

February 17, 2009

The Honorable Kay Bailey Hutchison  
United States Senator  
961 Federal Building  
300 East 8th Street  
Austin, TX 78701

Dear Senator Hutchison:

On behalf of the U.S. Nuclear Regulatory Commission (NRC), I am responding to your January 23, 2009, letter which forwarded concerns from your constituent. This individual had questions about the U.S. Army Corps of Engineers (the Corps) participation as a cooperating agency on the National Environmental Policy Act (NEPA) review for the South Texas Project (STP) combined license (COL) application.

As part of the review of a COL application, the NRC develops an environmental impact statement (EIS) as required by NEPA. The reason for the cooperation between NRC and the Corps on the STP environmental review is to work jointly so that a single EIS can address the different regulatory responsibilities of the two agencies, thus avoiding the need for each agency to prepare separate, but largely similar, EISs.

The NRC entered into a memorandum of understanding (MOU) with the Corps on September 25, 2008, replacing a previous MOU dated August 18, 1975. In the MOU, the NRC and the Corps agreed that the Corps will participate as a cooperating agency in the environmental reviews of reactor licensing applications when it is appropriate, and that the NRC will be the lead Federal agency. The goal of the MOU is to facilitate each agency's compliance with its own review responsibilities under NEPA and related statutes with respect to the authorizations required to construct and operate nuclear power plants. Most COL applicants will require a permit from the Corps to conduct site preparation and construction activities that will impact wetlands or waters of the United States. This permit from the Corps would be in addition to a license issued by the NRC. The NRC and the Corps believe that including the Corps as a cooperating agency will enable more effective and efficient use of resources by both agencies in meeting their respective environmental requirements. Several Corps offices are currently participating on other reactor licensing environmental reviews as a cooperating agency.

The applicant for the STP COL has not yet applied to the Corps for a permit. However, the NRC and the Corps are proceeding on the assumption that a permit will be required. By letter dated July 7, 2008, the Galveston District of the Corps requested designation by the NRC as a cooperating agency for development of the EIS for the STP review. The Galveston District's request was expected and encouraged by the NRC environmental staff. Thus, in a letter dated August 29, 2008, the NRC agreed to include the Corps as a cooperating agency. The NRC and the Corps consider this to be the most prudent course of action for the STP.

Senator Hutchison

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One of the issues raised by your constituent is the cost of the Corps' participation in the STP environmental review. While information regarding expenditure of Corps resources would need to be obtained directly from the Corps, it is important to note that the NRC is a fee-recoverable agency. This means that applicants and licensees, such as South Texas Project Nuclear Operating Company, are billed for the work done by the NRC. The MOU between the NRC and the Corps does not obligate or commit funds to the Corps from the NRC. The NRC is not funding work performed by the Corps related to the STP review.

If you have additional questions, please contact Ms. Rebecca Schmidt, Director of the Office of Congressional Affairs, at (301) 415-1776.

Sincerely,

*/RA/*

R. W. Borchardt  
Executive Director  
for Operations

cc:  
U. S. Army Corp of Engineers

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 R. W. Borchardt  
 Executive Director  
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 U. S. Army Corp of Engineers

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