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United States Senate

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

November 21, 2013

The Honorable Allison M. Macfarlane
Chairman
Nuclear Regulatory Commission
Rockville, MD 20852

Dear Chairman Macfarlane:

I write to express my serious concern that some documents provided by the Nuclear Regulatory Commission's (NRC's) Office of Investigations may have been removed from the boxes before they were delivered to my office on June 24, 2013.

The documents NRC was supposed to provide me with are described in letters (attached) I sent to you on May 15, 2012, May 23, 2013, May 31, 2013 and June 19, 2013.

When staff of the Senate Environment and Public Works Committee reviewed the materials delivered on June 24, 2013, they located evidence suggesting that documents were removed prior to delivery. Specifically, staff found portions of a second index that lists records that do not appear in the boxes delivered to my office (attached).

Any effort to obstruct or impede my oversight activities is unacceptable. Please provide, no later than December 2, 2013, copies of the following documents and materials:

- The complete version of the second index of NRC Office of Investigations documents that were responsive to my requests,
- Each document that was withheld from me that was listed on the second index of NRC Office of Investigations documents,
- Any documents, memos, or emails that relate to any direction to NRC staff to withhold documents from me or describe the types of documents that should be withheld,
- Any additional documents that have been withheld from me that are responsive to any of my previous requests, and
- Any new materials, transcripts or other documents that have been obtained or created by the NRC since May 23, 2013.

Sincerely,



Barbara Boxer
Chairman

Senate Environment and Public Works (SEPW) Staff Review of NRC Documents

Senator Boxer sent letters requesting documents about the San Onofre Nuclear Generating Station to the NRC on May 15, 2012, May 23, 2013, May 31, 2013 and June 19, 2013.

On June 24, 2013 NRC delivered a number of boxes that were characterized to be responsive documents provided by the NRC Office of Investigations.

SEPW staff noted that these boxes were accompanied by an index. That index listed the subject of each document, the date on which the document was created and the number of pages the document consisted of. The index title indicated that the documents listed came from NRC's Office of Investigations.

When Senate Environment and Public Works staff learned when they reviewed the documents was that NRC included several pages of a *different* index of documents that did not match the first one. The title of the second index also indicated that the documents listed came from the NRC Office of Investigations, the second index also listed the subject of each document and the date on which the document was created – but it didn't list the number of pages the document consisted of. The pages from the *second* index were found stapled to the back of one of the other documents in the boxes.

When SEPW staff compared the documents listed on the official index with those that were listed on the second index NRC seems to have accidentally included, it became clear that the Committee was not provided with every document listed on the second index.

The missing documents appear by their listed subject to be emails concerning how the NRC planned to respond to Chairman Boxer's requests for documents, which are among the documents that Chairman Boxer explicitly asked to be provided with.

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BETTINA POIRIER, MAJORITY STAFF DIRECTOR
RUTH VAN MARK, MINORITY STAFF DIRECTOR

May 15, 2012

The Honorable Gregory Jaczko
Chairman
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Chairman Jaczko:

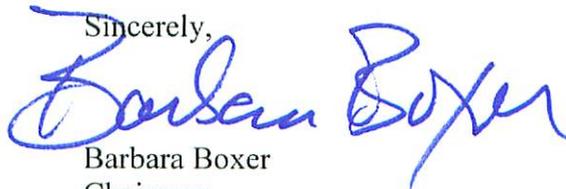
On February 8, 2012, I wrote to ask the Nuclear Regulation Commission (NRC) to review the safety of the San Onofre Nuclear Generating Station after problems were discovered with the facility's redesigned steam generators. You committed to conducting a thorough review before deciding whether to approve the restart of the reactors.

Since my letter to you, the media and others have raised concerns that design changes in the San Onofre replacement steam generators contributed to accelerated wear in tubes carrying radioactive water. Recent media reports quote a Southern California Edison (SCE) executive as saying, "We are thinking that this is probably a design defect."

Among other requirements, NRC rules state that a nuclear power plant operator must obtain a license amendment for any change that would result in more than a "minimal increase in the likelihood" of a malfunction of a structure, system, or component important to safety. SCE determined that such an amendment was not necessary for its redesigned steam generators.

Please provide me with a written summary that describes NRC's plans for establishing whether SCE's replacement of the steam generators required a license amendment, as well as any documents related to NRC's review of the design change. In addition, provide me with all documents in the NRC's possession or control related to SCE's determination that a license amendment was not necessary. Please deliver these documents to my Committee office by May 21, 2012. I also have requested from SCE all documents related to their determination. Contact Terrance Horner or Grant Cope (202/224-8832) with any questions.

Sincerely,



Barbara Boxer
Chairman

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BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

May 23, 2013

The Honorable Allison M. Macfarlane
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Macfarlane:

Today in your confirmation hearing, you pledged to turn over all relevant information to Committees of Congress. This is especially important in connection with our ongoing investigations.

I am asking that you provide me with all correspondence between Edison and Mitsubishi dealing with the design work for the San Onofre Nuclear power plant.

I need all available documents in any way related to the Edison replacement steam generator design modifications, including any documents related to 10 CFR § 50.59 "like for like" replacement.

I originally requested information related to the design changes in a letter sent to the NRC on May 15, 2012, and I request you deliver all documents before close of business on May 29, 2013.

Sincerely,



Barbara Boxer
Chairman
Environment and Public Works Committee

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BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

May 31, 2013

The Honorable Allison M. Macfarlane
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Macfarlane,

I write to reiterate my request for all documents that are in any way related to any issue arising in connection with the design of the replacement steam generators at the San Onofre nuclear power plant, including but not limited to any documents related to Southern California Edison's (Edison) compliance or failure to comply with 10 CFR § 50.59.

On May 15, 2012, I first asked for similar documents in a letter sent to the Nuclear Regulatory Commission (NRC). I again requested these documents in a letter dated May 23, 2013. However, in response to my recent letter, the NRC has provided only two documents, which I had indicated were already in my possession. I am still waiting for the NRC to provide a complete response to my requests.

When nominees come before the Senate Committee on Environment and Public Works, they pledge to provide the Committee with information regarding their responsibilities and to ensure that they provide all documents and other information to the Committee in a timely manner. In addition, you publicly pledged that you would fully respond to my request at your confirmation hearing before the Committee on May 23, 2013.

I am very concerned with the NRC's lack of responsiveness to this document request. The NRC's failure is especially inexcusable because this request is an essential component of an ongoing Committee investigation into serious safety problems at a damaged nuclear power plant located in a seismic and tsunami zone – and that has over 8 million people living within 50 miles of the facility.

The NRC must deliver all requested documents, including but not limited to memos, reports, white papers, emails, contracts, phone logs, notes and any other document, whether draft or final, in any form, including documents claimed to be part of an NRC investigation. All documents in the NRC's possession, custody, or control, including documents in Edison's portal must be provided.

When delivering these documents, provide an index of such documents within the NRC's possession, custody, or control; the location of all responsive documents; all documents that

discuss or provide instructions concerning this request; a list of NRC personnel or other individuals who participated in the response to this request and a description of their role, and the date such individuals were contacted concerning this request; and all "green tickets" related to all of my requests for information to the NRC since January 1, 2012. It is imperative that you provide a complete response to this request by close of business June 3, 2013.

Sincerely,



Barbara Boxer
Chairman

BARBARA BOXER, CALIFORNIA, CHAIRMAN

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WASHINGTON, DC 20510-6175

BETTINA POIRIER, MAJORITY STAFF DIRECTOR
ZAK BAIG, REPUBLICAN STAFF DIRECTOR

June 19, 2013

The Honorable Allison M. Macfarlane
Chairman
U.S. Nuclear Regulatory Commission
11555 Rockville Pike
Rockville, MD 20852

Dear Chairman Macfarlane,

As you know, I have been seeking all documents related to the design of the replacement steam generators at the San Onofre nuclear power plant, including Southern California Edison's (Edison) compliance or failure to comply with 10 CFR § 50.59. I am deeply disappointed that you have so far failed to fully comply with this request. I am willing to consider a new process as a first step to ensure that I receive the highest priority documents by the end of the week, reserving my right to obtain all requested documents in an unrestricted manner in the near future.

I specifically request that the Nuclear Regulatory Commission (NRC) provides all documents that in any way relate to or address the replacement steam generators' ability to withstand seismic hazards, including maximum potential earthquake stresses. Such documents must include all interviews or correspondence related to seismic issues, and documents related to the type, adequacy, or input of any computer models used in connection with the replacement steam generators, including but not limited to the FIT-III model.

I also request that the NRC provides documents related to discussions or analysis by or between Edison or Mitsubishi Heavy Industries in connection with the potential for tube vibration problems with the replacement steam generators. Please include all documents related to in-plane or out-of-plane vibrations, the range of remedial measures contemplated to address such problems, the measures ultimately taken to address these problems, and the measures not taken, along with any descriptions of the reason such measures were not implemented.

In addition, I request any correspondence involving Mr. Dwight Nunn or any interviews of Mr. Nunn.

To the extent that the NRC identifies documents related directly to an ongoing NRC investigation that involves an analysis or conclusion by the NRC in connection with such investigation, the Environment and Public Works Committee will set up a reading room in the Senate for my committee staff to privately review such documents. I will then return the documents to the NRC after the conclusion of my investigation.

I want to make clear that nothing in this letter in any way limits my right to receive and review all of the documents that I have requested from the NRC. I first asked for these documents on May 15, 2012 in a letter to the NRC. At your confirmation hearing on May 23, 2013, you publicly pledged that you would fully respond to my document request. I again requested these documents in a letter to the NRC dated May 31, 2013. The sole purpose of this letter is simply to take a first step toward resolving this outstanding request. Please let me know by close of business June 20, 2013, if you intend to comply with the terms of this letter.

Sincerely,

A handwritten signature in blue ink that reads "Barbara Boxer". The signature is written in a cursive style with a long horizontal stroke at the end.

Barbara Boxer
Chairman