

Settlement Agreement Implementation

# Status Report

November 22, 2017



Submitted in accordance with the August 2017 Settlement Agreement resolving the case *Citizens Oversight, Inc. v. California Coastal Commission*, San Diego Superior Court Case No. 37-2015-00037137-CU-WM-CTL

# SCE’s Settlement Agreement Implementation Status Report #1 - November 22, 2017

## I. Introduction

On August 25, 2017, Citizens Oversight, Inc. and Patricia Borchmann (together, “Plaintiffs”) and Southern California Edison (“SCE”) entered into the *Settlement Agreement Regarding Coastal Development Permit for Storage of San Onofre Spent Nuclear Fuel* (“Settlement Agreement”) to resolve Plaintiffs’ lawsuit regarding a 2015 coastal development permit authorizing the construction of an Independent Spent Fuel Storage Installation (“ISFSI”) at the San Onofre Nuclear Generating Station (“SONGS”). The San Diego Superior Court entered its Order dismissing the case on August 28, 2017 (the “Effective Date”).

As set forth in the Settlement Agreement, pending development of a permanent U.S. Department of Energy repository for the Spent Fuel, SCE will use Commercially Reasonable efforts to relocate the Spent Fuel to an Offsite Storage Facility. To keep the Plaintiffs and other stakeholders apprised of SCE’s progress in fulfilling certain settlement commitments, the Settlement Agreement requires SCE to generate this report at prescribed intervals until the commitments are satisfied. Section II.B.6 of the Settlement Agreement states that

*On or before the expiration of ninety (90) calendar days after the Effective Date of this Agreement and monthly thereafter, SCE shall provide Plaintiffs with a report regarding its progress in fulfilling the commitments under Sections II.B.2-5 of the Agreement. Beginning with the sixth monthly progress report and continuing quarterly thereafter until SCE’s completion of its commitments under Sections II.B.2-5 of this Agreement, SCE shall provide the Plaintiffs with a report regarding its progress in fulfilling each of the commitments under Sections II.B.2-5 of the Agreement.*

Based on this requirement, the upcoming settlement implementation progress reports will be issued on or about the following dates, or before them, if the date occurs on a weekend or holiday:

Update	Date
1.	November 26, 2017
2.	December 26, 2017
3.	January 26, 2018
4.	February 26, 2018
5.	March 26, 2018
6.	April 26, 2018
7.	July 1, 2018
9.	October 1, 2018
10.	January 1, 2019
11.	April 1, 2019
12.	July 1, 2019
13.	October 1, 2019
14.	January 1, 2020
<i>Calendar shown through Q4 2019. Additional quarterly reports may be necessary.</i>	

## II. Current Progress on Meeting Settlement Agreement Commitments

SCE's progress to date regarding its commitments made in Settlement Agreement Sections II.B.2-5 is described below:

### a. Section II.B.2 - *Develop Transportation and Strategic Plans for Relocating SONGS Spent Fuel to an Offsite Storage Facility*

#### **Requirement**

Section II.B.2 of the Settlement Agreement states:

*To assess the feasibility of relocating SONGS Spent Fuel to an Offsite Storage Facility, SCE shall: (1) develop a conceptual plan for the transportation of the SONGS Spent Fuel to an Offsite Storage Facility assumed to be located in the southwestern region of the United States ("Transportation Plan"), and (2) develop a strategic plan for supporting the development of a Commercially Reasonable Offsite Storage Facility ("Strategic Plan") (together, the "Plans"). Within thirty (30) calendar days of the Experts Team's formation, SCE will solicit the input of the Experts Team as to the appropriate scope for the Plans, including potential locations for an Offsite Storage Facility, and a schedule for completion of the Plans.*

#### **Progress to date**

##### **i. Retention of Expert Panel**

Pursuant to Section II.B.1, SCE has taken steps to retain a team of expert consultants (the "Experts Team") to advise SCE on issues related to the proposed relocation of SONGS spent nuclear fuel to an Offsite Storage Facility. As set forth in Section II.B.1 of the Settlement Agreement, the Experts Team will include at least one expert from each of the following fields: (1) nuclear engineering (or equivalent), (2) spent fuel siting and licensing, (3) spent fuel transportation, and (4) radiation detection and monitoring.

SCE circulated its requests for proposal ("RFP") for the Experts Team on or about October 26, 2017 (within sixty (60) days after the Effective Date of the Settlement Agreement, as required by Section II.B.1.a). The list of potential Experts Team candidates to receive the RFP was provided to Plaintiffs' attorneys and to David Victor, Chairman of the San Onofre Community Engagement Panel, for their review and comment prior to circulation. Written proposals in response to the RFP are due December 8, 2017.

Section II.B.1.b of the Settlement Agreement requires that:

*Within ninety (90) calendar days after receiving the written proposals, SCE shall retain the consultants that will serve on the Experts Team. Within seven (7) calendar days of completing the retention of consultants who will serve on the Experts Team, SCE will inform Plaintiffs' attorneys in writing of the identity and expertise of the consultants.*

Consistent with this Section, SCE intends to complete the engagement of the Experts Team on or before March 8, 2018.

## ii. Transportation Plan

Section II.B.2 of the Settlement Agreement requires that:

*Within thirty (30) calendar days of the Experts Team's formation, SCE will solicit the input of the Experts Team as to the appropriate scope for the Plans, including potential locations for an Offsite Storage Facility, and a schedule for completion of the [Transportation Plan].*

Updates will be provided as progress is made on the Transportation Plan.

## iii. Strategic Plan

Section II.B.2 of the Settlement Agreement requires that:

*Within thirty (30) calendar days of the Experts Team's formation, SCE will solicit the input of the Experts Team as to the appropriate scope for the Plans, including potential locations for an Offsite Storage Facility, and a schedule for completion of the [Strategic Plan].*

Updates will be provided as progress is made on the Strategic Plan.

### b. Section II.B.3 - Request that Palo Verde Store SONGS Spent Fuel

#### **Requirement**

Section II.B.3 of the Settlement Agreement states:

*Within ninety (90) calendar days after the Effective Date of this Agreement, SCE will formally make a written request to solicit an agreement from the owners of Palo Verde regarding the development of an expanded ISFSI that would store SONGS Spent Fuel at the Palo Verde site. If SCE's request for such consideration is accepted, SCE will engage in discussions with the owners of Palo Verde to evaluate the feasibility of licensing, constructing, and operating such an expanded facility on Commercially Reasonable terms. SCE shall not be obligated to enter into any binding agreement with the owners of Palo Verde concerning the storage of SONGS Spent Fuel that is not Commercially Reasonable. SCE will provide Plaintiffs' attorneys information regarding the progress of discussions with Palo Verde.*

#### **Progress to date**

On or about October 10, 2017, SCE submitted a letter formally requesting that the owners of the Palo Verde Nuclear Generating Station ("Palo Verde") consider a solicitation by SCE for an agreement to expand Palo Verde's ISFSI to store spent nuclear fuel from SONGS.

The Palo Verde Administrative Committee is responsible for strategy and planning decisions for Palo Verde, and its membership consists of executive representatives appointed by each of the owner companies.

On October 20, 2017, SCE's Chief Nuclear Officer, Tom Palmisano, attended the Palo Verde Administrative Committee meeting and presented SCE's case for relocating SONGS spent nuclear fuel to an expanded ISFSI at Palo Verde.

Under the Palo Verde Participation Agreement, unanimous consent by all owners is required for approving strategy and planning decisions. After Mr. Palmisano's presentation, there was an engaged discussion about the possibility of an expanded ISFSI wherein Mr. Palmisano answered various questions from the meeting participants.

SCE proposed a resolution calling for the approval of further, more detailed discussions between SCE and the other Palo Verde owners to evaluate the feasibility of licensing, constructing, and operating such an expanded facility on commercially reasonable terms. A vote was called. SCE recommended the approval of the resolution and voted to approve the resolution.

The remaining Administrative Committee members voted anonymously on SCE's proposed resolution. The votes were then tallied and SCE's resolution, which required unanimous support for passage under the applicable co-ownership agreement, was not approved.

On November 20, 2017, SCE circulated a copy of the Palo Verde Administrative Committee's decision rejecting SCE's proposal to the attention of Plaintiffs' attorneys.

**c. Section II.B.4 - Develop Inspection and Maintenance Program by October 2020**

**Requirement**

Section II.B.4 of the Settlement Agreement states:

*SCE will develop the Inspection and Maintenance Program for the Project ISFSI required as Special Condition 7 under the 2015 CDP by October 6, 2020 rather than the October 6, 2022 date provided for under Special Condition 7.*

**Progress to date**

Planning is underway to develop the Inspection and Maintenance Program.

**d. Section II.B.5 - Develop Plan for Damaged or Cracked Canisters**

**Requirement**

Section II.B.5 of the Settlement Agreement states:

*SCE will develop a written plan addressing contingencies for damaged or cracked canisters consistent with NRC regulations and requirements by October 6, 2020.*

**Progress to date**

Planning is underway to develop the plan addressing contingencies for damaged or cracked canisters.

**e. Section II.B.7 - Provide Plaintiffs with Periodic Progress Reports**

While not one of the commitments listed in Section II.B.2 through II.B.5, here SCE notes its progress regarding the development of progress reporting on the storage of SONGS spent fuel at the San Onofre site.

**Requirement**

Section II.B.7 of the Settlement Agreement states:

*Starting on January 1, 2018 and continuing until all fuel in "wet" storage pools in Units 2 and 3 has been transferred to the Project ISFSI, SCE shall provide Plaintiffs with a monthly progress report on the storage of SONGS Spent Fuel at SONGS. This report will be based on nonconfidential information regarding the number of spent fuel assemblies moved from the spent fuel pools to the Project ISFSI.*

**Progress to date**

SCE intends to circulate these SONGS spent fuel progress reports on or before the first of each month, beginning on or about January 1, 2018. While the spent fuel storage progress report will be a "stand-alone" report, issued separately from this Settlement Agreement Implementation Status Report, SCE intends to provide an update regarding the issuance of those progress reports here.

Further updates will be provided once the spent fuel progress reporting commences on or about January 1, 2018.