

Settlement Agreement Implementation

# Status Report

October 1, 2020



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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 #16 – October 1, 2020

### 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 settlement implementation status reports have been or will be issued on or about the following dates, or before then, if the date occurs on a weekend or holiday:

Update	Status Report Due	Date Issued
1.	November 26, 2017	November 22, 2017
2.	December 26, 2017	December 22, 2017
3.	January 26, 2018	January 26, 2018
4.	February 26, 2018	February 26, 2018
5.	March 26, 2018	March 26, 2018
6.	April 26, 2018	April 26, 2018
7.	July 1, 2018	June 29, 2018
8.	October 1, 2018	October 1, 2018
9.	January 1, 2019	December 31, 2018
10.	April 1, 2019	April 1, 2019
11.	July 1, 2019	July 1, 2019
12.	October 1, 2019	October 1, 2019
13.	January 1, 2020	December 31, 2019
14.	April 1, 2020	April 1, 2020
15.	July 1, 2020	July 1, 2020
16.	October 1, 2020	<i>October 1, 2020</i>

17.	January 1, 2021	
Calendar shown through Q4 2020. Additional quarterly reports may be necessary.		

SCE issued its most recent settlement implementation status report on July 1, 2020. Updates to that report are shown in italics below.

**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 Experts Team**

Section II.B.1 of the Settlement Agreement requires SCE 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.

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). SCE provided the list of potential Experts Team candidates to receive the RFP to Plaintiffs’ attorneys and to David Victor, Chairman of the San Onofre Community Engagement Panel, for their review and comment prior to circulation. SCE received written proposals for over thirty expert candidates, representing each of four expert fields required by Section II.B.1.

On March 8, 2018 (within ninety (90) days after SCE received the expert candidates’ written proposals, as required by Section II.B.1.b), SCE retained the consultants who will serve on the Experts Team.

As required by Section II.B.1, the Experts Team includes at least one expert from each of the following fields: (1) nuclear engineering, (2) spent fuel siting and licensing, (3) spent fuel transportation, and (4) radiation detection and monitoring.

SCE retained the following individuals to serve on the Experts Team:

1. Kristopher W. Cummings (Nuclear Engineering), a used fuel storage expert and engineer in Curtiss-Wright Corporation's Nuclear Division;
2. Thomas Isaacs (Spent Fuel Siting and Licensing), a former director of the U.S. Department of Energy's Office of Policy and former advisor to the U.S. President's Blue Ribbon Commission on America's Nuclear Future (Blue Ribbon Commission);
3. Allison Macfarlane (Spent Fuel Siting and Licensing), former Chairman of the United States Nuclear Regulatory Commission (NRC) and former commissioner on the Blue Ribbon Commission;
4. Gary Lanthrum (Spent Fuel Transportation), a former director of the National Transportation Program for Yucca Mountain;
5. Richard C. Moore (Spent Fuel Transportation), a consultant specializing in transportation of radiological materials who works for the Western Interstate Energy Board and preparer of a report for the Blue Ribbon Commission on the relationship between state and federal governments on permitting issues, including transportation; and
6. Dr. Josephine Piccone (Radiation Detection and Monitoring), a former U.S. representative to the International Atomic Energy Agency (IAEA) Radiation Safety Standards Committee and a health physics and radiation control expert with regulatory compliance experience.

On March 15, 2018 (within seven (7) days of the Experts Team's formation, as required by Section II.B.1.b), SCE notified Plaintiffs' attorneys of the names and expertise of the consultants retained to serve on the Experts Team.

## **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 [Conceptual Transportation Plan (CTP)].

On March 27, 2018 (within thirty (30) calendar days of the Experts Team's formation), SCE held an in-person kickoff meeting of the Experts Team. SCE solicited the Experts Team's input as to the appropriate scope for the Plans, and the Experts Team began its work.

In consultation with the Experts Team, on October 11, 2019, SCE circulated its San Onofre Nuclear Generating Station Request for Information in Support of the Development of a Conceptual Transportation Plan for the Relocation of Spent Nuclear Fuel to an Offsite Storage Facility ("CTP RFI"). After receiving initial responses, SCE engaged directly with the respondents, revising and clarifying the intended scope of the CTP RFI.

SCE specified the CTP should focus on logistical issues requiring consideration for the potential offsite transportation of SONGS spent nuclear fuel, including transportation alternatives, timelines, process regulations and lead times, and proposed equipment and procurement. In addition, SCE requested the

CTP discuss near and medium-term actions which may prudently be taken by SCE in order to prepare for the eventuality of shipping the SONGS spent nuclear fuel off-site. Supported by the Experts Team, SCE reviewed the CTP RFI responses and ultimately selected North Wind, Inc. as the consultant to assist with the development of the CTP.

The development of the CTP will run in parallel to the development of the Strategic Plan *and will continue to be supported by regular meetings between North Wind and the Experts Team members with transportation-related expertise. North Wind has developed a draft of the CTP, which has been revised and recirculated based on preliminary input received from SCE and the Experts Team. SCE is currently reviewing this revised draft of the CTP.*

Further updates will be provided as progress is made on the CTP.

### **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 (SP)].

On March 27, 2018 (within thirty (30) calendar days of the Experts Team’s formation), SCE held an in-person kickoff meeting of the Experts Team. SCE solicited the Experts Team’s input as to the appropriate scope for the Plans, and the Experts Team began its work.

On September 28, 2018, SCE circulated its San Onofre Nuclear Generating Station Request for Information in Support of the Development of a Strategic Plan for the Relocation of Spent Nuclear Fuel to an Offsite Storage Facility (“SP RFI”). The SP RFI is available on the SONGS Community website here: <https://www.songscommunity.com/used-nuclear-fuel/long-term-storage>.

Through the SP RFI, SCE sought information regarding how an interested consultant would propose supporting SCE in developing the Strategic Plan for the relocation of spent nuclear fuel from SONGS to an offsite storage facility. The SP RFI response period closed on November 16, 2018. SCE received 14 responses to the SP RFI.

Supported by the Experts Team, SCE reviewed the SP RFI responses and selected three consultant applicants for interviews. SCE conducted interviews during the month of February 2019. Based on the SP RFI responses and interviews, SCE engaged North Wind, Inc. as the consultant to assist with the development of the SP.

SCE and North Wind have begun developing the SP. Efforts to date include the development and initial implementation of a Stakeholder Engagement Plan, preliminary identification and analysis of potential alternatives for consideration in the SP, and discussions regarding and preliminary draft of the outline and format of the final SP.

*North Wind has developed a draft of the SP, which has been revised based on preliminary input received from SCE and the Experts Team. SCE is currently reviewing this revised draft of the SP.*

Further updates will be provided as further progress is made on the SP.

**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**

Consistent with Special Condition 19 of the Coastal Development Permit (CDP) issued on or about October 21, 2019 for the SONGS Units 2 and 3 Decommissioning Project (Application No. 09-19-0194), SCE submitted its proposed Inspection and Maintenance Program (“IMP”) to the Coastal Commission on March 31, 2020. SCE submitted an updated version of the IMP that incorporated comments from Coastal Commission staff on June 10, 2020. The Coastal Commission *approved* the IMP during its virtual meeting on July 16, 2020.

**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**

SCE developed the plan to address contingencies for damaged or cracked canisters in parallel with the IMP referenced above. The plan to address contingencies for damaged or cracked canisters is included within SCE’s proposed IMP, *which was approved by the Coastal Commission on July 16, 2020*.

**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 on reporting 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

Although the spent fuel storage progress report is a “stand-alone” report, issued separately from this Settlement Agreement Implementation Status Report, SCE provides an update regarding the issuance of those progress reports here.

Based on the requirements of Section II.B.7, the spent fuel storage progress reports have been issued on or about the following dates, or before, if the date occurs on a weekend or holiday:

Update	Fuel Report Due	Date Issued
1.	January 1, 2018	December 29, 2017
2.	February 1, 2018	February 1, 2018
3.	March 1, 2018	March 1, 2018
4.	April 1, 2018	March 30, 2018
5.	May 1, 2018	May 1, 2018
6.	June 1, 2018	June 1, 2018
7.	July 1, 2018	June 29, 2018
8.	August 1, 2018	August 1, 2018
9.	September 1, 2018	August 31, 2018
10.	October 1, 2018	October 1, 2018
11.	November 1, 2018	November 1, 2018
12.	December 1, 2018	November 30, 2018
13.	January 1, 2019	December 31, 2018
14.	February 1, 2019	February 1, 2019
15.	March 1, 2019	March 1, 2019
16.	April 1, 2019	April 1, 2019
17.	May 1, 2019	May 1, 2019
18.	June 1, 2019	May 31, 2019
19.	July 1, 2019	July 1, 2019
20.	August 1, 2019	August 1, 2019
21.	September 1, 2019	August 30, 2019
22.	October 1, 2019	October 1, 2019
23.	November 1, 2019	November 1, 2019
24.	December 1, 2019	November 27, 2019
25.	January 1, 2020	December 31, 2019
26.	February 1, 2020	January 31, 2020
27.	March 1, 2020	February 29, 2020
28.	April 1, 2020	April 1, 2020
29.	May 1, 2020	May 1, 2020
30.	June 1, 2020	June 1, 2020
31.	July 1, 2020	July 1, 2020
32.	August 1, 2020	<i>August 1, 2020</i>
33.	September 1, 2020	<i>September 1, 2020</i>

*Because all SONGS Units 2 and 3 spent fuel has now been transferred to the Holtec dry storage system, no further monthly spent fuel progress reports will be issued.*