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**Via Email**  
**([FOIA.Resource@nrc.gov](mailto:FOIA.Resource@nrc.gov))**

September 29, 2021

Stephanie A. Blaney  
Freedom of Information Officer  
U.S. Nuclear Regulatory Commission  
Mail Stop TWFN-6 A60M  
Washington, DC 20555-0001

Re: FOIA Appeal re “Final” Response for NRC-2021-000235

Dear Ms. Blaney:

This letter serves as an appeal under the Freedom of Information Act (FOIA) to the Nuclear Regulatory Commission’s (NRC) adverse determination on September 7, 2021 related to request NRC-2021-000235. *See* 5 U.S.C. § 552(a)(6). The request subject to this appeal seeks in relevant part:

All records of communications related to the August 3rd event between NRC agents and agents of the “facility operator” regarding the August 3rd event, for the period August 3, 2018 and September 14, 2018.<sup>1</sup>

On September 7, 2021, the NRC provided its only and “final” response stating that there were “no additional records located that were not already responded to in your previous requests...” Additionally, the NRC represented:

After receiving [Region IV] staff’s response, we double-checked with Scott Morris and Lee Brookhart in an effort to clarify the seemingly inconsistent messages about who participated in the “initial call” from SCE. Apparently, they both received calls from SCE representatives; these calls were not recorded, nor did these individuals memorialize in writing their respective calls.<sup>2</sup>

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<sup>1</sup> Exhibit 1, FOIA request submitted on August 28, 2021.

<sup>2</sup> Exhibit 2, NRC’s “Final” response dated September 7, 2021.

## A. BACKGROUND OF APPEAL

On November 8, 2018, the NRC's Health Physicist, Eric Simpson, admitted the facility operator "failed to note the misalignment, and that the weight of the canister was no longer being supported by the important-to-safety lifting equipment."<sup>3</sup> Mr. Simpson also represented that contrary to 10 CFR 72.75(d)(1), the facility operator "failed to make proper NRC notification of the August 3rd event to the NRC Operation Center, until September 14th..."<sup>4</sup>

On November 29, 2018, NRC's Region IV Regional Administrator, Scott Morris, represented to the Community Engagement Panel:

NRC became aware of this on Monday, August 6th. Informally, we got a call explaining what happened. That began -- that raised some concerns, as you might expect -- I -- I actually was part of that initial call -- and we elected to begin **daily communications with the facility operator** and internally to determine what next steps we needed to take to plan our enhanced oversight activities. The next day in a subsequent phone call I had with Tom, **Tom committed on behalf of Southern California Edison to cease all fuel loading operations** or fuel handling until such time as the NRC had the opportunity to come out and inspect -- inspect and follow-up on the incident.<sup>5</sup>

## B. BASIS OF APPEAL

This appeal follows the NRC's adverse determination wherein the NRC failed to provide all records related to the instant request and failed to conduct a proper search under the FOIA. *See* 5 U.S.C. § 552(a)(6). Agencies have a duty to liberally construe FOIA requests to ensure responsive records are found.<sup>6</sup> To fulfill its search obligations, an agency must "demonstrate beyond material doubt that its search was reasonably calculated to uncover all relevant documents."<sup>7</sup>

Here, the NRC has failed to demonstrate that its search was reasonable to uncover all relevant documents responsive to the instant request. For example, the NRC's Regional Administrator admitted to having "daily communications with the facility operator" and admitted he reached an agreement with the facility operator to "cease all fuel loading operations..."<sup>8</sup> Yet, the NRC now claims there are no written records of either: (1) the daily communications with the facility operator or (2) the informal agreement reached to "cease all fuel loading operations..."

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<sup>3</sup> Exhibit 3, Excerpts of NRC's November 8, 2018, Webinar Transcript.

<sup>4</sup> *Id.*

<sup>5</sup> Exhibit 4, Excerpts of facility operator's November 29, 2018 Community Engagement Panel Transcript, p. 39:10-23 (emphasis added).

<sup>6</sup> *Nation Magazine v. United States Customs Serv.*, 71 F.3d 885, 890 (D.C. Cir. 1995).

<sup>7</sup> *Ancient Coin Collectors Guild v. United States Dep't of State*, 641 F.3d 504, 514 (D.C. Cir. 2011) ("An agency is required to perform more than a perfunctory search in response to a FOIA request.")

<sup>8</sup> Exhibit 4, p. 39:10-23.

The NRC represented these individuals did not “memorialize in writing their respective calls.” However, this request is seeking “all records of communications” between August 3, 2018, and September 14, 2018 between the NRC and facility operator regarding the August 3rd event. Accordingly, the NRC’s search should have included records related to all phone calls and any other types of communication within the requested time period. Since the NRC has admitted there were initial calls, at a minimum, there should be phone records showing the calls made to and from the facility operator including the date and duration of each call. It is imperative the individuals claiming no written records exists be examined under oath. To suggest there are no records related to the NRC and facility operator’s informal agreement to “cease all fuel loading operations” at the subject plant is not credible in light of Mr. Morris’ admission above. Nor is it credible that there are no records of communications related to such an important matter.

The NRC’s response also states that there are “no additional records located that were not already responded to in your previous requests...” citing NRC-2019-000243 and NRC-2019-000343. However, the NRC did not respond to either request cited with the records of communication Mr. Morris identified in his testimony to the Community Engagement Panel on November 29, 2018.<sup>9</sup> The NRC has led the public to believe there were extensive communications about the serious incident at the nuclear power plant and that the NRC had “daily communications with the facility operator and internally” over a lengthy period of time. However, the NRC has failed to produce records regarding these “daily communications” and the NRC’s informal agreement to “cease all fuel loading operations” at the nuclear plant. Rather, the NRC has limited its inquiry to those individuals who have a motive *not* to disclose the contents of such communications. Further, the NRC failed to conduct an adequate search for e-mails, phone records, and provide written statements under oath regarding the same.

Additionally, the NRC’s final response is flawed because the instant request is not just asking about the “initial call.” Rather, the request seeks “all records of communication” between the NRC and facility operator regarding the August 3rd event from August 3, 2018 to September 14, 2018. **Is the NRC representing there are no records of communication between the NRC and the facility operator within the time period requested?**

The NRC has admitted there is an inherent inconsistency between statements made to the public about who participated in the “initial call.” On one hand, the NRC previously represented, “[a]ccording to Lee Brookhart in Region IV, the ‘initial call’ was made to him, alone, on August 6, 2018. After the ‘initial call’ on August 7, 2018, a meeting was established with NRC staff and the licensee, in which the schedulers for the meeting are enclosed. Mr. Brookhart has no phone records or other notes relating to these calls.”<sup>10</sup> On the other hand, NRC’s Regional Administrator Scott Morris admitted to also being on an “initial call” and having “daily communications with the facility operator” including one where the NRC and facility operator reached an agreement to “cease all fuel loading operations...” This inherent inconsistency and

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<sup>9</sup> *Id.*

<sup>10</sup> Exhibit 5, the NRC’s “Final” Response to NRC Request NRC-2019-000343. The response was three pages of e-mails all dated August 7, 2018.

Stephanie A. Blaney  
September 29, 2021  
Page 4

the NRC's failure to provide records underscores the importance of why the records should be promptly released to the public.

Please promptly provide all records of communications sought in this request and provide the specifics of the NRC's searches related to this records request in the time required under the FOIA. When responding, please include [egaglio@amslawyers.com](mailto:egaglio@amslawyers.com) and [mseverson@amslawyers.com](mailto:mseverson@amslawyers.com) in your response to me, [maguirre@amslawyers.com](mailto:maguirre@amslawyers.com).

Thank you.

Very truly yours,

*/s/ Michael J. Aguirre*  
Michael J. Aguirre, Esq.

# EXHIBIT 1

**From:** [Michael Aguirre](#)  
**To:** [FOIA.resource@nrc.gov](mailto:FOIA.resource@nrc.gov)  
**Cc:** [Maria Severson](#); [Elijah Gaglio](#)  
**Subject:** FOIA Request  
**Date:** Saturday, August 28, 2021 6:09:00 PM  
**Attachments:** [image001.png](#)  
[image003.png](#)

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Greetings: On November 8, 2018, [\[1\]](#) NRC Special Inspection Team Leader Eric Simpson stated at an NRC San Onofre Special Inspection Webinar: On August 3rd, a [nuclear waste] canister made contact, and rested on [a] shield ring at the San Onofre Nuclear Generating Station. (August 3<sup>rd</sup> Event) \*\* Mr. Simpson reported, the canister load was unsupported by lifting equipment for approximately 53 minutes.

Mr. Simpson further told the November 8 Webinar that the notification rule [10CFR 72.75(d) (1)] required San Onofre to notify the NRC within 24 hours when important-to-safety equipment is disabled, or fails to function as designed. Simpson stated that contrary to this rule, San Onofre failed to make proper NRC notification of the August 3rd event to the NRC Operation Center, until September 14<sup>th</sup>.

Please seek find here [\[https://www.nrc.gov/reactors/operating/ops-experience/songs-spec-insp-activities-cask-loading-misalignment.html\]](https://www.nrc.gov/reactors/operating/ops-experience/songs-spec-insp-activities-cask-loading-misalignment.html) the audio transcript of Mr. Simpson's comments located on the NRC website as shown here:

- San Onofre Special Inspection Webinar, November 8, 2018:
  - [Slides](#) 
  - [Video](#)  | [Audio Transcript](#)  | [Webinar Chat Room Transcript](#) 

On Thursday November 29, 2018, NRC Regional Administrator, Region IV, Scott Morris told the San Onofre Community Engagement Panel that NRC became “informally” aware of [August 3<sup>rd</sup> Event] on Monday, August 6th. [Nov 29, 2018, San Onofre Community Engagement Panel 31:10-17]

Mr. Morris explained he was part of that initial call and “we elected to begin daily communications with the facility operator and internally” to determine what next steps we needed to take. [Nov 29, 2018, San Onofre Community Engagement Panel 31:10-17] see, <https://www.songscommunity.com/community-engagement/meetings>

Under FOIA for the period August 3, 2018, and September 14, 2018, please provide to me all records of communications related to the August 3<sup>rd</sup> Event between NRC agents and agents of the “facility operator” regarding the August 3<sup>rd</sup> event. We seek these documents in order to inform the public about these important to safety matters at San Onofre. Thank You Mike Aguirre

Michael J. Aguirre  
Aguirre & Severson  
501 West Broadway  
Suite 1050

San Diego, Cal 92101

619 876 5364

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[1] <https://www.nrc.gov/reactors/operating/ops-experience/songs-spec-insp-activities-cask-loading-misalignment.html> audio transcript pp. 10-11.

# EXHIBIT 2



# RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2021-000235

1

RESPONSE TYPE

INTERIM

FINAL

**REQUESTER:**

Michael Aguirre

**DATE:**

09/07/2021

**DESCRIPTION OF REQUESTED RECORDS:**

All records of communications related to the August 3rd event between NRC agents and agents of the "facility operator" regarding the August 3rd event, for the period August 3, 2018 and September 14, 2018

## PART I. -- INFORMATION RELEASED

- The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov> ; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.gov/foiaonline/action/public/home>.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (See Part I.D -- Comments) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Part I.D -- Comments.

## PART I.A -- FEES

AMOUNT
<b>\$0.00</b>

- You will be billed by NRC for the amount indicated.
- You will receive a refund for the amount indicated.
- Fees waived.
- Since the minimum fee threshold was not met, you will not be charged fees.
- Due to our delayed response, you will not be charged search and/or duplication fees that would otherwise be applicable to your request.

## PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). See 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-6 A60M, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to [FOIA.resource@nrc.gov](mailto:FOIA.resource@nrc.gov). You may fax an appeal to (301) 415-5130. Please be sure to include on your submission that it is a "FOIA Appeal." Only a pre-registered user may file an appeal through FOIA Online, <https://foiaonline.gov/foiaonline/action/public/home>. A user who has not registered an account prior to filing the initial FOIA request may still submit an appeal by one of the above mentioned options.

## PART I.C -- REFERENCES AND POINTS OF CONTACT

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at [ogis@nara.gov](mailto:ogis@nara.gov), send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



# RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2021-000235

1

RESPONSE TYPE

INTERIM

FINAL

## PART I.D -- COMMENTS

Upon receipt of your request on August 30, 2021, we tasked Region IV, who has informed us that there are no additional records located that were not already responded to in your previous requests as follows:

NRC-2019-000243 - Records produced in response to NRC-2019-000034 for "all records, and transcripts of reports made via telephone or in writing under CFR Title 10, §72.75 by SCE, Holtec, or their subcontractors involving San Onofre to the NRC; all photographs, video recordings or other recordings and records submitted to the NRC from SCE, Holtec, or their subcontractors involving the ISFSI; and copies of any and all internal NRC reports, call records, notes, or memos involving "Predecision Information" or "Unsecured Load Events" involving the ISFSI between 01/01/18 and 01/29/19.

NRC-2019-000343 - All records of communications between the representative(s) of SCE and representative(s) of NRC who were a part of the "initial call" where SCE informally reported the 08/03/18 incident to the NRC.

After receiving RIV staff's response, we double-checked with Scott Morris and Lee Brookhart in an effort to clarify the seemingly inconsistent messages about who participated in the "initial call" from SCE. Apparently, they both received calls from SCE representatives; these calls were not recorded, nor did these individuals memorialize in writing their respective calls.

Signature - Freedom of Information Act Officer or Designee

**Stephanie A. Blaney**

Digitally signed by Stephanie A. Blaney  
Date: 2021.09.07 14:22:11 -04'00'

# EXHIBIT 3

## **WEBINAR TRANSCRIPT**

This document provides the transcript from a public meeting (webinar) that was held on November 8, 2018, to discuss preliminary observations of an NRC special inspection that was conducted at San Onofre Nuclear Generating Station in September 2018. The inspection was conducted in response to a situation that resulted in the misalignment of a multi-purpose canister loaded with spent fuel at the San Onofre Nuclear Generating Station.

### Hosts of Webinar:

Troy Pruett, Director  
Division of Nuclear Materials Safety  
Region IV

Patricia Silva, Chief  
Inspection and Operations Branch  
Division of Spent Fuel Management  
Office of Nuclear Material Safety and Safeguards

Eric Simpson, Health Physicist  
Fuel Cycle and Decommissioning Branch  
Division of Nuclear Materials Safety  
Region IV

SONGS\_transcript.txt

Eric will outline the NRC's regulatory concerns,  
and our next steps.

While the misalignment event at San Onofre is serious,  
at no time was there an actual load drop,  
and at no time was there a release  
of radioactive material from the multipurpose canister.

Once Eric has completed his presentation,  
the NRC panel will begin responding  
to questions and comments, when multiple questions  
and comments on a similar topic are received,  
the NRC staff monitoring the chatroom will provide  
the panel a representative question or comment.

I'll now turn the presentation over to Eric.

- Good afternoon, I am Eric Simpson,  
a Dry Fuel Storage Inspector of the NRC Region IV office,  
here in Arlington, Texas.

Before we discuss the August 3rd event at San Onofre,  
I would like to acknowledge the other members  
of the NRC Special Inspection Team  
that are not sitting on the panel with us today,  
those members being Marlon Davis, NRC Headquarters Inspector  
for the Division of Spent Fuel Management,  
Chris Smith, a Region IV Engineering Inspector,  
my Branch Chief, Dr. Janine Katanic, and Mr. Lee Brookhart,  
our Senior Dry Fuel Storage Inspector, who has been working  
behind the scenes throughout our efforts.

Let's start with an overview of the  
San Onofre Independent Spent Fuel Storage Installation.

You will hear me refer  
to Independent Spent Fuel Storage Installations as ISFSIs  
for short throughout this webinar.

what you see is an overhead schematic of the San Onofre ISFSI, north is to the left, which places the Transnuclear horizontal ISFSI on the eastern side, and the Holtec UMAX ISFSI on the west, or bottom of the map. The design is a horizontal storage module. San Onofre has 63 horizontal storage modules on this eastern ISFSI pad, 51 of which are loaded with spent fuel in Unit One reactor waste, the other three are empty, to the west of the horizontal ISFSI is the Holtec UMAX ISFSI, spent fuel is stored in stainless steel canisters called multipurpose canisters, or MPCs. Today we will refer to the MPCs simply as a canister. The canisters are stored vertically in the UMAX ISFSI vault. San Onofre has room for 75 canisters in its UMAX ISFSI. San Onofre had about 2,668 spent fuel assemblies stored in its unit two and three spent fuel pools. Currently, about 40% of the spent fuel has been transferred to the UMAX ISFSI. This photo shows what it's like looking down into a UMAX storage vault, what you see are the features of the divider shell, we will discuss this in more detail later, but for now, make a note of the shield ring. During the August 3rd event, a portion of the canister was resting on the shield ring. San Onofre personnel and Holtec contractors failed to note the misalignment, and that the weight of the canister was no longer being supported by the important-to-safety lifting equipment.

which brings us to our findings.

We have two preliminary violations that are being considered for escalated enforcement, those being a preliminary violation for the event itself, San Onofre's license requires that during downloading operations, the canister, MPC, be handled with redundant drop protection features to prevent uncontrolled lowering of the load. Contrary to the requirement, during MPC transfer, when loaded with spent fuel, the licensee failed to ensure the lifting equipment had redundant drop protection features to prevent uncontrolled lowering. Specifically, San Onofre inadvertently disabled the important-to-safety downloaded slings, when personnel lowered the vertical cask transporter crossbeam to the fully seated position, while the MPC was suspended by the shield ring, approximately 18 feet above the fully seated position in the vault.

The second preliminary violation being considered for escalated enforcement is the notification requirement.

10CFR

72.75(d)(1)

requires

that a licensee notify the NRC

within 24 hours when important-to-safety equipment

is disabled, or fails to function as designed.

Contrary to the requirement, San Onofre failed

to make proper NRC notification

of the August 3rd event to the NRC Operation Center,

until September 14th, they were prompted by us

to make the required notification during our inspection.

# EXHIBIT 4

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4TH QUARTER COMMUNITY ENGAGEMENT PANEL  
(REGULAR MEETING)

REPORTER'S TRANSCRIPT OF PROCEEDINGS  
Oceanside, California  
Thursday, November 29, 2018

Reported by:  
Heidi Hummel-Grant  
CSR No. 12556  
JOB No. 3108008  
  
PAGES 1 - 161

1 4TH QUARTER COMMUNITY ENGAGEMENT PANEL  
2 (REGULAR MEETING)  
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10 Transcript of Proceedings, taken at 1938  
11 Avenida Del Oro, Board Room, Oceanside, California,  
12 beginning at 5:27 p.m. and ending at 8:55 p.m., on  
13 Thursday, November 29, 2018, before Heidi Hummel-Grant,  
14 Certified Shorthand Reporter No. 12556.  
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Oceanside, California

Thursday, November 29, 2018, 5:27 p.m. - 8:55 p.m.

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DR. VICTOR: We're going to get started here. 05:27

MR. HEADRICK: Before the meeting starts, I just want to make an explanation about these pretty little cards on your chair. We're providing these to you so that rather than applaud or say something out loud to disrupt the meeting, this is you're positive (indicating), you're for what's being said. This is you're against what's being said (indicating). And hopefully that will facilitate and express our public concerns without being disruptive. 05:28

Thanks. 05:28

THE REPORTER: Who was that?

MR. HEADRICK: San Clemente --

DR. VICTOR: San --

THE REPORTER: Seth --

DR. VICTOR: Gary Headrick from San Clemente Green. 05:28

Thank you very much, everyone, for coming here. My name's David Victor. I'm chairman of the Community Engagement Panel.

This is difficult meeting. We have a very big agenda, very important issues in front of us. So I ask 05:28

1 canister down. So I'll talk about that in the second 06:02  
2 part.

3 DR. VICTOR: Thank you very much.

4 So now I want to give the floor to Scott Morris  
5 from NRC Region IV. Also want to draw your attention to 06:02  
6 the fact that dated yesterday the NRC released their  
7 letter and report of special inspection. That will be  
8 part of what Scott's going to talk about.

9 Scott, the floor is yours.

10 MR. MORRIS: Can you hear me okay? All right good. 06:02

11 Well, first, thank you for inviting me, David,  
12 and appreciate the opportunity to be with the panel.

13 We -- and I wish I could remember your name --  
14 but I was just up in San Luis Obispo in August and met  
15 with the public up there as well. I've not been to a 06:03  
16 Community Engagement Panel before. So I'm happy to be  
17 here and help explain what the NRC does, why we do what  
18 we do, what happened in this -- with our inspection  
19 team, and where we're headed next. So I hope to cover  
20 all that. Maybe not in my short presentation, but 06:03  
21 through the question and answer comment period.

22 Little bit about who I am. So I am the deputy  
23 regional administrator in the NRC's Region IV office.  
24 We're out of Arlington, Texas, and we essentially have  
25 regulatory oversight and responsibility for the western 06:03

1 their own without prompting. That's what we want to 06:12  
2 see.

3 But then comes the August 3rd incident. Now I  
4 want to dig into this. So what am I going to do in the  
5 next ten minutes? I'm going to try to do in ten 06:12  
6 minutes? I'm going to explain to you what we did in  
7 response to the incident, why we did it the way we did  
8 it, and what are the next steps. So -- let's see if  
9 this works. All right.

10 So this is just a quick chronology: NRC became 06:12  
11 aware of this on Monday, August 6th. Informally, we got  
12 a call explaining what happened. That began -- that  
13 raised some concerns, as you might expect -- I -- I  
14 actually was part of that initial call -- and we elected  
15 to begin daily communications with the facility operator 06:13  
16 and internally to determine what next steps we needed to  
17 take to plan our enhanced oversight activities.

18 The next day in a subsequent phone call I had  
19 with Tom, Tom committed on behalf of Southern California  
20 Edison to cease all fuel loading operations or fuel 06:13  
21 handling until such time as the NRC had the opportunity  
22 to come out and inspect -- inspect and follow-up on the  
23 incident. So by the 17th we had gone through -- we had  
24 reviewed all the preliminary information that we have.  
25 We used our management directives, again, to identify 06:13

# EXHIBIT 5



**RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST**

2019-000343

1

RESPONSE TYPE  INTERIM  FINAL

**REQUESTER:**

Michael Aguirre

**DATE:**

07/01/2019

**DESCRIPTION OF REQUESTED RECORDS:**

All records of communications between the representative(s) of SCE and representative(s) of NRC who were a part of the "initial call" where SCE informally reported the August 3rd incident to the NRC

**PART I. -- INFORMATION RELEASED**

- The NRC has made some, or all, of the requested records publicly available through one or more of the following means: (1) <https://www.nrc.gov> ; (2) public ADAMS, <https://www.nrc.gov/reading-rm/adams.html>; (3) microfiche available in the NRC Public Document Room; or FOIA Online, <https://foiaonline.gov/foiaonline/action/public/home>.
- Agency records subject to the request are enclosed.
- Records subject to the request that contain information originated by or of interest to another Federal agency have been referred to that agency (See Part I.D -- Comments) for a disclosure determination and direct response to you.
- We are continuing to process your request.
- See Part I.D -- Comments.

**PART I.A -- FEES**

- |   |  |  |
|---|--|--|
| <p style="text-align: center; margin: 0;"><b>AMOUNT</b></p> <p style="text-align: center; margin: 0;"><b>\$0.00</b></p> | <input type="checkbox"/> You will be billed by NRC for the amount indicated. | <input checked="" type="checkbox"/> Since the minimum fee threshold was not met, you will not be charged fees.   |
|   | <input type="checkbox"/> You will receive a refund for the amount indicated. | <input type="checkbox"/> Due to our delayed response, you will not be charged search and/or duplication fees that would otherwise be applicable to your request. |
|   | <input type="checkbox"/> Fees waived.  |  |

**PART I.B -- INFORMATION NOT LOCATED OR WITHHELD FROM DISCLOSURE**

- We did not locate any agency records responsive to your request. *Note:* Agencies may treat three discrete categories of law enforcement and national security records as not subject to the FOIA ("exclusions"). See 5 U.S.C. 552(c). This is a standard notification given to all requesters; it should not be taken to mean that any excluded records do, or do not, exist.
- We have withheld certain information pursuant to the FOIA exemptions described, and for the reasons stated, in Part II.
- Because this is an interim response to your request, you may not appeal at this time. We will notify you of your right to appeal any of the responses we have issued in response to your request when we issue our final determination.
- You may appeal this final determination within 90 calendar days of the date of this response. If you submit an appeal by mail, address it to the FOIA Officer, at U.S. Nuclear Regulatory Commission, Mail Stop T-6 A60M, Washington, D.C. 20555-0001. You may submit an appeal by e-mail to [FOIA.resource@nrc.gov](mailto:FOIA.resource@nrc.gov). You may fax an appeal to (301) 415-5130. Please be sure to include on your submission that it is a "FOIA Appeal." Only a pre-registered user may file an appeal through FOIA Online, <https://foiaonline.gov/foiaonline/action/public/home>. A user who has not registered an account prior to filing the initial FOIA request may still submit their appeal by one of the above mentioned options.

**PART I.C -- REFERENCES AND POINTS OF CONTACT**

You have the right to seek assistance from the NRC's FOIA Public Liaison by submitting your inquiry at <https://www.nrc.gov/reading-rm/foia/contact-foia.html>, or by calling the FOIA Public Liaison at (301) 415-1276.

If we have denied your request, you have the right to seek dispute resolution services from the NRC's Public Liaison or the Office of Government Information Services (OGIS). To seek dispute resolution services from OGIS, you may e-mail OGIS at [ogis@nara.gov](mailto:ogis@nara.gov), send a fax to (202) 741-5789, or send a letter to: Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001. For additional information about OGIS, please visit the OGIS website at <https://www.archives.gov/ogis>.



## RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2019-000343

1

RESPONSE TYPE

INTERIM

FINAL

### PART I.D -- COMMENTS

According to Lee Brookhart in Region IV, the "initial call" was made to him, alone, on August 6, 2018. After the "initial call", on August 7, 2018, a meeting was established with NRC staff and the licensee, in which the schedulers for the meeting are enclosed. Mr. Brookhart has no phone records or other notes relating to these calls.

Signature - Freedom of Information Act Officer or Designee

**Stephanie A. Blaney**

Digitally signed by Stephanie A. Blaney  
Date: 2019.07.01 07:58:57 -04'00'



## RESPONSE TO FREEDOM OF INFORMATION ACT (FOIA) REQUEST

2019-000343

DATE:

07/01/2019

### PART II.A -- APPLICABLE EXEMPTIONS

Records subject to the request are being withheld in their entirety or in part under the FOIA exemption(s) as indicated below (5 U.S.C. 552(b)).

- Exemption 1: The withheld information is properly classified pursuant to an Executive Order protecting national security information.
- Exemption 2: The withheld information relates solely to the internal personnel rules and practices of NRC.
- Exemption 3: The withheld information is specifically exempted from public disclosure by the statute indicated.
  - Sections 141-145 of the Atomic Energy Act, which prohibits the disclosure of Restricted Data or Formerly Restricted Data (42 U.S.C. 2161-2165).
  - Section 147 of the Atomic Energy Act, which prohibits the disclosure of Unclassified Safeguards Information (42 U.S.C. 2167).
  - 41 U.S.C. 4702(b), which prohibits the disclosure of contractor proposals, except when incorporated into the contract between the agency and the
  - Other:
- Exemption 4: The withheld information is a trade secret or confidential commercial or financial information that is being withheld for the reason(s) indicated.
  - The information is considered to be proprietary because it concerns a licensee's or applicant's physical protection or material control and accounting program for special nuclear material pursuant to 10 CFR 2.390(d)(1).
  - The information is considered to be another type of confidential business (proprietary) information.
  - The information was submitted by a foreign source and received in confidence pursuant to 10 CFR 2.390(d)(2).
- Exemption 5: The withheld information consists of interagency or intraagency records that are normally privileged in civil litigation.
  - Deliberative process privilege.
  - Attorney work product privilege.
  - Attorney-client privilege.
- Exemption 6: The withheld information from a personnel, medical, or similar file, is exempted from public disclosure because its disclosure would result in a clearly unwarranted invasion of personal privacy.
- Exemption 7: The withheld information consists of records compiled for law enforcement purposes and is being withheld for the reason(s) indicated.
  - (A) Disclosure could reasonably be expected to interfere with an open enforcement proceeding.
  - (C) Disclosure could reasonably be expected to constitute an unwarranted invasion of personal privacy.
  - (D) The information consists of names and other information the disclosure of which could reasonably be expected to reveal identities of confidential sources.
  - (E) Disclosure would reveal techniques and procedures for law enforcement investigations or prosecutions, or guidelines that could reasonably be expected to risk circumvention of the law.
  - (F) Disclosure could reasonably be expected to endanger the life or physical safety of any individual.
- Other:

### PART II.B -- DENYING OFFICIALS

In accordance with 10 CFR 9.25(g) and 9.25(h) of the U.S. Nuclear Regulatory Commission regulations, the official(s) listed below have made the determination to withhold certain information responsive to your request.

DENYING OFFICIAL	TITLE/OFFICE	RECORDS DENIED	APPELLATE OFFICIAL	
			EDO	SECY
Stephanie Blaney	FOIA Officer	conference line bridge code	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>
	Select Title/Office from drop-down list		<input type="checkbox"/>	<input type="checkbox"/>

**From:** [Brookhart, Lee](#) on behalf of [Seyoum-Seifu, Meron](#)  
**To:** [Browder, Rachel](#); [Simpson, Eric](#); [Katanic, Janine](#); [Brookhart, Lee](#); [Layton, Michael](#); [Pruett, Troy](#); [Howell, Linda](#); [Rivera-Varona, Aida](#)  
**Cc:** [ALBERT BATES](#)  
**Subject:** FW: SONGS Event/with Bridgeline

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-----Original Appointment-----

From: Brookhart, Lee On Behalf Of Seyoum-Seifu, Meron  
Sent: Tuesday, August 07, 2018 10:29 AM  
To: Simpson, Eric; Katanic, Janine; Brookhart, Lee; Layton, Michael; Pruett, Troy; Howell, Linda; Rivera-Varona, Aida  
Cc: ALBERT BATES  
Subject: FW: SONGS Event/with Bridgeline  
When: Tuesday, August 07, 2018 1:45 PM-2:45 PM (UTC-05:00) Eastern Time (US & Canada).  
Where: Mike's Office

-----Original Appointment-----

From: Seyoum-Seifu, Meron  
Sent: Tuesday, August 07, 2018 9:17 AM  
To: Seyoum-Seifu, Meron; Brookhart, Lee; Layton, Michael; Pruett, Troy; Howell, Linda; Rivera-Varona, Aida  
Cc: ALBERT BATES  
Subject: SONGS Event/with Bridgeline  
When: Tuesday, August 07, 2018 1:45 PM-2:45 PM (UTC-05:00) Eastern Time (US & Canada).  
Where: Mike's Office

Bridgeline Information:

Dial-In: 888-805-9650

Passcode: (b)(6)

SONGS licensee will be on the call.

Meeting Requested by L. Brookhart  
Scheduled by Meron  
August 7, 2018

**From:** [Brookhart, Lee](#) on behalf of [Seyoum-Seifu, Meron](#)  
**To:** [ALBERT BATES](#); [Brookhart, Lee](#); [Layton, Michael](#); [Pruett, Troy](#); [Howell, Linda](#); [Rivera-Varona, Aida](#)  
**Subject:** FW: SONGS Event/with Bridgeline

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-----Original Appointment-----

From: Seyoum-Seifu, Meron  
Sent: Tuesday, August 07, 2018 9:17 AM  
To: Seyoum-Seifu, Meron; Brookhart, Lee; Layton, Michael; Pruett, Troy; Howell, Linda; Rivera-Varona, Aida  
Subject: SONGS Event/with Bridgeline  
When: Tuesday, August 07, 2018 1:45 PM-2:45 PM (UTC-05:00) Eastern Time (US & Canada).  
Where: Mike's Office

Bridgeline Information:  
Dial-In: 888-805-9650  
Passcode: (b)(6)

SONGS licensee will be on the call.

Meeting Requested by L. Brookhart  
Scheduled by Meron  
August 7, 2018

**From:** [Brookhart, Lee](#)  
**To:** [Seyoum-Seifu, Meron](#)  
**Subject:** Accepted: SONGS Event/with Bridgeline

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