



South Texas Project Electric Generating Station P.O. Box 239 Wadsworth, Texas 77483

June 2, 2003
NOC-AE-03001538

Secretary, Office of the Secretary of the Commission
U.S. Nuclear Regulatory Commission
ATTN: Rulemakings and Adjudications Staff
Washington, DC 20555

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
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South Texas Project
Units 1 & 2
Docket Nos. STN 50-498, STN 50-499
Answer, Response and Request for Clarification in Response to
April 29, 2003, Order Requiring Compliance with Revised
Design Basis Threat for Operating Power Reactors (EA-03-086)

Section IV of the April 29, 2003, Order Requiring Compliance with Revised Design Basis Threat (DBT) for Operating Power Reactors (EA-03-086) ("Order") states that, in accordance with 10 CFR §2.202, a licensee must submit an answer to the Order and may request a hearing on the Order within 35 days of the date of the Order. This letter constitutes the answer (pursuant to 10 CFR 2.202 and Section IV) and response (pursuant to 10 CFR 50.4 and Sections III A.1, B.1 and B.2) of STP Nuclear Operating Company's (STPNOC) to the Order.

Section II of the Order states that "[i]n order to provide assurance that licensees are implementing prudent measures to protect against the revised DBT, all licenses identified in Attachment 1 to this Order shall be modified to require that the physical security plans, safeguards contingency plans, and the guard training and qualification plans required by 10 C.F.R. §§ 50.34(c), 50.34(d), and 73.55(b)(4)(ii) be revised to provide protection against this revised DBT."

STPNOC consents to the Order and does not request a hearing. STPNOC notes the request for clarification of five DBT issues provided in the safeguards attachment to the letter from Mr. Colvin, President and CEO of the Nuclear Energy Institute, to Chairman Diaz dated May 16, 2003. We encourage the Commission to respond to this request as soon as possible, as the Commission's clarifications may affect the manner of STPNOC's compliance with the Order.

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Because the NRC has used force-on-force testing as a standard by which compliance with the DBT was evaluated, STPNOC also requests that the NRC provide a clear definition of the objectives and criteria for force-on-force exercises so that appropriate revisions can be made to STPNOC's safeguards contingency plan, physical security plan, and the security training and qualification plan.

Specifically, STPNOC needs a clear explanation of the purpose of the force-on-force exercise (e.g., is the purpose of force-on-force exercises for security officer training, or to evaluate licensee compliance with the DBT?). Similarly, the success criterion for the force-on-force exercise needs to be established (e.g., is the criterion prevention of a large offsite release, which would be consistent with the basis for risk-informing NRC regulations, or some other criterion?). Finally, if a force-on-force exercise is going to be used as a performance test of the licensee's ability to protect against the DBT, a clear definition of adversary rules of engagement and adversary tactics is needed to provide appropriate predictability and stability in the regulatory program. Absent these clarifications, the standard by which licensee performance will be measured will continue to be a constantly moving target, which is counter to the Commission's Principles of Good Regulation.

To enable STPNOC to meet the compliance dates specified in the Order, the requested clarifications are needed as soon as possible. If the clarifications cannot be provided by October 1, 2003, we respectfully request that the Director, Nuclear Reactor Regulation extend the dates for submitting revisions to the security plan, safeguards contingency plan, security training and qualification plan, and for full implementation of the Order on a day-for-day basis until such clarifications are provided.

STPNOC also confirms its understanding that the Commission intends to exercise enforcement discretion to accommodate issues, which may arise as licensees, in good faith, take reasonable actions to implement the specific requirements of this Order. We further understand that the Commission will exercise enforcement discretion for the period necessary to resolve such issues and to integrate the requirements of this Order with the Orders issued February 25, 2002, as well as with other pertinent regulatory requirements, and safeguards contingency plan, physical security plan, and security training and qualification plan.

The enclosure to this letter provides STPNOC's response to Order Conditions A.1, B.1, B.2, and C.

Please direct any questions regarding this letter to Scott Head at (361) 972-7136.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 6/2/03



J. J. Sheppard
President & Chief Executive Officer

Enclosure: 1) Thirty-Five Day Response to Order Related to the Revised
Design Basis Threat

cc: * two copies ** original and 3 copies
*** electronic copy only

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**Thirty-Five Day Response to Order Related to the Revised
Design Basis Threat**

Section III of the Order Requiring Compliance With Revised Design Basis Threat (DBT) for Operating Power Reactors, dated April 29, 2003, set forth the Conditions identified below. STPNOC's response to Order Conditions A.1., B.1., B.2., and C. is provided on the following page.

III

- A.1.** All licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their physical security plans and safeguards contingency plans, prepared pursuant to 10 C.F.R. §§ 50.34(c) and 50.34(d), to provide protection against the DBT set forth in Attachment 2 to this Order. In addition, all licensees shall, notwithstanding the provisions of any Commission regulation, license, or order to the contrary, revise their guard training and qualification plans, required by 10 C.F.R. § 73.55(b)(4)(ii), to implement the DBT set forth in Attachment 2 to this Order. The licensees shall submit the revised physical security plans, safeguards contingency plans, and guard training and qualification plans, including an implementation schedule, to the Commission for review and approval no later than April 29, 2004.
- B.1.** All licensees shall, within thirty-five (35) days of the date of this Order, notify the Commission, (1) if they are unable to comply with any of the requirements of this Order, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall provide the licensee's justification for seeking relief from, or variation of, any specific requirement.
- B.2.** Any licensee that considers that implementation of any of the requirements of this Order would adversely impact safe operation of the facility must notify the Commission, within thirty-five (35) days of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives of this Order, or a schedule for modifying the facilities to address the adverse safety condition. If neither approach is appropriate, the licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.
- C.** All licensees shall report to the Commission, in writing, when they have fully implemented the approved revisions to their physical security plans, safeguards contingency plans, and guard training and qualification plans, to protect against the DBT described in Attachment 2 to this Order.

**Thirty-Five Day Response to Order Related to the Revised
Design Basis Threat**

STP Nuclear Operating Company (STPNOC) provides the following response to the reporting requirements of this Order:

- A.1. STPNOC will revise the physical security plan, safeguards contingency plan, and security training and qualification plan in accordance with Attachment 2 of the Order. Pending response from the NRC, STPNOC will submit the revised plans and the implementation schedule to the NRC by April 29, 2004 (See Note below).
- B.1. (1) STPNOC can and will comply with all requirements of this Order.
(2) STPNOC knows of no specific circumstances where this Order would be unnecessary.
(3) The licensee knows of no specific requirements of this Order that will cause STPNOC to be in violation of the provisions of any Commission regulation or the facility license.

STPNOC is not seeking relief from the requirements of the Order at this time.

- B.2. Implementation of the requirements described in Attachment 2 to the Order would not adversely impact safe operation of STPNOC.
- C. STPNOC will notify the Commission, in writing, when the approved revisions to the physical security plan, the safeguards contingency plan, and the security training and qualification plan, to protect against the Design Basis Threat described in Attachment 2 to this Order, have been fully implemented.

Note: STPNOC will submit the revised plans and the implementation schedule to the NRC by April 29, 2004, provided that the clarifications identified in the cover letter are provided by October 1, 2003. If the clarifications cannot be provided by October 1, 2003, we respectfully request that the Director, Nuclear Reactor Regulation extend the dates for submitting revisions to the security plan, safeguards contingency plan, security training and qualification plan, and for full implementation of the Order on a day-for-day basis until such clarifications are provided.