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January 21, 2009

VIA E-FILING

G. Paul Bollwerk, III, Chairman
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Nicholas G. Trikouros
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. James Jackson
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

In the matter of
Southern Nuclear Operating Co.
(Early Site Permit for Vogtle ESP Site)
Docket No. 52-011-ESP

Re: Request to Permit Turner Environmental Law Clinic Student Attorneys to Appear Before the Atomic Safety and Licensing Board (“the Board”) in Any Evidentiary Hearing or Pre-Hearing Meetings Related to the Plant Vogtle Early Site Permit Proceeding (Docket No. 52-011-ESP)

Dear Judges Bollwerk, Trikouros, and Jackson:

As you are aware, the Turner Environmental Law Clinic (the “Clinic”) is staffed in part by student-attorneys. The Clinic’s mission is to train law students to be effective environmental attorneys with high ethical standards. In furtherance of missions similar to the Clinic’s, all states recognize the ability of third-year law students to represent clients

under the direct supervision of a licensed attorney through so called “third-year practice rules.”¹ Because most third-year practice rules do not govern appearances in administrative proceedings, *see, e.g.*, O.C.G.A. §§ 15-18-22, 17-12-43 (2006), decisions of whether to allow students to appear before administrative agencies are often made on an ad hoc basis.

Like the third-year practice rules, the regulations governing Nuclear Regulatory Commission (“NRC”) administrative hearings also do not specifically address whether a third-year law student under the supervision of a licensed attorney may appear before an Atomic Safety and Licensing Board panel (“ASLB”) in an administrative proceeding. Instead, the presiding officer of the ASLB has broad discretion to administer the hearing in the manner he chooses, so long as it promotes impartiality and fairness and is in accordance with the Atomic Energy Act of 1954, the corresponding regulations, and the Administrative Procedures Act. 10 C.F.R. § 2.319, (r). Thus, while it is clear that an institution may be represented at a hearing before an ASLB panel by a “duly authorized member or officer, or by an attorney-at-law,” *id.* § 2.314(b), the presiding officer may also permit student attorneys, under the supervision of a licensed attorney, to appear before the ASLB.

Accordingly, Joint Intervenors respectfully request the Board’s permission to allow third-year Clinic student-attorneys, under the supervision of Lawrence Sanders, to appear before the Board in any evidentiary hearing or pre-hearing meeting related to the Plant Vogtle Early Site Permit proceeding, including making opening statements by counsel as permitted pursuant to the December 15, 2008 Board MEMORANDUM AND

¹ Cheri Wyron Levin, *The Doctor Is In: Prescriptions for Teaching Writing in a Live Client In-House Clinic*, 15 CLINICAL LAW REVIEW 157, 160 n. 27 (2008).

ORDER (Contested Evidentiary Hearing Administrative Matters). Counsel for Joint Intervenors has contacted counsel for Southern Nuclear Operating Company and NRC staff counsel regarding this request, and neither counsel objected.

Thank you, in advance, for your consideration.

Respectfully submitted,

Signed Electronically by:
Lawrence D. Sanders
Counsel for Joint Intervenors

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
SOUTHERN NUCLEAR OPERATING)	Docket No. 52-011-ESP
COMPANY)	
)	
(Early Site Permit for the Vogtle ESP Site))	January 21, 2009

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **Letter from Lawrence Sanders Re: Request to Permit Law Student Appearance Before the ASLB in Upcoming Evidentiary Hearing** was served upon the following persons by Electronic Information Exchange and/or electronic mail.

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Dated: January 21, 2009

/signed (electronically) by/

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