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The Petitioner, in letters dated December 2 and December 7, 1994, again requested the NRC to close the SONGS facility. The Petitioner asserted as a basis for this request that the recent financial losses incurred by Orange County called into question the county's ability to effectively participate in emergency evacuation plans in the event of an emergency at SONGS. Since these concerns were closely related to those expressed in the Petitioner's September 19, 1994, Petition, they were treated as supplements to that Petition.

Because the Petition involves matters related to offsite emergency planning, the NRC requested the assistance of the Federal Emergency Management Agency (FEMA) in responding to the issues raised by the Petition. By Presidential directive, FEMA has been assigned the responsibility for assessing the adequacy of offsite emergency plans for the area surrounding a nuclear plant. The NRC is responsible for assessing the adequacy of onsite emergency plans and has the final licensing authority. FEMA responded to NRC's request for assistance by letter dated March 22, 1995.

II. Discussion

Title 10 of the Code of Federal Regulations (CFR), Part 50, § 50.54(q), states in part that "A licensee authorized to possess and operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b)." Section 50.54(s)(1) states in part that "Each licensee who is authorized to possess and/or operate a nuclear power reactor shall submit to NRC within 60 days of the effective date of this amendment the radiological emergency response plans of State and local governmental entities in the United States that are wholly or partially within a plume exposure pathway EPZ, as well as the plans of State governments wholly or partially within an ingestion pathway EPZ." Section 50.47(a)(1) states in part that "no initial operating license for a nuclear power reactor will be issued unless a finding is made by the NRC that there is reasonable assurance that adequate protection can and will be taken in the event of a radiological emergency." Section 50.47(a)(2) further states in part, "The NRC will base its findings on a review of the Federal Emergency Management Agency (FEMA) findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented." The review and approval of State and local radiological emergency plans and preparedness by FEMA are performed under the provisions of 44 CFR Part 350.

Officials from the State of California, Orange County, the City of San Clemente, and other jurisdictions in the emergency planning zone (EPZ) for the SONGS facility have participated in the development of the Radiological Emergency Preparedness (REP) plans to be implemented in the event of an incident at the facility. These REP plans have been evaluated in detail during each of the biennial REP exercises that began in May 1981; findings of these exercises have been

reported to the NRC by FEMA. During these biennial exercises, evacuation route impediments, such as landslides, are simulated to test the capability of the offsite response organization to deal with such a contingency. The California State and local officials have continued to meet such challenges successfully during these biennial REP exercises. The most recent exercise was conducted in September 1993. As documented in (1) the October 13, 1993, letter from the NRC to Southern California Edison Company, forwarding the staff's inspection report of the September 1993 exercise, and (2) the March 27, 1995, letter from FEMA to the NRC, forwarding its report on the exercise, the offsite radiological emergency response plans and preparedness for the State of California and the affected local jurisdictions can be implemented and are adequate to provide reasonable assurance that appropriate measures can be taken off site to protect the health and safety of the public in the event of a radiological emergency at the site.

The Petitioner's assertion that with the closure of the PCH, Interstate 5 is the only route out of San Clemente is incorrect. The SONGS EPZ has a total of 10 sectors for evacuation purposes. Three of these sectors comprise to the City of San Clemente. The portion of the PCH affected by the landslide only affects the evacuation of one sector, Sector 3, of the City of San Clemente.

The landslide on January 16, 1993, closed the PCH at the San Clemente and Dana Point border. More landslides occurred in February 1993. However, an alternate route was established around the landslide area by local officials to act as a substitute evacuation route while the PCH was being repaired. The PCH had been scheduled to reopen in January 1995. However, in January 1995, the entire area received extremely heavy rainfall, causing further delays in the reopening of this portion of the PCH. The PCH was officially reopened on April 5, 1995. During reconstruction activities, the PCH was not open to the general public. However, two lanes were open for construction traffic and they could have been used to supplement the alternate route, if needed, as a means for evacuating the area. As stated by FEMA in its letter dated March 22, 1995, since an alternate evacuation route was established during the period when the PCH was closed to normal traffic and since the PCH was available for emergency use, the safe evacuation of the citizens of San Clemente was not compromised.

With respect to the Petitioner's concerns regarding the ability of Orange County to effectively participate in emergency evacuation activities considering the County's current financial difficulties, FEMA concludes that Orange County is meeting its obligations in this matter. According to FEMA's letter dated March 22, 1995, Orange County officials are aware that the current financial situation presents a major challenge in restructuring and prioritizing services to meet their objectives and mandates within their available resources. However, the Board of Supervisors recognizes that the primary mission of the County or of the local County government is the protection of health,

safety, and welfare of the citizens and visitors to the County. During this financial crisis, the Board has repeatedly reiterated and publicly confirmed that these services are the highest priority for all County agencies and departments, including those services provided to contract cities such as San Clemente. In addition, a representative of the County is an active participant on the SONGS Interjurisdictional Planning Committee (IPC), which meets on a formal basis with officials of SONGS, the affected cities, the Camp Pendleton Marine Corps Base, the State Department of Parks and Recreation, the Capistrano Unified School District, San Diego County, and Federal and State emergency organizations to coordinate their nuclear power plant plans, preparedness, and procedures for emergency response to an emergency or incident at the SONGS site. The IPC also coordinates the multiagency planning, training, and drills for multihazard emergency response. The IPC representatives meet at least monthly to ensure their planning and preparedness measures are thoroughly coordinated and current. Accordingly, as stated by FEMA in its letter dated March 22, 1995, Orange County's financial difficulties are not preventing it from meeting its emergency evacuation responsibility.

III. Conclusion

The institution of proceedings pursuant to section 2.206 is appropriate only if substantial health and safety issues have been raised. *See Consolidated Edison Co. of New York* (Indian Point, Units 1, 2, and 3), CLI-75-8, 2 NRC 173, 175 (1975); *Washington Public Power Supply System* (WPPSS Nuclear Project No. 2), DD-84-7, 19 NRC 899, 924 (1984). This is the standard that has been applied to the concerns raised by the Petitioner to determine whether the action requested by the Petitioner is warranted. With regard to the request made by the Petitioner to shut down the SONGS facility, I find no basis for taking this action. The respective local jurisdictions have maintained their emergency plans in effect and continue to monitor them on a regular basis to ensure they remain current and coordinated. Appropriate evacuation routes are available. Local officials are aware of their resource limitations and have focused resources to ensure that the health, safety, and welfare of the citizens are of priority. FEMA has repeatedly determined that offsite emergency response plans and preparedness can be implemented and are adequate to provide reasonable assurance that appropriate measures can be taken offsite to protect the health and safety of the public in the event of a radiological emergency at the SONGS facility. On the basis of FEMA's findings, the NRC continues to find that there is reasonable assurance that adequate protection can and will be taken in the event of a radiological emergency at the SONGS facility. For the reasons discussed above, no basis exists for taking any action in response to the Petition as no substantial health or safety issues have been raised by the Petition. Accordingly, the Petitioner's request for action pursuant to Section 2.206 is denied.

A copy of this Decision will be filed with the Secretary of the Commission for the