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9 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
10 **FOR THE COUNTY OF LOS ANGELES**

11 THE SAMUEL LAWRENCE)
12 FOUNDATION, a California Non-Profit)
13 Public Benefit Corporation,)

CASE NO.: 19STCP05431

PETITIONER'S OPENING BRIEF

14 Plaintiff and Petitioner,)

15 vs.)

16 CALIFORNIA COASTAL COMMISSION,)
17 an agency of the State of California and)
18 DOES 1 through 20, inclusive,)

19 Defendants and Respondents.)

20

SOUTHERN CALIFORNIA EDISON, SAN)
21 DIEGO GAS & ELECTRIC COMPANY,)
22 CITY OF RIVERSIDE, CITY OF ANAHEIM,)
23 and ROES 1 through 20, inclusive,)

24 Real Parties in Interest.)
25)
26)
27)
28)

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TABLE OF ACRONYMS

AR	Administrative Record
CDP	Coastal Development Permit
CRP	Certified Regulatory Program
CEQA	California Environmental Quality Act
CISCC	Chloride-Induced Stress Corrosion Cracking
CSLC	California State Lands Commission
FEIR	Final Environmental Impact Report
GEIS	General Environmental Impact Report
IMP	Inspection and Maintenance Plan
ISFSI	Independent Spent Fuel Storage Installations
NRC	The Nuclear Regulatory Commission
SCE	Southern California Edison
SFA	Spent Fuel Assemblies
SONGS	San Onofre Nuclear Generating Station

1 **I. INTRODUCTION**

2 The nuclear power plant at San Onofre operated at its oceanfront location in
3 northernmost San Diego County from 1968 to 2013 until closing because of repeated
4 equipment and management failures. Real Party in Interest Southern California Edison
5 (“SCE”) stores 3.6 million pounds of high-level radioactive waste material at the San Onofre
6 Nuclear Generating Station (“SONGS”). (AR 8304 [San Onofre Nuclear Waste Problems].)
7 The nuclear waste is packed in steel canisters (5/8 in.) which are then entombed in a partially
8 below-grade concrete facility located about 100 feet from the water’s edge. (AR 362-363,
9 372 [Adopted Findings CDP 9-15-0228]; AR 8494, 5054 [MPR Whitepaper].)

10 The nuclear waste remains hazardous to people and the environment for over 200,000
11 years (AR 8294 [Declaration of Bart Ziegler, Ph.D. “Ziegler Decl.” ¶ 3(a)]) and the current
12 storage canister materials in use at SONGS are designed for a 60-year design life. (AR 362,
13 377 fn. 1, 398 [Adpoted Findings CDP 9-15-0028].)

14 It is anticipated that the waste will remain on-site for decades after SONGS is fully
15 decommissioned, for the simple reason that there is no place for it to go. (AR 362, 377-378,
16 394-395, 398-400].) Over the years, the waste storage canisters will age and degrade. Today,
17 SONGS’ spent fuel pools are the only facility where waste storage canisters can be
18 adequately assessed, repaired and the spent fuel (nuclear waste) be repackaged into new
19 canisters. Yet Respondent, in approving the challenged Coastal Development Permit at issue
20 in this case, has authorized the complete destruction of the spent fuel pools. SCE and, by
21 extension, Respondent, have not sufficiently planned for on-site repair and replacement of
22 waste storage canisters so that they may be transported off-site or on-site to a location further
23 inland from the ocean.

24 The existing spent fuel pools must be conserved to carry out a canister repair or
25 replacement, inside a special containment building, until such time as an optimal solution is
26 implemented -- the development of an on-site handling facility to repair and replace
27 canisters, for as long as they remain on the site. The significant issues regarding the
28 canisters, their inspection, potential repairs and their long term storage, are glossed over as if
they are mere and minor issues to the overall environmental integrity and well-being of the
coast and the community at large. The transportation of the waste material and its
containment, should a breach occur, is simply left to chance.

1 In sum, without analyzing the difficult and thorny issue of spent fuel storage canister
2 replacement, transportation and relocation, the Commission could not definitely find that the
3 project will not have adverse effects, either individually or cumulatively, on coastal
4 resources, and that the project, as conditioned, will minimize risk to life and property.
5 Therefore, the Commission abused its discretion in approving the CDP.

6 **II. REGULATORY BACKGROUND**

7 The Coastal Act provides “a comprehensive scheme to govern land use planning for the
8 entire coastal zone of California.” (*Yost v. Thomas* (1984) 36 Cal.3d 561, 565.) Preservation
9 and protection of the coast and its resources is a matter of statewide importance, as declared
10 by the Legislature as follows:

11 (a) That the California coastal zone is a distinct and valuable natural
12 resource of vital and enduring interest to all the people and exists as a
13 delicately balanced ecosystem.

14 (b) That the permanent protection of the state’s natural and scenic
15 resources is a paramount concern to present and future residents of the state
16 and nation.

17 (c) That to promote the public safety, health, and welfare, and to protect
18 public and private property, wildlife, marine fisheries, and other ocean
19 resources, and the natural environment, it is necessary to protect the
20 ecological balance of the coastal zone and prevent its deterioration and
21 destruction.

(Pub. Resources Code (“PRC”) §30001)

22 One of the Coastal Act’s goals is to “[p]rotect, maintain, and where feasible, enhance
23 and restore the overall quality of the coastal zone environment and its natural and artificial
24 resources.” (PRC §30001.5, subd. (a).) To achieve this goal, the Coastal Act sets out
25 specific policies governing development activities along the coast by private and public
26 persons and entities. (*McAllister v. California Coastal Commission* (2008) 169 Cal.App.4th
27 912, 922.) All public agencies, including those of the federal government, “to the extent
28 possible under federal law,” are to comply with the Coastal Act as well. (PRC §30003.)
“Development” under the Coastal Act includes demolition, deconstruction, or removal of any
structure, including any facility of any utility. (PRC §30106.)

The Coastal Act’s power is broad-reaching in its governance of land use in the coastal
zone. It dictates land use regulations tailored to preserve coastal resources and communities,
is to be liberally construed in favor of protection of coastal resources, and any conflicts in

1 policies must be resolved “in a manner which on balance is the most protective of significant
2 coastal resources” (PRC §§ 30009; 30007.5.)

3 In passing the Coastal Act, the Legislature declared that “the public has a right to
4 fully participate in decisions affecting coastal planning, conservation, and development; that
5 achievement of sound coastal conservation and development is dependent upon public
6 understanding and support; and that the continuing planning and implementation of programs
7 for coastal conservation and development should include the widest opportunity for public
8 participation.” (PRC §30006 [emphasis added].)

9 In order to implement the policies of the Act, development in the coastal zone
10 generally requires a Coastal Development Permit (“CDP”). (PRC §30600, subd. (a).)

11 The CDP Program is a Certified Regulatory Program (“CRP”). (Tit. 14 Cal Code
12 Regs § 15251(c).) CRPs, certified by the Secretary of the Natural Resources Agency, are
13 exempt from the California Environmental Quality Act (“CEQA”) requirements for
14 preparation of environmental impact reports (EIRs) and negative declarations, because they
15 are considered “functional equivalents” of those environmental documents. (*Californians for*
16 *Alternatives to Toxics v. Department of Pesticide Regulation* (2006) 136 Cal. App. 4th 1049,
17 1059). Environmental review documents prepared under the CRP agency’s own regulations
18 are used instead. (PRC §21080.5(a); 14 Cal. Code Regs. §15250.) CRPs remain subject to
19 other policies of CEQA, however. (14 Cal. Code Regs § 15250.) CRP agencies are not
20 required to act as lead agencies under CEQA. (14 Cal Code Regs §15253(c).) They may (but
21 need not) use the lead agency’s EIR as an informational document; yet the fact of a lead
22 agency’s certification of an EIR does not excuse the CRP agency from applying,
23 implementing and complying with the laws with which it is tasked by the legislature to
24 follow and enforce. (PRC § 21174; *Santa Clara Valley Water Dist. v. San Francisco Bay*
25 *Regional Water Quality Control Bd.* (2020) 59 Cal.App.5th 199, 213-215.)

26 In approving a CDP, the Coastal Commission must find that the project complies with
27 all of the Chapter 3 policies contained in the Coastal Act. (PRC § 30604). Such policies
28 include §§ 30250 and 30253 which provide, in relevant part:

1 Development...shall be located...where it will not have significant adverse effects,
2 either individually or cumulatively, on coastal resources. (PRC §30250, subd. (a))¹
3 and

4 Development shall:

5 (a) Minimize risks to life and property in areas of high geologic, flood, and fire
6 hazard; and

7 (b) Assure stability and structural integrity, and neither create nor contribute
8 significantly to erosion, geologic instability, or destruction of the site or surrounding
9 area or in any way require the construction of protective devices that would
10 substantially alter natural landforms along bluffs and cliffs. (PRC §30253.)
11

12 In order for the Commission to be able to make the required Chapter 3 findings, there
13 must be a sufficient analysis of the environmental issues so that the public and
14 decisionmakers (the Coastal Commissioners themselves) are fully informed of the project’s
15 direct and indirect effects on coastal resources. The Commission Staff Report is to provide
16 this analysis. (14 Cal Code Regs 13096, subds. (a) and (b).)
17

18 **III. STANDARD OF REVIEW**

19 The question of what standard of review to apply to the agency’s action is varied
20 depending upon the claim. (*Banning Ranch Conservancy v. City of Newport Beach* (2017) 2
21 Cal.5th 918, 935.) An agency’s action is unlawful if “the agency abused its discretion.”
22 (Code Civ. Proc. § 1094.5(b).) “Abuse of discretion is established if the agency did not
23 proceed in the manner required by law, the order or decision is not supported by the findings,
24 or the findings are not supported by the evidence.” (*Ibid.*) An agency must clearly bridge the
25 analytic gap between the evidence it presents as relevant and its findings. (*West Chandler*
26 *Boulevard Neighborhood Assn. v. City of Los Angeles* (2011) 198 Cal.App.4th 1506, 1517-
27 1518, citing *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11
28 Cal.3d 506 [the agency must set forth analysis to “bridge the analytic gap between the raw
evidence and ultimate decision or order”].)

Whether Respondent Coastal Commission failed to proceed in a manner required by law
is reviewed de novo. (*Ballona Wetlands Land Tr. v. City of L.A.* (2011) 201 Cal. App. 4th

¹ Cumulative effect “means the incremental effects of an individual project shall be reviewed
in connection with the effects of past projects, the effects of other current projects, and the
effects of probable future projects.” (PRC § 30105.5.)

1 455, 468.) The requirements of the Coastal Act are to be interpreted in such a manner as to
2 afford the fullest possible protection to the coast. (PRC §30009.) The issues presented in this
3 case are questions of law and therefore should be reviewed by this Court de novo. (*Chico*
4 *Advocates for a Responsible Economy v. City of Chico* (2019) 40 Cal.App.5th 839, 845;
5 *Sierra Club v. County of Fresno* [“*Friant Ranch*”](2018) 6 Cal.5th 502, 516, [claim of lack of
6 analysis or omission of the magnitude of an impact is not a substantial evidence question; the
7 inquiry is predominantly legal and, “[a]s such, it is generally subject to independent
8 review”]; *Ebbetts Pass Forest Watch v. Department of Forestry & Fire Protection* (2008) 43
9 Cal. 4th 936, 944, [The standard of review applicable to a challenge to a certified regulatory
10 program’s environmental document is the same as that applied to an EIR under CEQA]; PRC
§ 21080.5.)

11 **IV. STATEMENT OF FACTS**

12 *A. Respondent’s Decision to Allow Spent Nuclear Fuel to be Buried at San Onofre*
13 *Beach*

14 The San Onofre Nuclear Generating Station is a nuclear power plant operated by
15 Southern California Edison located within the Camp Pendleton military base on beach-front
16 land leased from the California State Lands Commission (“CSLC”). (AR² 25, 35 [Adopted
17 Staff Report CDP 9-19-0194].) SONGS had three reactors powered by fuel assemblies
18 containing tubes of radioactive, toxic and lethal uranium pellets. (AR 25, 35 [Adopted Staff
19 Report CDP 9-19-0194; see also AR 362, 363 [Adopted Findings CDP 9-15-0228]; AR
20 5359, 5365.) Respondent admits that even depleted uranium pellets are still highly
21 radioactive, extremely hot and that the assemblies in which the pellets are located (“spent
22 fuel assemblies” or “SFAs”) must be placed in spent fuel pools (“pools”) for cooling. (AR
23 362-363 [Adopted Findings CDP 9-15-0228].) Respondent further admits that after cooling,
24 the SFAs must be stored for thousands of years to prevent harm to humans or the
environment. (AR 362-363, 377 fn. 1 [Adopted Findings CDP 9-15-0228].)

25 Relative to decommissioning SONGS, the SFAs needed to be moved out of the spent
26 fuel pools. Respondent agreed to SCE’s proposal to place the SFAs in spent fuel canisters

27 _____
28 ² The acronym “AR” shall refer to the Administrative Record in this case.

1 (“canisters”) and store those canisters near the ocean’s edge in temporary storage structures
2 called Independent Spent Fuel Storage Installations (“ISFSIs”). (e.g., AR 362, 371-372, 399
3 [Adopted Findings CDP 9-15-0228].)

4 In 2000, Respondent approved the decommissioning of reactor 1 and the
5 emplacement of its SFAs in Areva canisters within an ISFSI (“Areva ISFSI”) located about
6 300 feet from the ocean. (AR 362, 371 [Adopted Findings CDP 9-15-0228].) In 2015, in
7 connection with the permanent shut-down of reactors 2 & 3 and resulting need to
8 decommission the entire nuclear plant, Respondent approved the construction and operation
9 of a second ISFSI containing Holtec canisters (“Holtec ISFSI”) partially below-grade and
10 only about 100 feet from the ocean. (AR 362-363, 372 [Adopted Findings CDP 9-15-0228].)³

11 Even though the SONGS site is 84 acres, Respondent approved the construction of
12 the ISFSIs at the on-site locations closest to the ocean and some of the lowest elevations on
13 the entire SONGS site. (e.g. AR 362-363, 370, 372 [Adopted Findings CDP 9-15-0228]; *but*
14 *see* AR 362, 380, 420 [showing consideration of alternative locations].) Respondent
15 approved these locations despite knowing that the proximity to the ocean meant that if the
16 ISFSIs remained in their current location long enough, they **would** eventually succumb to
17 coastal hazards and release debris into the environment. (AR 362, 397-402 [Adopted
18 Findings CDP 9-15-0228].) The marooning of the ISFSIs on the beach was a scenario that
19 Respondent did not put beyond the realm of possibility, given the lack of any federal
20 repositories for the receipt of SFAs for long-term storage. (AR 362, 377-378, 394-400
21 [Adopted Findings CDP 9-15-0228]; AR 362, 395 [Adopted Findings CDP 9-15-0228-
22 ISFSIs could remain on-site in perpetuity.].) Respondent approved the ISFSIs as temporary
23 structures, not for long-term residency on the beach. (AR 362, 377-378, 395-399 [Adopted
24 Findings CDP 9-15-0228].)

25 But a lack of permanent repositories is not the only way the ISFSIs could become
26 stranded; Respondent acknowledged that the ISFSIs could remain on the beach if the

27 ³ After Respondent approved the Holtec ISFSI in 2015, a lawsuit challenging the CDP was
28 filed and settled. (AR 3928-3945, 7754-77560 [The settlement agreement and related report
re: *Citizens Oversight Inc. v. California Coastal Commission, et al.* and SCE’s July 1, 2019
Settlement Implementation Report.].) Respondent was not a party to that settlement
agreement, and therefore Respondent has no standing to enforce its terms. (AR 3928-3945,
7754-7760.)

1 canisters contained therein become damaged or degraded to a point that renders the canisters
2 untransportable. (AR 362, 397-400 [Adpoted Findings CDP 9-15-0228].) Respondent
3 imposed special conditions in approving the Holtec ISFSI aimed at ensuring canister
4 transportability. Two of these special conditions were CDP 9-15-0228 Special Condition
5 Nos. 2 and 7. Special Condition 2 limited operation of the Holtec ISFSI to 20 years, at which
6 point SCE would file an application to either remove, relocate or keep the ISFSI in place.
7 (AR 362, 367-369 [Adopted Findings CDP 9-15-0228].) Special Condition 7 required SCE to
8 ensure the transportability of the canisters and removability of the ISFSIs and submit, in the
9 future, an Inspection and Maintenance Plan (“IMP”) detailing how SCE would ensure
10 transportability of the canisters and in turn the removability of the ISFSIs from their current
11 location. (AR 362, 367-369, 397-400 [Adopted Findings CDP 9-15-0228].) Respondent
12 acknowledged that without the IMP and Special Condition 7 it was “possible that no detailed
13 inspection of the casks [canisters] will occur within the first 20 years of their emplacement.”
14 (AR 362, 398-400 [Adopted Findings CDP 9-15-0228].)

15 After the Holtec ISFSI was approved in 2015, SCE began to remove SFAs from the spent
16 fuel pools for reactors 2 and 3, place the SFAs into Holtec Canisters and insert the canisters
17 into silos in the Holtec ISFSI. As canisters were being loaded into the Holtec ISFSIs, concern
18 arose.

19 *B. Concerns with the Condition and Transportability of the Canisters Arise*

20 **Flawed Downloading System:** On August 3, 2018, SCE’s flawed vertical downloading
21 system for the Holtec ISFSI resulted in a canister, fully loaded with SFAs, almost being
22 dropped 18 feet. (AR 8304, 8307-8308 [*San Onfore Nuclear Waste Problems*].)⁴ A
23 whistleblower reported the incident at a public hearing. (AR 8304, 8307 [*San Onfore*
24 *Nuclear Waste Problems*].)

25 Even if a canister is downloaded into its container in the ISFSI without falling, a report
26 issued by two Ph.D.s and a retired Real Admiral for the United States Navy specializing in
27 nuclear safety, indicated that gouging of the canisters occurs and that “operators have no
28 visibility of the canister during downloading and precise adjustments to canister orientation

⁴ The Nuclear Regulatory Commission (“NRC”) concluded that the incident resulted from operator error, lack of oversight and a lack of training. (AR 7327, 7335-7340 [NRC Webinar Unofficial Transcript].)

1 cannot be made. These gouges remain undetected and unrepaired due to the lack of thorough
2 inspection and monitoring at the San Onofre Independent Spent Fuel Storage Installations
3 ISFSIs.” (AR 8304-8305 [Report Re: San Onofre Waste Problems]; see also AR 8299
4 [Declaration of Dr. Subrata Chakraborty “Subrata Decl.” at ¶ 4(b).] Gouging is expected at a
5 depth between 1mm and 4.5mm or about 28% the thickness of a canister. (AR 8304, 8310
6 [Report re: San Onofre Nuclear Waste Problems]; but see AR 8213-8214 [SCE Visual
7 Assement Report showing more shallow gouge measurements based on a non-ASME
8 inspection].)⁵

8 **Canister Corrosion:** Dr. Subrata Chakraborty, a Ph.D., from University of California,
9 San Diego, concluded that “it is well known in the material science community that
10 scratching and gouging create potential sites for corrosion. It is simply not material loss -- it
11 is far more than that. Since these canisters are passively cooled by diffusive marine airflow
12 the chance of corrosion through chlorinated marine air is high, technically called chloride-
13 induced stress corrosion cracking (“CISCC”) leading to failure of containment of the
14 hazardous waste. We [the material science community] have seen chloride crystal formation
15 on canisters stored at Diablo Canyon nuclear power plant in San Luis Obispo, California, and
16 corrosion of canisters at Koeberg nuclear power plant in Cape Town, South Africa.” (AR
17 8298- 8299 [Subrata Decl. ¶ 4(a).] Rear Admiral Hering agreed, joining a report that stated
18 that “Frequent high humidity and coastal fog make the metal at the site susceptible to short-
19 term corrosion and stress induced corrosion cracking.” (AR 8304, 8305 [Report re: San
20 Onofre Waste Problems].) SCE disputed this. (AR 8050, 8054 [October 8, 2019 Comment
21 Letter]; AR 8269, 8494, 8497, 8504-8504 [MPR Whitepaper].)

21 Respondent has acknowledged that “canisters/storage casks will be in continual contact
22 with moist, salt-laden marine air and as a result could over time experience a type of
23 degradation known as stress corrosion cracking, which will likely accelerate in coastal
24 environments.” (AR 362, 398 [Adopted Findings CDP 9-15-0228].) SCE disputed when
25 corrosion cracking begins. (AR 8050, 8061 fn 6 [October 8, 2019 Letter and attachment A].)
26 The NRC has suggested various time periods. (AR 7327, 7368, 7374 [NRC Webinar
27 Unofficial Transcript]; but see AR 8269, 8336 [*Diablo Canyon: Conditions for stress*

28 ⁵ ASME provides the standard for inspections of various components of nuclear facilities.
(AR 8295 [Declaration of Bart Ziegler “Ziegler Decl.” ¶ 3(e).])

1 *cracking in 2 years – detailing cracking at another plant on the California coast].)*

2 Despite these issues and being forced to temporarily halt canister loading into the Holtec
3 ISFSI (AR 6345, 6362 [Report]), SCE was permitted to resume loading the Holtec ISFSI and
4 thereafter applied for a CDP for the decommissioning project at issue in the instant case.

5 *C. California State Lands Commission’s Environmental Impact Report*

6 On November 12, 2015 SCE applied to the California State Lands Commission
7 (“CSLC”) for a lease amendment to renew SCE’s lease for the purpose of decommissioning
8 SONGS. (AR 717, 758.) Then on June 2, 2016, SCE submitted a revised application to the
9 CSLC. (AR 717, 758.) On February 27, 2019⁶ the CSLC certified a Final Environmental
10 Impact Report (“FEIR”) in conjunction with the discretionary approval of renewing the lease.
11 (AR 717-2855 [FEIR]; AR 7061-7095 [Lease Renewal].) CSLC prepared the FEIR to review
12 the environmental impacts stemming from its decision to renew the lease. (AR 717, 755;
13 717-2855 [FEIR]; AR 88-153 [Application for CDP 9-19-0194]; AR 6345-6493 [March 21,
14 2019 Report on EIR].) The FEIR states that CSLC’s jurisdiction over coastal lands was
15 limited to generally off-shore land management (i.e. lease activities) while Respondent had
16 regulatory authority over development. (AR 717, 805-806 [FEIR].) The FEIR does not
17 address consistency with the Coastal Act and indicates that the Coastal Commission would
18 have an opportunity to condition the project in a manner that fulfills the Coastal Act’s goals
19 and policies and that “no inconsistency with the Coastal Act is anticipated.” (AR 717, 1897-
20 1898 [FEIR].)

21 *D. Respondent’s Approval of SCE’s Application to Decommission the Nuclear Plant
22 and Destroy the Spent Fuel Pools*

23 One day after receiving certification of the FEIR from the CSLC, on February 28, 2019,
24 SCE applied for a CDP to decommission SONGS and destroy the spent fuel pools. (AR 25-
25 26, 37-38 [Adopted Staff Report CDP 9-19-0194]; AR 88 [Application].) Spurred by worry
26 over the conditions of the canisters, experts’ and the public’s concerns about destroying the
27 spent fuel pools also grew. (e.g. AR 8049 – 9904 [September 26, 2019 updated
28 correspondence file].) Respondent was given mountains of evidence and testimony showing
that SFAs in damaged or degraded canisters would ultimately need to be repackaged (i.e. the

⁶ One day before SCE filed its application to the Coastal Commission for a CDP authorizing the subject project. (AR 88-153 [Application for CDP 9-19-0194].)

1 moving of SFAs from a damaged canister to a new canister) to ensure canister
2 transportability and that the pools provided a way to implement this “Plan B.” (e.g. AR 7327,
3 7378-7379, 7388, 8174-8175, 8249, 8269, 8294-8314, 8633, 8639-8340, 8936, 9063-9064,
4 9067-9072, 9074-9077.) The NRC acknowledged canisters may need to be repackaged, that
5 SCE needs to establish a safe environment in which repackaging can occur, and that the spent
6 fuel pools would potentially serve as such. (AR 7327, 7378-7379, 7388 [NRC Webinar
7 Unofficial Transcript]; AR 7327, 7348-7349 [NRC Webinar Unofficial Transcript - 10 CFR
8 72.122(1) requires each licensee to demonstrate retrievability to return canister to pool, if
9 available].) Dr. Chakraborty agreed that the spent fuel pools may provide a safe environment
10 for repackaging. (AR 8269, 8299 [Subrata Decl. ¶ 4(c)].) The NRC indicated that it is on
11 SCE to figure out which option will be used. (AR 7327, 7389 [NRC Webinar Unofficial
12 Transcript].) NRC materials also suggest that the spent fuel pools should be maintained in
13 conjunction with ISFSIs up until the storage duration shifts from short-term storage to long-
14 term storage (AR 8936, 9063-9064, 9068 [NUREG 2517 – NRC General Environmental
15 Impact Report (“GEIS”) , Figure 2-4].) Torgen Johnson urged that pools should be on-site as
16 long as fuel remains in damaged canisters and described the spent fuel pools as “Plan B.”
17 (AR 4989, 5029 [Hearing Transcript]; AR 1325-1328 [August 8, 2018 Transcript]) Other
18 concerned non-profit and community organizations agreed. (see e.g., AR 4989, 5033
19 [Hearing Transcript].)

20 Evidence disputing these points was submitted. (AR 8050-8062 [SCE October 8, 2019
21 Comment Letter]; AR 8989, 5023 [Hearing Transcript]; AR 8494-8525 [MPR Associates,
22 Inc.’s Whitepaper.]; see generally AR 8049 – 9904 [Correspondence File]; AR 10099 –
23 10151 [October 17, 2019 presentations and other submissions].) SCE had a different
24 interpretation of NRC’s Webinar Transcript. (AR 8050, 8059 [SCE October 8, 2019
25 Comment Letter.]

26 The Commission staff report did not address these issues and instead recommended
27 approval of the demolition of the spent fuel pools, arguably leaving the site with no safe
28 environment for fuel repackaging. (AR 6730 – 6835 [May 24, 2019 Staff Report]; AR 7603 –
7712 [August 22, 2019 Staff Report]; AR 7933 – 8047 [September 26, 2019 Staff Report];
AR 10095-10098 [October 14, 2019 addendum to Staff Report]; AR 14-16, AR 25 – 87
[October 21, 2019 Adopted Staff Report and Notice of Decision]; AR 17-24 [CDP 9-19-

1 0194].) Yet, the Coastal Commission had earlier expressed concern that the ISFSIs could
2 become unmovable if the canisters become untransportable. (e.g. AR 362, 397 [Adopted
3 Findings CDP 9-15-0228].)

4 Finally, Respondent deferred analysis on the issue of the ISFSIs relocation when land
5 area becomes available as a result of the project's dismantlement of above-grade structures.
6 (AR 25, 31 [Adopted Staff Report CDP 9-19-0194].) CDP 9-19-0194 Special Condition 3
7 requires the post-approval submission of annual reports providing Respondent with updates
8 on the possibility of new locations for the ISFSIs, at which point the Commission's
9 Executive Director (as opposed to the Commissioners themselves) can decide whether an
10 amended permit will be required. (AR 25, 31 [Adopted Staff Report CDP 9-19-0194].)

11 Respondent approved this condition after expressing concern over the danger posed by
12 the ISFSIs remaining in their current position indefinitely (see, *section A, supra*), and despite
13 already knowing the specific on-site areas upland from the ocean that would become
14 available for possible ISFSI relocation. (AR 25, 37-38, Adopted Staff Report CDP 9-19-
15 0194]; AR 7668 [Exhibit 4- showing large swaths of land as being open after
16 decommissioning and plant dismantlement].)

17 *E. Petitioner's Challenge to Respondent's Approval of the CDP*

18 Respondent held a hearing on October 17, 2019 on this project and Petitioner testified
19 and presented evidence at the hearing, including a detailed comment letter with exhibits.
20 Nevertheless, the Commissioners voted to approve the CDP on October 17, 2019. (AR 4989-
21 5157 [Hearing Transcript].) This litigation was timely filed within 60 days of the approval.
(PRC § 30802.)

22 **V. ARGUMENT**

23 **A. RESPONDENT ABUSED ITS DISCRETION BY FAILING TO ANALYZE
24 ALL OF THE FORESEEABLE INDIVIDUAL AND CUMULATIVE
25 ADVERSE IMPACTS OF THE PROJECT, SUCH AS THOSE RESULTING
26 FROM THE DESTRUCTION OF THE SPENT FUEL POOLS; AND FAILING
27 ANALYZE ALTERNATIVE SPENT FUEL REPACKAGING OPTIONS.**

28 Respondent did not analyze the individual and cumulative impacts of destroying the spent
fuel pools, or the environmental benefits (minimizing risk to property and life) of retaining
the spent fuel pools, or using alternative spent fuel repackaging options. Whether this
analysis was required under Chapter 3 of the Coastal Act is a question of law that this Court

1 reviews de novo. (*Friant Ranch, supra*, 6 Cal.5th 502, 516; *Ebbetts Pass Forest Watch v.*
2 *Department of Forestry & Fire Protection* (2008) 43 Cal. 4th 936, 944.) In failing to conduct
3 the analysis, Respondent could not make all of the Chapter 3 findings required to support the
4 decision to approve the CDP; for Respondent to have done so was an abuse of discretion.

5 Since spent fuel pool destruction is a significant known component of the project,
6 Respondent was required to consider the individual impacts to coastal resources resulting
7 from their destruction as well as the incremental effects of destruction of the pools when
8 reviewed in connection with the effects of past, current and probable future projects,
9 including the Areva and Holtec ISFISs. (PRC §§ 30250; 30105.5.)

10 But Respondent did not perform any such analysis; it did not analyze: 1) whether
11 demolishing the pools may pose a risk to life or property, or creates or significantly
12 contributes to impacts on the coastal zone, given that damaged canisters cannot be
13 transported under federal regulations⁷; 2) whether of retention of the spent fuel pools would
14 minimize risk to life or property; or 3) whether alternative fuel canister repackaging options
15 were available or should be required to ensure transportability, like an “overpack” or dry
16 transfer system.

17 As explained above, Respondent brushed under the rug heaps of evidence supporting the
18 retention of the spent fuel pools and the consequences of their removal. (See Statement of
19 Facts, Section IV, *supra*.) There was also evidence that could be interpreted as providing
20 viable alternatives to pool removal, or even sanctioning destruction of the pools. (*Ibid.*) But
21 despite this evidence being available to Commission staff, the analysis was not performed,
22 which constitutes legal error. (*Schoen v. Department of Forestry & Fire Protection* (1997) 58
23 Cal.App.4th 556, 573–574.)

24 Since Respondent was required to perform this analysis under the Coastal Act sections
25 30250 and 30253 in order to find the CDP complies with all Chapter 3 policies, but did not,
26 Respondent abused its discretion when it approved the CDP.

27
28
**1. Anticipated but Meritless Claims That Respondent Either Did Analyze, or
Did Not Have to Analyze, Adverse Impacts of Demolishing the Spent Fuel
Pools**

⁷ A certificate holder shall ascertain that there are no cracks or defects that could significantly reduce effectiveness of the package. (10 CFR 71.85(a) .)

1 i) *The Final Environmental Impact Report*

2 Respondent may argue that it was excused from conducting Chapter 3 analysis with
3 respect to the spent fuel pools and alternative repackaging options based on several
4 statements made by the California State Lands Commission (“CSLC”) in its FEIR for the
5 lease renewal. Respondent would be incorrect. The CSLC admitted that it did not have
6 jurisdiction over coastal development and that coastal development was in the Coastal
7 Commission’s domain. (See Statement of Facts Section IV, *supra.*) While the FEIR did
8 analyze some environmental impacts associated with decommissioning, it did not contain
9 **any** analysis on the decommissioning activities’ consistency with Coastal Act. (*Ibid.*) The
10 FEIR deferred to the Coastal Commission to find consistency with Chapter 3 of the Coastal
11 Act, merely stating that the Coastal Commission would have an opportunity to condition the
12 project in a manner that fulfills the Coastal Act’s goals and policies and that “no
inconsistency with the Coastal Act is anticipated.” (AR 717, 1897-1898 [FEIR].)

13 This left the coastal resource impacts analysis (which the CSLC deferred to the Coastal
14 Commission) to the subsequent Coastal Commission proceeding. (See Statement of Facts
15 Section, Section IV, *supra.*) In other words, since the FEIR declined to analyze consistency
16 with Chapter 3, that obligation fell to the Respondent. Even if Respondent could somehow
17 rely on the CSLC FEIR to make its Chapter 3 findings, the analysis that is in the FEIR is
18 flawed and therefore any reliance on the FEIR for Chapter 3 findings would be error of law.
19 (*Santa Clara Valley Water Dist. v. San Francisco Bay Regional Water Quality Control*
20 *Bd.* (2020) 59 Cal.App.5th 199, 213, [Water Board conducts review under the Porter-
21 Cologne Act and requires mitigation measures even though lead agency, who prepared the
22 EIR, did not require those mitigation measures]; *La Costa Beach Homeowners’ Assn. v.*
23 *California Coastal Com.*, (2002) 101 Cal.App.4th 804, 819-820, [Even when the Coastal
24 Commission is acting under its certified regulatory program and therefore is exempt from the
25 CEQA requirement of preparing an environmental impact report (EIR) or a negative
26 declaration. The Commission remains subject to other provisions of CEQA, such as the
27 policy of avoiding significant adverse effects on the environment where feasible, including to
28 disapprove of a project if alternatives or feasible environmental mitigation measures are
available and to respond in writing to significant environmental points raised in the
evaluation process.])

1 To the extent the FEIR discussed the spent fuel pools at all, CSLC indicated that retention
2 of the spent fuel pools was considered but eliminated from further consideration because
3 “The spent fuel pools are an integral part of the containment buildings, such that it may not
4 be feasible to retain the existing spent fuel pools while also dismantling the containment
5 buildings. The need to retain the spent fuel pools is based on speculation that they will be
6 needed in the future because dry storage casks will be damaged and unsuitable for transport.
7 This alternative also would not reduce any identified significant impacts of the Proposed
8 Project. Any potential hazards associated with the storage of SNF in the Approved ISFSI
9 would not be exacerbated by the Proposed Project. Furthermore, the feasibility of this
10 alternative is not clear.” (AR 717, 793, 1988 [FEIR].)

11 Respondent cannot rely on the FEIR to satisfy its Coastal Act responsibilities to ensure
12 protection of coastal resources because the FEIR admittedly does not do the required
13 analysis. Instead, it speculates that preservation of the spent fuel pools “may not be feasible”
14 or that the alternative “is not clear.” The FEIR is also naïve in its assumption that the
15 canisters are not and will never become damaged. (see Statement of Facts Section IV, *supra*.)
16 The statement as to the lack of impacts is inaccurate, as Respondent acknowledges that the
17 removability of the ISFSIs depends on the transportability of the canisters contained within
18 and that geologic forces “would eventually” result in a loss of stability and structural
19 integrity and discharge debris into the coastal ocean to the detriment of water quality and
20 marine organisms. (AR 362, 402 [Adopted Findings CDP 9-15-0228].) The retention of the
21 pools will ensure canister transportability, which will enable the ISFSIs removability, which
22 will in turn minimize damage to coastal resources, life and property. (See Statement of Facts,
23 Section IV *supra*.) (*Laurel Heights Improvement Assn. v. Regents of University of California*
24 (1988) 47 Cal. 3d 376, 394-396.)

25 Second, Respondent may attempt to rely on CSLC statements that no ISFSI sites in the
26 nation have spent fuel pools, that current decommissioning plants have either removed from
27 service or dismantled their pools, and that NRC statements indicate that spent fuel pools are
28 not required. (AR 717, 791-792 [FEIR].) Respondent cannot rely on these statements to
discharge its obligations under Chapter 3 because the NRC allows licensees leeway in
choosing how they decommission (AR 4989, 5124 [Hearing transcript]) and has never said
that the spent fuel pools must be demolished immediately on removal of the last spent fuel

1 assembly.

2 Third, Respondent may attempt to rely on CSLC’s statement that the NRC has indicated
3 that if spent nuclear fuel needed to be retrieved in the future, there are alternatives to using a
4 spent fuel pool, which could include a hot cell, a type of dry transfer system. (AR 717, 792
5 [FEIR].) CSLC acknowledged that the 2014 GEIS assumes a dry transfer system, or similar
6 facility, would provide repackaging capability at ISFSIs without the need to return to the
7 spent fuel pool to do so. (AR 717, 793 [FEIR].) But then CSLC suggests that such a dry
8 transfer system is not required under the GEIS and that such systems will not be needed at
9 SONGS because SCE “plans” for the canisters to be moved well before the time frame for
10 which the CSLC interprets the NRC as recommending they be installed. (AR 717, 793
11 [FEIR].) This is circular logic because it assumes that the canisters will be removed and then
12 creates an argument to reach that conclusion that is inconsistent with other statements in the
13 document, expressing uncertainty about the length of time the ISFSIs will be at the site. (AR
14 717, 774 [FEIR].)

15 Respondent cannot rely on the CSLC’s dismissal of hot cells to satisfy its obligation
16 under Chapter 3 (See Statement of Facts, Section IV, *supra*), because said dismissal of this
17 option was based on the false assumption that the spent fuel canisters in the ISFSIs would be
18 moved before hot cells were required. Yet, both CSLC and Respondent admit that it is
19 uncertain how long the ISFSIs will remain at their current location at the edge of the ocean.
20 (AR 362, 377-378, 394-400 [Adopted Findings CDP 9-15-0228]; AR 362, 395 [Adopted
21 Findings CDP 9-15-0228]

22 Fourth, Respondent may attempt to rely on CSLC’s suggestion that the alternative of
23 using an “oversized overpack canister” would be another reason that spent fuel pools are not
24 required to repackage fuel into new canisters. (AR 717, 793 [FEIR].) But CSLC did not
25 require the use of overpacks for the project as a mitigation measure in the FEIR and
26 Respondent did not analyze the issue at all in its consideration and approval of the CDP.

27 In summary, Respondent cannot rely on the CSLC’s analysis in the FEIR to discharge its
28 duties under the Coastal Act, because the FEIR:

- deferred analysis under Chapter 3 to Respondent and Respondent did not address critical issues;
- is internally inconsistent (e.g. assuming the SNF will be transferred, while

1 claiming the transfer of SNF is uncertain);

- 2 • excludes the impacts related to the ISFSIs from analysis;
- 3 • contains flawed rationale for rejecting the retention of the spent fuel pools from
4 further analysis and consideration;
- 5 • rejects the use of the hot cell (dry transfer system) alternative with no analysis or
6 credible justification;
- 7 • does not require the use of an overpack as a mitigation measure.

8 *ii) October 14, 2019 Addendum to the Staff Report on CDP 9-19-0194*

9 Next, Respondent may claim that it analyzed the impacts of destroying the spent fuel
10 pools in the October 14, 2019 addendum to the Staff Report. Respondent replied to
11 comments on “the stated preference for spent nuclear fuel to **remain** in the spent fuel pools
12 and the need for a hot cell to be constructed on-site for the purposes of handling spent fuel ”
13 and then dismissed the comment based on a claim of pre-emption by federal law. (AR 10095,
14 10097-10098.) (AR 10095, 10097-10098 [Addendum to September 21, 2019 Staff Report
15 CDP 9-19-0194]. [emphasis added].) As applied to the issue raised by Petitioner, this is a
16 strawman. Petitioner did not claim or suggest that the pools be retained so that SFAs can be
17 stored therein, rather, Petitioner raised the issue of the whether the pools should be retained
18 for SFA canister repackaging purposes to ensure transportability. Any preemption argument
19 to the *real issue* raised by Petitioner would be meritless because Respondent has exercised
20 jurisdiction to impose CDP conditions related to transportability of canisters containing
21 SFAs, and SCE has conceded it by agreeing to those conditions. (See Statement of Facts,
22 Section IV, *supra*, [discussing CDP 9-15-0228 Special Permit Conditions Nos. 2 and 7].)

23 *iii) SCE’s Forthcoming Inspection and Maintenance Plan (IMP)*

24 Finally, Respondent may claim that it did not have to analyze retention of the pools under
25 Chapter 3 because it required SCE to submit an IMP for approval, presuming that the IMP
26 will be an adequate replacement for the pools as contingency for the damaged or degraded
27 canisters. (See Statement of Facts, Section IV, *supra*.) That claim would be meritless. There
28 was no analysis in the CDP 9-19-0194 Staff Report about how the IMP’s specific mitigation
measures would compensate for the destruction of the pools, if at all, nor could there have
been, as the IMP had not been submitted when the Respondent approved destruction of the
pools.

1 Respondent's approval allows the spent fuel pools to be destroyed any time after July
2 2020 (AR 17, 24 [CDP 9-19-0194]), but at the time Respondent made its decision in October,
3 2019 to authorize destruction of the spent fuel pools, it had no clue whether the IMP that was
4 to be submitted in March 2020 would sufficiently ensure transportability of the canisters.
5 This is a classic case of improper analysis deferral and the improper use of deferred
6 mitigation measures to find consistency with Chapter 3 of the Coastal Act. (*POET, LLC v.*
7 *State Air Resources Bd.* (2013) 218 Cal.App.4th 681, 715; *Berkeley Keep Jets Over the Bay*
8 *Com. v. Board of Port Cmrs.* (2001) 91 Cal. App. 4th 1344, 1359.)

9 Thus, Respondent cannot rely on the FEIR, Addendum to the Staff Report or the IMP to
10 replace the analysis and findings required under Chapter 3 of the Coastal Act to approve
11 CDP 9-19-0194.

12 **B. RESPONDENT FAILED TO PROCEED IN A MANNER REQUIRED BY**
13 **LAW IN ADOPTING CONDITION 3 – WHICH DEFERS THE ANALYSIS OF**
14 **POTENTIAL ON-SITE LOCATIONS FOR ISFSI RELOCATION –**
15 **BECAUSE THE ANALYSIS COULD HAVE, AND SHOULD HAVE, BEEN**
16 **DONE AT THE TIME CDP 9-19-0194 WAS APPROVED.**

17 Condition 3 of CDP 9-19-0194 requires SCE to submit annual reports updating
18 Respondent on potential opportunities for relocating the Areva and Holtec ISFSIs as the
19 decommissioning project proceeds, at which point the Coastal Commission's Executive
20 Director, as opposed to the Commissioner's themselves, will determine if SCE should apply
21 for an amended permit. (See Statement of Facts Section IV, *supra*.) Respondent did not
22 proceed in a manner required by the Coastal Act in issuing this condition because
23 Respondent did not analyze the impacts that decommissioning activities would have on the
24 likelihood of relocating the Areva or Holtec ISFSIs to other on-site areas, including but not
25 limited to what cleared areas would be best suited for relocating ISFSIs off the beach and
26 farther from the ocean. (PRC §§ 30250, 30253; *Laurel Heights Improvement Assn. v. Regents*
27 *of University of California* (1988) 47 Cal.3d 376, 394-396 [Reasonably foreseeable future
28 expansion or other action must be analyzed with project approval and cannot be deferred];
see also *POET, LLC v. State Air Resources Bd.*, *supra*, 218 Cal.App.4th 681 at 715, 735,
737-738 [discussing generally when mitigation measures may or may not be deferred].)

Respondent was required to analyze the impacts that the decommissioning activities would
have on the likelihood of relocating the Areva or Holtec ISFSIs to other on-site areas that

1 would minimize impacts and risk to coastal resources, life and property. (PRC §§ 30250,
2 30253.) The potential relocation of the Areva or Holtec ISFSIs pursuant to an Amended
3 Permit under the CDP 9-19-0194 or CDP 9-15-0228 would represent a future project. At the
4 time Respondent approved the decommissioning of reactors 2 and 3, SCE knew how the
5 decommissioning activities would proceed. (AR 25, 37-38, Adopted Staff Report CDP 9-19-
6 0194].) Respondent knew that containment buildings would be dismantled and that nearly all
7 above-grade on-shore components would be removed. (AR 25, 37-38, Adopted Staff Report
8 CDP 9-19-0194]; AR 7668 [Exhibit 4 Showing large swaths of land as being open after
9 decommissioning].) Respondent was also provided with a detailed description of
10 dismantlement activities. (AR 25, 37-38, Adopted Staff Report CDP 9-19-0194].)

11 Under the circumstances, Respondent had the information necessary to analyze, in
12 conjunction with the instant approval, the likelihood of relocating the Areva or Holtec ISFSIs
13 to an undeveloped area further away from the ocean's edge as result of decommissioning. It
14 was able to conduct a similar analysis when first siting the Holtec ISFSI and should have
15 performed an analysis with the instant permit, given the known availability of additional
16 land. Yet, Respondent failed to perform this analysis. In fact, it expressly deferred this
17 analysis in violation of the law. (PRC §§ 30250, 30253; *Laurel Heights Improvement Assn.*
18 *v. Regents of University of California, supra*, 47 Cal.3d 376, 394-396; see also *POET, LLC,*
19 *supra*, 218 Cal.App.4th 681, 715, 735, 737-738.) That Respondent would delay this analysis
20 when it had expressed concern over the adverse coastal resource impacts associated with
21 leaving the ISFSIs on the beach is disconcerting to say the least. (See Statement of Facts,
22 Section IV, *supra*].)

23 In deferring this analysis to a future permit amendment, Respondent could not make all
24 of the Chapter 3 findings required to support the decision to approve the CDP; for
25 Respondent to have done so was an abuse of discretion.

26 **C. RESPONDENT ABUSED ITS DISCRETION BY APPROVING THE
27 INSTANT PROJECT WHICH NULLIFIED CDP 9-15-0228 SPECIAL
28 CONDITION NO. 7.**

29 If for no other reason, Respondent failed to proceed in a manner required by law by
30 approving CDP 9-19-0194 without an approved IMP, effectively leaving the SONGS site
31 without any means of ensuring transportability of the canisters and/or the eventual relocation
32 of Areva or Holtec ISFSIs, thereby nullifying the purpose of CDP 9-15-0228 Special

1 Condition No. 7.

2 Special Condition No. 7 of CDP 9-15-0228 requires, in relevant part,

3 “As soon as technologically feasible and no later than October 6 2022 the Permittee
4 shall provide for Commission review and approval an inspection and maintenance
5 program designed to ensure that the fuel storage casks will remain in a physical
6 condition sufficient to allow both on site transfer and offsite transport for the term of
the project as authorized under Special Condition 2 ie until October 6, 2035” (AR 362,
369 [CDP 9-15-0228 Special Condition 7A].)

7 “If the Commission determines that the inspection and maintenance program required
8 by Subsection A is not sufficient to assure cask transportability over the term of the
9 project authorized under Special Condition 2 the Applicant shall submit an
amendment to this coastal development permit proposing measures to assure cask
transportability” (AR 362, 369 [CDP 9-15-0228 Special Condition 7B].)

10 While Special Condition No. 7 set deadlines for the IMP to be submitted, Respondent’s
11 purpose in imposing Special Condition No. 7 was based on Respondent’s concern that it
12 “needed reasonable assurance that the SONGS spent fuel will continue to be transportable
13 and the ISFSI itself removable as long as the facility occupies its proposed location.” (AR
14 362, 399 [Adopted Findings CDP 9-15-0228].)

15 Respondent’s decision to approve CDP 9-19-0194 defeated this purpose by approving the
16 decommissioning of the site without a way to ensure SONGS’ canisters remained
17 transportable. Respondent approved a project that would destroy the pools (one way to
18 ensure transportability), did not provide for any other repackaging options such as a dry cask
19 transfer system (another way to ensure transportability), and without an IMP (theoretically
20 another way to ensure transportability, as long as the IMP mandates use of an existing
21 repackaging environment). (See Argument Section A.1.iii, *supra*.) At best, “Respondent
22 kicked the can down the road” by allowing IMP submission and approval **after** authorizing
23 SCE to fully decommission the SONGS site (including destroying the spent fuel pools). (See
24 AR 25, 34 [Adopted Staff Report CDP 9-19-0194 Special Condition No. 19 indicating that
25 the IMP can be submitted by March 31, 2020.) While the expedited submission of the IMP is
26 noted, failing to require the IMP to ensure transportability of the canisters and relocation of
27 the ISFSIs off the beach, **in conjunction with the instant proceeding and approval of the
project**, directly undermines the purpose of conditioning the related ISFISI project
authorized by CDP 9-15-0228.

28 Since Respondent nullified the purpose of its own permit condition, Respondent’s

1 approval of CDP 9-19-0194 nullifying Special Condition 7 of CDP 9-15-0228 was a
2 prejudicial abuse of discretion.

3 **VI. CONCLUSION**

4 For the foregoing reasons, Petitioner requests this Court set aside and void Coastal
5 Development Permit number 9-19-0194 granted to Real Parties in Interest and enjoin Real
6 Parties in Interest and any and all of their assigns, agents, contractors, employees, owners,
7 directors, partners, or any other person on their behalf, from taking any action to render the
8 spent fuel pools unable to repair or repackage spent fuel assemblies, including, but not
9 limited to: dismantling or disabling the structures, systems and components of (1) the spent
10 fuel pool , (2) any support buildings necessary to maintain the spent fuel pool, (3) any
11 separate but related SSCs necessary for the operation of the spent fuel pool, or (4) any
12 combination of these elements, until such time as Respondent has conformed to all applicable
13 legal requirements as ordered by the Court.

14 Respectfully submitted,

15 DATED: April 19, 2021

16 VENSUS & ASSOCIATES, A.P.C.

17 

18 Sabrina Venskus
19 Attorneys for The Samuel Lawrence
20 Foundation
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1 **PROOF OF SERVICE**

2 I am employed in the County of Ventura, State of California. I am over the age of 18
3 and not a party to this action. My business address is: Venskus & Associates, A.P.C., 603
4 West Ojai Avenue, Suite F Ojai, CA 93023. On April 19, 2021, I served the foregoing
5 document, described as:

6 **PETITIONER'S OPENING BRIEF**

7 on the interested party/parties below addressed as follows:

8 SEE SERVICE LIST

9
10 / / (BY MAIL) I placed the envelope for collection and mailing on the date shown above,
11 at this office, in Ojai, California, following our ordinary business practices. I am
12 readily familiar with this office's practice of collecting and processing correspondence
13 for mailing. On the same day that the correspondence is placed for collection and
mailing, it is deposited in the ordinary course of business with the U.S. Postal Service
in a sealed envelope with postage fully prepaid.

14 / / (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or package
15 provided by an overnight delivery carrier and addressed to the persons at the addresses
16 indicated above. I placed the envelope or package for collection and overnight delivery
at an office or a regularly utilized drop box of the overnight delivery carrier.

17 /X/ (BY ELECTRONIC TRANSMISSION) I electronically mailed a copy of said
18 document/s to the addressees at the email address as indicated above, per agreement
between the parties.

19 I declare under penalty of perjury under the laws of the State of California that the above is
20 true and correct and that I am employed in the office of a member of the bar of this court at whose
21 direction the service was made.

22 Executed on April 19, 2021 in Ojai, California.

23 

24 Rachael Kimball

SERVICE LIST

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<p>Edward J. Casey Gina Angiolillo Alston & Bird LLP 333 South Hope Street, 16th Floor Los Angeles, CA. 90017-1410 Telephone: (213) 576-1000 Facsimile: (213) 576-1100 Email: ed.casey@alston.com Gina.Angiolillo@alston.com</p>	<p>Attorneys for Real Parties in Interest: Southern California Edison, San Diego Gas & Electric Company, City of Riverside and City of Anaheim</p>