

RAS 12382

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

DOCKETED 10/17/06

SERVED 10/17/06

Before Administrative Judges:

Lawrence G. McDade, Chairman
Nicholas G. Trikouros
Dr. Richard E. Wardwell

In the Matter of

SYSTEM ENERGY RESOURCES, INC.

(Early Site Permit for Grand Gulf ESP Site)

Docket No. 52-009-ESP

ASLBP No. 04-823-03-ESP

October 17, 2006

NOTICE

(Change in Schedule)

On August 1, 2006, this Board established a tentative schedule for the mandatory hearing proceeding relating to the System Energy Resources, Inc. (SERI) proposed Grand Gulf Early Site Permit (ESP).¹ That tentative schedule was specifically established so that we could meet the Commission's expectation that this Board would "issue its decision on the mandatory hearing no later than November 30 [2006]."²

Thereafter, consistent with our August 1 Scheduling Order, the Board issued questions to the NRC Staff relating to the Grand Gulf Environmental Impact Statement (EIS), the answers to which were to be submitted to the Board by the NRC Staff on or before October 16, 2006. On October 10, 2006, the NRC Staff submitted a Motion for an extension of time within which to submit its answers to the Board. Upon consideration, this Board concluded that the NRC Staff's request was reasonable and, accordingly, on October 11, 2006, we granted the NRC Staff's Motion.

¹ Licensing Board Order (Establishing Tentative Case Schedule) (Aug. 1, 2006) (unpublished).

² CLI-06-20, 64 NRC __, __ (slip op. at 15) (July 26, 2006).

In granting the Staff's Motion, however, we determined that it was appropriate for the Board to make some modifications to the schedule that was set out in our August 1 Scheduling Order.³ These changes to our schedule will prevent us from meeting the Commission's expectation that we file our decision in this matter by November 30, 2006.⁴

We also note that on October 12, 2006, several public interest groups⁵ submitted a late-filed environmental contention arising from the decision of the United States Court of Appeals in the case of San Luis Obispo Mothers for Peace v. Nuclear Regulatory Commission, 449 F.3d 1016 (9th Cir. 2006). Until the admissibility of this late-filed contention (which challenges the adequacy of the Grand Gulf EIS) has been briefed, we are unable to determine what, if any, impact this filing will have on our tentative schedule.

We are instructed (10 C.F.R. § 2.334(c)) to give notice to the Commission whenever it appears that there will be a delay of more than forty-five (45) days in meeting dates for major activities in the hearing schedule. While we do not expect that the delay in concluding this proceeding will exceed 45 days we are, nevertheless, providing written notification to the

³ Licensing Board Order (Granting the NRC Staff's Motion for an Extension of Time and Revising Case Schedule) (Oct. 11, 2006) (unpublished). In our revised Scheduling Order we advised the NRC Staff and SERI that if they had any objection to the revised schedule, or if they have any objection to any other aspect of the Order, they must file such objections with the Board on or before October 16, 2006. Neither the NRC Staff nor SERI filed an objection.

⁴ Our current schedule anticipates that the mandatory hearing in this proceeding will commence on November 29, 2006, and will then continue thereafter from day to day until completed.

⁵ The Sierra Club, Public Citizen and the Nuclear Information and Resource Service [collectively – the Sierra Club].

Commission of our modification of the schedule for this proceeding.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD⁶

/RA/

Lawrence G. McDade, Chairman
ADMINISTRATIVE JUDGE

Rockville, Maryland
October 17, 2006

⁶ Copies of this Notice were sent this date by Internet e-mail transmission to counsel for (1) SERI; (2) the Sierra Club; and (3) the NRC Staff.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SYSTEM ENERGY RESOURCES, INC.) Docket No. 52-009-ESP
)
)
(Early Site Permit for Grand Gulf ESP Site))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB NOTICE (CHANGE IN SCHEDULE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

Office of Commission Appellate
Adjudication
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Lawrence G. McDade, Chair
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Nicholas G. Trikouros
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Administrative Judge
Richard E. Wardwell
Atomic Safety and Licensing Board Panel
Mail Stop - T-3 F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Robert M. Weisman, Esq.
Ann P. Hodgdon, Esq.
Patrick A. Moulding, Esq.
Jonathan M. Rund, Esq.
Office of the General Counsel
Mail Stop - O-15 D21
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Diane Curran, Esq.
Harmon, Curran, Spielberg
& Eisenberg, L.L.P.
1726 M Street, NW, Suite 600
Washington, DC 20036

Docket No. 52-009-ESP
LB NOTICE (CHANGE IN SCHEDULE)

Kathryn M. Sutton, Esq.
Paul M. Bessette, Esq.
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Pat Gallagher, Esq.
Director of Environmental Law
Sierra Club
85 Second Street, 2nd Floor
San Francisco, CA 94105

[Original signed by Evangeline S. Ngbea]

Office of the Secretary of the Commission

Dated at Rockville, Maryland,
this 17th day of October 2006