

PMSTPCOL PEmails

From: Paul Kallan
Sent: Thursday, August 21, 2008 4:00 PM
To: Donald Palmrose
Subject: USACE Letter
Attachments: Letter to USACE Galveston.doc

Hi Don,

Here is the letter I sent to the Corps.

regards,

Paul Kallan, Project Manager
Office of New Reactors
Division of Site and Environmental Reviews
Environmental Projects Branch 1
Tel: (301) 415-2809

Hearing Identifier: SouthTexas34Public_EX
Email Number: 765

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From: Paul Kallan

Created By: Paul.Kallan@nrc.gov

Recipients:
"Donald Palmrose" <Donald.Palmrose@nrc.gov>
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August 14, 2008

Mr. Fred L. Anthamatten
Chief, Regulatory Branch
Department of the Army
Galveston District
U.S. Army Corps of Engineers
P.O. Box 1229
Galveston, TX 77553-1229

SUBJECT: REQUEST TO COOPERATE WITH NUCLEAR REGULATORY COMMISSION
ON THE ENVIRONMENTAL IMPACT STATEMENT FOR THE SOUTH TEXAS PROJECT
NUCLEAR OPERATING COMPANY COMBINED LICENSE APPLICATION, UNITS 3 and 4.

Dear Mr. Anthamatten:

This letter responds to your letter to Mr. Scott Flanders, Director of the Division of Site and Environmental Reviews of the Office of New Reactors of the U.S. Nuclear Regulatory Commission (NRC) dated July 07, 2008. Your letter requested that the U.S. Army Corps of Engineers (Corps) be designated as a cooperating agency for the Environmental Impact Statement (EIS) related to the application for a Combined License for the South Texas Project Nuclear Operating Company, Units 3 and 4. Because of your regulatory role regarding the jurisdictional waters of the United States and the pendency of the permit request before your agency at the same time as the combined license application before the NRC, we agree to include the Corps to as a cooperating agency on this project with the NRC as the lead agency if the Corps wishes to proceed on the same schedule as the NRC application review schedule. We note, however, that South Texas Project Nuclear Operating Company (STPNOC), the applicant for the South Texas Project, Units 3 and 4 Combined License, by letter dated April 9, 2008, requested the Corps to conduct a determination of waters of the U.S. (not licensed by the NRC) for which STPNOC seeks a Corps permit.

On November 8, 2007, changes to the NRC's regulations became final that redefined the term *construction* for nuclear power plants. Under these rule changes, an NRC license is necessary only for those construction activities that are under the purview of our legislative authority. The new definition of *construction* is explained in 10 CFR 51.4; that regulation also defines activities that are not *construction*. Many of the activities that may require a permit from the Corps are no longer part of the definition of *construction*, such as dredging, site grading, excavation, and installation of transmission line towers in jurisdictional wetlands. Therefore, these activities would not require authorization by NRC and, accordingly, they would not be addressed as direct impacts of the proposed action in the NRC's EIS. The NRC would only evaluate the environmental impact of these activities, now referred to as preconstruction in 10 CFR 51.45(c), as cumulative impacts associated with the environmental impacts of the construction activities. However, due to the needs of the Corps for its permitting process and the participation by the Corps as a cooperating agency, we understand that the environmental impact of some of these preconstruction activities may have to be addressed in more detail.

If the Corps decides to participate as a cooperating agency, we anticipate that the Corps will give this effort the necessary level of resources and priority to ensure that the EIS can be published on the schedule when the NRC has established one.

The NRC's environmental project manager for the South Texas Project application is Mr. Paul Kallan (301-415-2809 Paul.Kallan@nrc.gov); he will be the principal NRC point of contact for interactions with the Corps on this project.

Sincerely,

/RA/

Scott Flanders, Division Director
Division of Site and Environmental Review
Office of New Reactors

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Sincerely,

/RA/

Scott Flanders, Division Director
Division of Site and Environmental Review
Office of New Reactors

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