



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

October 29, 2021

IN RESPONSE REFER TO:
NRC-2021-000255
(NRC-2021-000235)

sent via email to maquirre@amslawyers.com

Michael J. Aguirre, Esq.
Aguirre & Severson, LLP
501 West Broadway, Suite 1050
San Diego, CA 92101

Dear Mr. Aguirre:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your letter dated September 29, 2021, in which you appealed the agency's September 7, 2021, response related to your August 28, 2021, Freedom of Information Act (FOIA) request, NRC-2021-000235, which sought all records of communications related to the August 3, 2018, event (at the San Onofre Nuclear Generating Station [SONGS]) between NRC agents and agents of the "facility operator." You appealed the adequacy of the agency's search.

Acting on your appeal, the subject matter experts in the NRC's Region IV office conducted new searches. They identified 13 pages of additional records that are responsive to your request. In light of the additional responsive records located, your appeal has been granted. I am remanding this matter to the FOIA Office to handle the processing of the additional responsive records because the agency will need to follow the process specified in 10 C.F.R. § 9.28 for records designated by the submitter or identified by the NRC staff as containing trade secrets or confidential commercial or financial information. The FOIA Office will process the additional responsive records and provide a response to you as soon as possible.

In your appeal, you also referred to statements made by NRC staff and a senior manager during public meetings conducted to explain the scope and observation of the NRC's ongoing inspection activities relating to the August 3, 2018, incident. The Regional Administrator has stated that, during the presentations at public meetings, NRC staff and managers explained their efforts to have frequent engagement with SONGS personnel, primarily to keep informed of the status of the licensee's activities so that they could appropriately plan their oversight actions. The licensee's activities and the NRC's decisions were documented in NRC inspection reports and are available on the NRC public web page: <https://www.nrc.gov/reactors/operating/ops-experience/songs-spec-insp-activities-cask-loading-misalignment.html>. This documentation includes the licensee's notification to the NRC that the licensee planned on suspending fuel transfer operations until adequate NRC assessments could be completed. The NRC staff also discussed the licensee's commitment to suspend fuel transfer operations at several public meetings, as well as the agency's assessments and conclusion that questions relating to fuel transfer operations at the site had been resolved. Those assessments were documented in NRC inspection reports, which are also available on this NRC public web page.

Aguirre, M.

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This is the final agency decision. As set forth in the FOIA (5 U.S.C. 552(a)(4)(B)), you may seek judicial review of this decision in the district court of the United States in the district in which you reside or have your principal place of business. You may also seek judicial review in the district in which the agency's records are situated or in the District of Columbia.

The 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a nonexclusive alternative to litigation. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road-OGIS
College Park, MD 20740
Email: ogis@nara.gov
Telephone: 202-741-5770
Toll-free: 1-877-684-6448
Fax: 202-741-5769

Sincerely,

**David J.
Nelson**

David J. Nelson
Chief Information Officer
Office of the Chief Information Officer

Digitally signed by David J.
Nelson
Date: 2021.10.29 14:49:15
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