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Statement of NRC Chairman Allison M. Macfarlane on the Atomic Safety and Licensing Board Decision in the San Onofre Confirmatory Action Letter Adjudication

This past Monday, May 13, a three-judge Atomic Safety and Licensing Board (ASLB) released its decision that the San Onofre Nuclear Generating Station (SONGS) Confirmatory Action Letter (CAL) process should be considered a license amendment proceeding that affords the opportunity for a hearing.

If a party, including the NRC staff, Southern California Edison, or Friends of the Earth, wishes to file an appeal of the ASLB's decision with the Commission, it must do so within 25 days (by June 7). Under NRC's regulations, the Commission itself may also opt to review the decision. Until the time for appeal or Commission review expires, the Commission serves in an adjudicatory capacity, similar to a court of appeals, and must remain neutral to preserve the fairness and transparency of the adjudicatory process. For this reason, my Commission colleagues and I are restricted in our ability to comment on this decision.

The NRC understands that there is significant public interest in the opportunity for a hearing and we will provide more information about the ASLB decision after further review of that decision and after the appeal period has elapsed.

SONGS Units 2 and 3 have been shut down since early 2012 due to steam generator problems. In March 2012, the NRC issued a "Confirmatory Action Letter" (CAL) to Southern California Edison Company, which operates SONGS. The CAL confirmed the NRC's understanding of several actions the company agreed to take with respect to the steam generators before the NRC could decide if the units were safe to restart.

Shortly after the NRC issued the CAL, Friends of the Earth, a nongovernmental organization, filed a hearing request that challenged aspects of the CAL. As part of its hearing request, Friends of the Earth argued that the CAL process is a *de facto* license amendment, and that the public should be provided an opportunity to request a public hearing under the Atomic Energy Act. Late last year, the Commission referred this portion of the Friends of the Earth's hearing request to the Atomic Safety and Licensing Board Panel (ASLBP) for adjudication. The ASLBP conducts hearings and performs other regulatory functions as authorized by the Commission.

The NRC will not allow the plant to restart until we are satisfied that Southern California Edison can operate the plant safely. Before making a decision on restart, the NRC must complete all

inspection activities related to the CAL, its technical review of the safety bases for the steam generator tube integrity, and its review of the license amendment request for Unit 2. Throughout this process, the licensee has provided answers to NRC's questions and the NRC has posed additional questions to the licensee where further clarification is needed. This process is ongoing.