nuclear Regulatory Commission's requirements governing decommissioning trust fund assets and their disposition. Mr. Lacy has a particular interest in the decommissioning trusts affiliated with Southern California Edison's San Onofre Nuclear Generating Station, Units 2 and 3, and the commingled funds within those trusts. Enclosed is a summary of that meeting. Should you have questions, please contact me at 301-415-2308.

Enclosure:  
Meeting Summary

CONTACT: Richard H. Turtill, NRR/DIRS  
301-415-2308

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SUMMARY OF SEPTEMBER 15, 2014 MEETING BETWEEN NRC STAFF AND BRUCE LACY, LACY CONSULTING GROUP, LLC.

Attendees at the meeting, which was held in person at the U.S. Nuclear Regulatory Commission (NRC) Headquarters in Rockville, Maryland, included:

Bruce Lacy, Lacy Consulting Group, LLC  
Susan L. Uttal, Office of the General Counsel  
Michael A. Dusaniwskyj, Office of Nuclear Reactor Regulation (NRR)  
Anneliese Simmons, NRR  
Richard H. Turtill, NRR  
Eric Olvera, NRR  
Thomas J. Wengert, NRR

The meeting convened at 3:50 pm on September 15, 2014.

After initial introductions, Mr. Lacy inquired of the assets currently held within the decommissioning trust fund accounts, as required per Title 10 of the *Code of Federal Regulations* (10 CFR) Section 50.75, "Reporting and recordkeeping for decommissioning planning," for Southern California Edison's (SCE) San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, and the possible return of possible excess funds within the trust to ratepayers.

As explained by Mr. Lacy, his interest in the possible disposition of these funds back to ratepayers stems from his various roles advising California utility stakeholders, including the public utility commission and California's "The Utility Reform Network," a consumer advocacy organization that represents the customers of California's utilities.

Mr. Lacy and staff discussed the likely over-funding of the trust accounts by SCE, coupled with the commingling of funds for spent fuel management, non-radiological decommissioning, and radiological decommissioning within the trust's accounts. Currently, the trust asset amounts, including projections for future asset growth, reflect billions of dollars more than required to meet NRC's minimum trust amounts for radiological decommissioning.

Staff highlighted to Mr. Lacy a recent SCE request (letter dated February 13, 2014; Agencywide Documents Access Management System (ADAMS) Accession No. ML14051A632), for exemptions from Section 50.82(a)(8)(i)(A) and Section 50.75(h)(2) of 10 CFR Part 50. The exemptions would permit withdrawal and the use of a portion of the funds in the SCE Decommissioning Trust Funds for financing irradiated fuel management and site restoration activities.

Staff cited that these exemptions were recently granted (September 5, 2014, see ADAMS Accession No. ML14101A141), permitting:

"... the use of San Onofre Nuclear Generating Station (SONGS), Units 2 and 3, decommissioning Trust funds for purposes other than decommissioning activities and would allow the licensee to use withdrawals from the decommissioning Trust funds [for irradiated fuel management and site restoration activities] without prior notification to the NRC."

Enclosure

In evaluating the exemption request, the NRC determined that there is reasonable assurance of sufficient financial resources in the Trusts to complete decommissioning activities. NRC concluded that it would not allow use of the funds for any other purpose that is not currently authorized in the regulations. Accordingly, the NRC staff reiterated to Mr. Lacy that release of funds for decommissioning activities and for uses stipulated in the exemption (for irradiated fuel management and site restoration activities) would be authorized, but that no other such release of funds is authorized at this time. The return of assets from the trust to ratepayers could not be allowed until the facility was decommissioned and the NRC license was terminated.

Following this discussion, the meeting was adjourned at 5:05 pm on September 15, 2014.