

PUBLIC WATCHDOGS

7918 El Cajon Blvd., Suite N #324,
La Mesa, CA 91942

Langley@publicwatchdogs.org

www.publicwatchdogs.org

(858) 752-4600



August 15, 2016

California State Lands Commission
100 Howe Ave., Suite 100-South
Sacramento CA 95825-88202

Attention: Cynthia Herzog, Senior Environment Scientist

RE: Draft Environmental Impact Report San Onofre Nuclear Generating Station Units 2 & 3
Post-Shutdown Decommissioning Project

File Ref: SCH No.2016071025

CSLC EIR No. 784; W30209

Dear Ms. Herzog:

California Environmental Quality Act (CEQA) guidelines require that the California State Lands Commission (CSLC) develop an Environmental Impact Report and evaluate a “No Project Alternative.” Under specific circumstances, CLSC may designate an environmentally superior alternative. Therefore, Public Watchdogs recommends that CSLC reject a permit renewal for the applicant and to select the “No Project” option in its Environmental Impact Report (EIR).

Here are seven compelling reasons to issue a “No Project” status to Southern California Edison:

1) The Coastal Commission Permit was issued unlawfully.

The California Lands Commission is the lead agency under CEQA. Therefore the California Coastal Commission is not authorized to independently issue or extend a permit to bury toxic radioactive waste at San Onofre State Beach Park without prior approval from the lead agency.

We respectfully suggest that the Commission is required to exercise its leadership responsibilities. It must not abdicate its responsibilities to subordinate agencies. Nor should it enable a subordinate agency to circumvent established public policy.

2) NRC Guidelines support a “No Project” finding.

Because the Nuclear Regulatory Commission (NRC) has exclusive jurisdiction over radiological aspects of the proposed project, and because NRC Guidelines supersede

CEQA, the California State Lands Commission is required to defer to the NRC as outlined in the project description:

“Decommissioning involves removing the spent fuel (the fuel that has been in the reactor vessel), dismantling any systems or components containing activation products (such as the reactor vessel and primary loop), and cleaning up or dismantling contaminated materials from the facility. **All activated materials generally have to be removed from the site and shipped to a waste processing, storage, or disposal facility.**”

The NRC and Southern California Edison have failed to conduct due diligence in establishing an offsite “waste processing, storage or disposal facility.” Instead, it is attempting to force the CLSC to turn the beach at San Onofre into a nuclear waste “storage or disposal facility.” The CSLC has the power to prevent this by denying the permit on the grounds that less risky locations with fewer environmental impacts are available, and to compel Southern California Edison to identify those superior alternatives. The CSLC can accomplish this objective by issuing a “no project” finding as supported by the NRC guidelines, which require removal of waste to a waste processing storage or disposal facility.

3) The CSLC may not exclude an Independent Spent Fuel Storage Installation from an Environmental Impact Report (EIR).

Avoiding a CEQA Environmental Impact Report on the grounds of an NRC preemption is a violation of California Law.

The commission has signaled that its EIR will ignore the environmental impact of the “Independent Spent Fuel Storage Installation” (ISFSI). The commission’s draft EIR Project Description, Phase One, states “With the exception of the ISFSI the bulk of the radiological decontamination would occur during Phase One.” This is akin to saying “With the exception of the deadly radiation in the dump, there will be no deadly radiation, therefore an EIR is not necessary.”

We respectfully disagree. The fact that deadly radioactive waste is being stored at San Onofre demands an Environmental Impact Report. The fact that there may be a Federal preemption against the State “regulating” the waste is a separate issue. There are no Federal rules preventing an EIR from being developed.

4) An EIR is not subject to NRC regulations: it is required to evaluate *environmental impacts*.

State law demands that the CSLC develop an Environmental Impact Report. In an EIR, there can be no exceptions. Each of the 75 or more “dry casks” at the ISFSI (radioactive waste dump) will contain more radiation than what was released at Chernobyl. Even the smallest crack, human error, cask drop, or terrorist attack would significantly impact air

and water quality. It is irrelevant whether or not the commission has jurisdiction over this toxic waste because of NRC preemptions. It is obligated by law to consider all negative impacts that encompass our environment.

To do otherwise is to allow Southern California Edison, the owner of the ISFSI nuclear waste dump, to censor CSLC work product on behalf of its investors. The law is meant to serve and protect the people, not Southern California Edison, and the people have a right to know the environmental impact and risks of these activities.

5) The “Potential Geologic Hazards” assessment must evaluate civilian radiation exposure and emergency response planning.

Section 3.2.5, Geology and Soils, requires an evaluation of threats to workers at the ISFSI (radioactive waste dump). We contend that this evaluation is insufficient and must also encompass all offsite emergency planning and response.

In the event of a radioactive release at the proposed San Onofre ISFSI (radioactive waste dump), the damages will have a permanent “incremental” effect on the surrounding land. Therefore, the CSLC must also evaluate the impact of a major disaster stemming from the unstable beachfront geology of the proposed nuclear waste dump. This evaluation must include a risk assessment of a worst case geological disaster stemming from tsunamis, earthquakes, erosion, saltwater corrosion, and terrorist attacks on public health.

6) A review of Emergency Planning Exemptions at SONGS is required.

Regarding Section 3.2.6 “Hazardous / Radiological Materials:” If the EIR is to address potential conditions that could result in radiological releases such as fires, explosions, or other conditions “hazardous to the public and the environment,” it must also reevaluate the ability of local governments to respond to a life and environment-threatening radioactive release outside the limited boundaries of the SONGS facility. Although the NRC has some limited jurisdiction in this area, it does not prevent the commission from conducting an EIR in this area of concern.

7) The Commission’s EIR must address planned dumping of waste into the ocean.

Section 3.2.7 “Hydrology Oceanography and Water Quality” makes no mention of Southern California Edison’s confirmed intent to “dilute and discharge” its spent nuclear fuel pools into the Pacific Ocean and the effect of this deadly radiation on benthic and human life. Further, the public has a right to know how much toxic waste is being dumped and when, and what the effect of this radiation will be on the food chain. The current draft EIR ignores this vital environmental impact.

Section 3.31 of the Draft Environmental Report states an EIR is required to discuss the cumulative impacts of a project. The seven impacts identified in this letter represent the culmination of incremental effects that meets the definition of the “cumulative” impacts that are legally required for inclusion into an Environmental Impact Report.

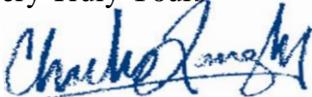
We therefore urge the CSLC to conduct an Environmental Impact Report of the proposed ISFSI radioactive waste dump, and to issue a “No Project” determination. We further submit that the CSLC, as the lead agency with controlling legal authority over the Coastal Commission, assert its authority over the approval process in compliance with California law. For a lead agency to abdicate its responsibilities to a subordinate agency, and to avoid enforcing California’s requirements under CEQA is a shameful abdication of its responsibilities to the public in favor of a private corporation that is currently the subject of two separate criminal investigations.

Finally, to allow an NRC regulatory “preemption” to prevent a scholarly and realistic assessment of the cumulative environmental impacts as outlined in this letter, is to allow Southern California Edison to censor the California State Lands Commission for its own financial gain.

Alternative sites: It is self evident that any location will be a superior environmental alternative to the current proposed location. The CLSC is required to explore such alternatives in its EIR, and to compel Southern California Edison to seek out those alternatives.

We reiterate: The NRC has zero legal authority to prevent the State of California from conducting an Environmental Impact Report on the effects of this proposed ISFSI radioactive waste dump on the environment and the people of California. What’s more, it is legally required to conduct an EIR. To do otherwise is malfeasance. I remain,

Very Truly Yours

A handwritten signature in blue ink that reads "Charles Langley". The signature is written in a cursive, somewhat stylized font.

Charles Langley
Executive Director

P.S. We note with considerable alarm that the California State Lands Commission references “contaminated” materials in its draft EIR. We recommend that future CSLC documents clearly define these “contaminated materials” as “radioactive contaminated materials.” Anything less is disingenuous, insults the intelligence of the reader, and serves the financial interests of Southern California Edison by concealing its artifice from the public.