

**United States Nuclear Regulatory Commission
United States of America**

-) **10 CFR § 2.206 Request for**
 -) **Action - Supplement #1**
 -)
 -) **Request for Revocation: Coastal Development**
 -) **Permit No.-015-0228 for Southern California**
 -) **Edison Dated Oct 12 2015; Safety Element**
 -) **Of Permit Under U.S.NRC Jurisdiction**
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In accordance with *10 CFR § 2.206 Requests for Action Under This Subpart*, the following evidence is hereby submitted to the United States Nuclear Regulatory Commission (NRC) of serious violations of Federal Law passed to protect the public’s safety; those violations therefore now pose an immediate threat to public safety at the Southern California Edison (SCE) San Onofre Nuclear Generating Station (SONGS) Independent Spent Fuel Storage Installation (ISFSI):

EXHIBIT A - NRC Email Response Dated 12/20/19

On December 20, 2019 an email was received from Chris Allen. The following information is hereby submitted in response to clarify the filing based upon the responses and supplement the filing with newly released information since the original submission.

Item #1: “The Petition Review Board (PRB) has evaluated the 2.206 Petition you submitted on August 3, 2019 regarding loading of spent fuel at the San Onofre Nuclear Generating Station (SONGS) and the use of the UMAX independent spent fuel storage installation design. The PRB assessed whether the petition meets the applicable acceptance criteria in NRC’s Management Directive (MD) 8.11. Based on the PRB’s initial assessment, it appears that all of the issues raised in your petition either have already been the subject of NRC staff review and do not raise concerns that the NRC staff has not considered and resolved or are not appropriately addressed in the 2.206 process. Accordingly, as discussed further below, our preliminary decision is not to accept the petition for review.”

Response: Petitioner hereby requests documentation that the NRC has conducted third party verified ASME compliant investigation into the field conditions of the Holtec canisters in response to the admission by Dr. Kris Singh at the 1/19/19 NRC Pre-decisional Enforcement Conference (PEC) Webinar where Dr. Singh admitted on record to “manufacturing incompetence” of Holtec equipment currently in use at the ISFSI site. This admission directly invalidates all Holtec warranties and claims of safety and directly into question whether the canisters installed actually conform to the Certificate of Compliance and Technical Specifications. After an admission of this magnitude by the Holtec, the NRC has a legal

responsibility to hold them to the burden of proof by means of third-party verified ASME compliant test results documenting the steel they manufactured and subsequently used for the canisters meets the specifications required for the certificate of compliance. To date, no evidence has been presented to the public by Holtec or the NRC that this testing has ever occurred after the manufacturing incompetence admitted to by Holtec was first discovered rendering the canisters defective as installed and in violation the CoC/TS for this project.

Until such time as an independent ASME certified third party testing laboratory can be procured by the Licensee to verify the condition of the manufactured steel used to build all canisters under this permit, the NRC will be unable to meet Directive 8.11-02, Objectives, that states “To ensure the public health and safety through the prompt and thorough evaluation of any potential problem addressed by a petition filed under 10 CFR 2.206.” and must immediately place a cease and desist order on the project.

Source

<https://www.nrc.gov/reading-rm/doc-collections/petitions-2-206/mdo8-011.pdf>

Item #2: “The NRC staff has continued to carefully regulate the licensee’s decommissioning activities at SONGS, including through its review of the fuel storage facility design, inspections (encompassing the physical facility as well as the licensee’s operational performance), and appropriate enforcement actions. More specifically, NRC staff performed a thorough review of the UMAX Independent Spent Fuel Storage Installation (ISFSI) design used at SONGS, a design the NRC approved in 2017 through a public rulemaking. In addition, NRC Staff from Headquarters and Region IV continually perform oversight to ensure that the storage of spent nuclear fuel at SONGS does not pose a threat to public health and safety. NRC inspections of decommissioning activities at SONGS are documented in inspection reports that are publicly available. Inspections at SONGS have specifically considered events described in your petition regarding the licensee’s fuel loading operations, potential scratching of the fuel canisters, and training of SCE employees (see for example, ADAMS ML19190A217). The NRC’s regulatory response included a detailed assessment of the significance of the events, specific enforcement actions, and subsequent consideration of the licensee’s corrective actions.”

Response: This statement directly contradicts the following statements made by NRC employees: 1/24/19 NRC PEC Webinar with SCE The NRC held a PEC Webinar in the final step of the process to determine what punitive action, if any, will be taken against SCE’s documented failure to obey Federal law involving the transfer of nuclear waste at SONGS. According to Scott Morris, the new NRC Regional Administrator for Region IV where the SONGS ISFSI is located, "Management failed to recognize the complexity and risks associated with a long-duration fuel transfer campaign, while using a relatively new system design,". Morris then posed the question to SCE "How do you justify that as a root cause?" SCE admitted that it was guilty of poor planning and lack of senior management and oversight. As previously stated, any assertion of their ability to move forward without further incident is not

credible and presents a clear threat to public safety.

The PRB statements directly contradict the assessment made by the Regional Administrator and the assumption of trust for SCE and its contractors to self-correct and self police are not only unwarranted, they are flagrantly irresponsible and directly violate the NRC's own mission statement.

The NRC once again put unwarranted trust in the Licensee while ignoring its own personnel tasked with overseeing the safety of this project as evidenced in an article published by the Los Angeles Times on 9/22/19 which stated:

“Federal inspectors found many of the waste-filled canisters had been scraped and scratched as they were lowered into the interim storage facility. Even so, the U.S. Nuclear Regulatory Commission allowed the waste transfer program to resume in July. Documents recently obtained by the San Diego Union-Tribune show that an agency field inspector reviewing the August 2018 incident issued internal reports noting that the canisters were designed — and certified — to be lowered into the storage vault without any scratches.

NRC inspector Lee Brookhart wrote that the required final safety analysis report and the certificate of compliance and technical specifications call for no scratches on the caskets. “The original FSAR (final safety analysis report) statement for no scratches mirrored the CoC/TS (Certificate of Compliance and Technical Specifications) design basis that no scratches would ensure the code adherence,” Brookhart wrote in March.

NRC officials did not respond Friday to questions about those internal reports. An Edison spokesman said the utility is fully compliant with federal regulations and the reloading work has been proceeding safely. Edison spokesman John Dobken said Friday that the utility is following federal rules. “There’s another process available for licensees: 72.48,” Dobken said, referring to the U.S. Code of Federal Regulations section that allows a licensee to make changes in procedures or design of the casks used to store spent nuclear fuel. “That’s what we used to account for the incidental contact going forward,” he said. The regulation is here: <https://www.nrc.gov/reading-rm/doc-collections/cfr/part072/> Dobken said that the company visually inspected eight of the canisters and found no evidence that the scratches would prevent the containers from safely storing spent nuclear fuel.

The canisters Edison is relying on to store spent fuel are licensed to be used for two decades. The current plan calls for eventually moving the canisters away from San Diego once a more permanent storage site is agreed upon. But critics of the process worry that the scratches outside so many of the canisters could make them difficult to move. “If you have scrapes, scratches and gouges, that is a trigger for cracks to start,” said Donna Gilmore, an activist in San Clemente who heads a community group called San Onofre Safety.

Brookhart, the NRC inspector, concluded in March that a formal design change would be required to allow the canisters to remain in service. Instead of pursuing changes to the approved canister design process, Edison relied on a different safety standard to argue that its existing methods are compliant and safe. Brookhart did not agree that a different methodology would satisfy the requirements

of the canisters' previous certification.

"I just don't see how that meets CoC," the NRC inspector said. "... Essentially the change [in methodology] is adding an alternative to the code to not have to do inspections and repair these new defects." Brookhart's supervisors at the regulatory agency did not embrace the inspector's conclusions. On July 15, the commission allowed Edison to restart the fuel transfer program and move forward with decommissioning the plant. "The licensee implemented an oversight program to ensure that contractors conducted decommissioning work activities in accordance with procedural requirements as well as license expectations," the NRC said in a report to an Edison vice president, Doug Bauder. "The licensee implemented operational, radiological and housekeeping programs to ensure safe storage of spent fuel," senior regulators concluded."

Source

<https://www.latimes.com/california/story/2019-09-22/internal-reports-contradict-nrc-public-findings-at-san-onofre>

Item #3: "As a result, the NRC Staff remains confident that reasonable assurance of adequate protection of the public health and safety is maintained for as long as fuel is stored in accordance with the requirements of the SONGS license, the certificate of compliance for the Holtec system (and any other licensed systems that may be implemented in the future at the SONGS site), and other applicable requirements. The agency is committed to ensuring the continuation of its ongoing regulatory oversight of the facility, as reflected in the NRC's rigorous review of the fuel storage design used at SONGS, together with its well-documented inspection and enforcement activities at the site."

Response: As previously stated in response to Item #1, Holtec has admitted that it is in breach of the certificate of compliance. Additionally, a SCE document titled "*SONGS HI-STORM MPC Visual Assessment Report*" was recently released after being obtained by a *Freedom of Information Act* which exposes that SCE conducted a visual assessment that was "...NOT a formal "inspection" or an activity qualified to ASME Sections III, V, XI or otherwise.". In spite of this fact, the Conclusion section stated "...the scope of the visual assessment is considered adequate. Therefore, even with incidental contact during downloading operations, the SONGS HI-STORM MPCs remain in compliance with all applicable ASME Boiler & Pressure Vessel Code requirements."

This inspection was not done to ASME qualifications and the margin of error in the report could put the SONGS HI-STORM MPC standard of 0.175 inches of available margin for localized losses of shell thickness out of compliance with all applicable ASME Boiler & Pressure Vessel Code requirements. We hereby request the NRC call for an immediate cease and desist order for the project until such time as an independent third party ASME Sections III, V, XI test occurs and confirms that the SONGS HI-STORM MPC standard of 0.175 inches of available margin for localized losses of shell thickness is complied with. The NRC's acceptance of this non-ASME Sections III, V, XI or otherwise qualified visual inspection

report as satisfactory for resuming downloading operations of the canisters is a violation of their mission statement and warrants an immediate cease and desist order be issued to the Licensee for the project.

Source

<http://www.samuellawrencefoundation.org/wp-content/uploads/2019/10/NRC-Visual-Assessment-Report.pdf>

Item #4: “Regarding your concern about the siting of the facility and environmental impacts of the decommissioning activities, NRC Staff concluded in the review of the SONGS Post Shutdown Decommissioning Activities Report (ML15204A383) that these activities are bounded by the previously issued NUREG-0586, "Final Generic Environmental Impact Statement [GEIS] on Decommissioning of Nuclear Facilities" (and its supplements) and did not find any deviations from the previously issued Environmental Statement for SONGS (ML18239A414). Having considered the results of recent inspections and the NRC’s environmental review, the PRB’s initial assessment is that your petition does not meet the criteria in MD 8.11 Section III.C.1(b) to be accepted for review because the issues raised in the petition have been “the subject of a facility-specific or generic NRC staff review” and none of the circumstances in Section III.C.1(b)(ii) apply.

You also requested that the NRC relocate spent fuel away from a military base. The staff has concluded that pursuant to MD Section II.A.2(d)(vi), this request is not appropriate for the 2.206 process because it is outside the NRC’s jurisdiction. Public Law 88-82, referenced in your petition, vests authority in the Secretary of the Navy to determine the appropriateness of granting an easement to SCN for the purpose of siting a nuclear power plant, including all its “appurtenances.” Therefore, the NRC lacks the jurisdiction to take the specific action the Petitioner requests.”

Response: We hereby request documentation from the NRC that shows correspondence from the Secretary of the Navy where approval was granted for the Licensee to place an unsecured ISFSI on a military installation with no engineering or protective consideration against ballistic impact or other potential enemy attack. If no documentation can be produced, we hereby request the NRC conduct an immediate full factual hearing to document whether the Navy considers the ISFSI adequately hardened to withstand enemy attack in time of war since military bases are legitimate targets under the Laws of War. The NRC has demonstrated a clear awareness of the need for the Secretary of the Navy to have jurisdiction over the appropriateness of this location and condition but has not showed its due diligence in securing their approval for the safety element of the approval process. Therefore, until such time as written approval has been procured from the Secretary of the Navy, an immediate cease and desist must be placed on the project due to elevated threat levels from active conflict areas, both internationally and domestically. Failure to do so will document complicity by the NRC in what amounts to a potential weapon of mass destruction being intentionally or unintentionally developed for enemy use against the United States in time of declared or undeclared war on an active military installation.

Wherefore,

As previously requested, the above information confirms the legitimacy of the demands that the NRC revoke CDP No. 9-15-0228 and issue an immediate cease and desist to SCE et. al. Petitioner further insists on a requirement that the permit holder procure safer storage in thick walled, easily transportable canisters and relocate them to a temporary storage site further away from densely populated areas and not on a military installation.

Dated: January 20, 2020

Oceansiders Against San Onofre Corruption

By: William J. Weigel III, Executive Director

Certificate of service

This is to certify that a true and correct copy of the foregoing has been sent via fax and digitally delivered this 20th day of January, 2020, to the Project Manger of the NRC at the following electronic mail address and number:

Chris Allen, Project Manager in the Division of Fuel Management in the Office of Nuclear Material Safety and Safeguards, NRC

William.Allen@nrc.gov