UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD PANEL

Before Administrative Judges:

Ann Marshall Young, Chair
Dr. Gary S. Arnold
Dr. Alice C. Mignerey

In the Matter of LUMINANT GENERATION COMPANY, LLC (Comanche Peak Nuclear Power Plant, Units 3 and 4)	Docket Nos. 52-034-COL and 52-035-COL ASLBP No. 09-886-09-COL-BD01 September 24, 2009

ORDER
(Regarding Oral Argument and Future Course of Proceeding)

This is to notify the parties that the Licensing Board plans to conduct oral argument in October on the Intervenors' five new contentions, and the related issue of the mootness of Contention 7. Significant parts of the argument may be closed to the public, in order to prevent any inappropriate disclosure of sensitive information concerning the Applicant's May 2009 Mitigative Strategies Report and related information, based on 10 C.F.R. § 2.390(d)(1) – a provision the parties failed to cite in their recent Joint Brief but which appears to us to constitute the regulatory authority for nondisclosure of such security-related SUNSI concerning the physical protection of nuclear power plants, and thus to warrant the use of appropriate procedures to assure that such nondisclosure is not compromised in any adjudicatory processes. The Board will address the conduct of the oral argument in greater detail in a future order, as well as address the future conduct of the proceeding more broadly in a formal scheduling order to be issued when all members of the board are available to confer appropriately on these matters.

In the meantime, the parties shall, on or before October 1, 2009, file statements of their availability during the last half of October for the oral argument, which will be held in the ASLBP hearing room in Rockville, Maryland. The Board will thereafter set a definite date for the oral argument.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

_____
Ann Marshall Young, Chair
ADMINISTRATIVE JUDGE

Rockville, Maryland
September 24, 2009[1]

[1] Copies of this Order were filed this date with the agency's E-filing system for service to all parties.

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NUCLEAR REGULATORY COMMISSION

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	)	
	)	
(Comanche Peak Nuclear Power Plant,	)	
Units 3 and 4)	)	

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (REGARDING ORAL ARGUMENT AND FUTURE COURSE OF PROCEEDING) have been served upon the following persons by Electronic Information Exchange.

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[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of September 2009