

November 20, 2009

Administrative Judge  
Ann Marshall Young, Chair  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop T-3F23  
Washington, D.C. 20555-0001  
E-mail: ann.young@nrc.gov

Administrative Judge  
Michael M. Gibson, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: mmg3@nrc.gov

RE: Comanche Peak, Docket Nos. 52-034 & 52-035, South Texas Project, Docket Nos. 52-012 & 52-013;  
Appeal of Staff Denial of Intervenor's Request for DC/COL-ISG-016

Dear Judges Young and Gibson,

On November 5, 2009, Intervenor's in the above-referenced dockets requested NRC Staff to provide a copy of DC/COL-ISG-016. On November 16, 2009 the Staff denied the request. Please consider this correspondence as our appeal of the denials pursuant to 74 Fed. Reg. 6177, 6180.

The Intervenor's require DC/COL-ISG-016 for meaningful participation in the adjudicatory proceedings because it may clarify or address issues not discussed in the Standard Review Plan by providing guidance on compliance with 10 C.F.R. § 52.80 and 10 C.F.R. § 50.54(hh)(2) for new reactor applications. While NEI 06-12 is approved by the Commission only for current operating reactors, it is not approved for new reactor applications. 74 Fed. Reg. 13926 at 13958. The Intervenor's cannot meaningfully analyze Applicants' claims that they comply with 10 C.F.R. § 50.54(hh)(2) for new reactor submittals without having access to the subject guidance itself. The standard for access to DC/COL- ISG-16 should be identical to the standard by which Intervenor's were granted access to other SUNSI documents.

The DC/COL-ISG-016 is relevant and material to the pending fires and explosions contentions because it has a direct bearing on whether the Applicants' submittals are consistent with the Staff's interpretation of the requirements under 10 C.F.R. § 52.80 and 10 C.F.R. § 50.54(hh)(2). The DC/COL-ISG 06-12 is every bit as relevant and material as NEI 06-12 and arguably, even more so given the express limitation that NEI 06-12 is primarily intended to apply to currently operating nuclear plants. This raises a material dispute with the Applicants regarding the sufficiency of the subject submittals under the requirements of 10 C.F.R. § 52.80 and 10 C.F.R. § 50.54(hh)(2).

Additionally, the DC/COL-ISG 06-12 has been referenced in both of the above-referenced dockets. The Comanche Peak references are in Intervenor's Consolidated Response filed September 11, 2009 at p.11, Footnote 8 and p.12. The South Texas references are in Intervenor's Consolidated filed on September 15, 2009 at P.11, Footnote 11 and p.13.

It is our understanding that presently there are no publicly available versions of DC/COL-ISG 06-12.

Respectfully submitted,

/s/ Robert. V. Eye  
Robert V. Eye, Kan. Sup. Ct. No.10689  
Kauffman & Eye  
Suite 202  
112 SW 6th Ave.  
Topeka, Kansas 66603  
785-234-4040  
bob@kauffmaneye.com

**UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL**

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**In the Matter of**

**Luminant Generation Company, LLC  
Comanche Peak Nuclear Power Plant  
Units 3 and 4  
Combined License Adjudication**

**Docket Nos. 52-034, 52-035**

**South Texas Project Nuclear Operating Co.  
Application for the South Texas Project  
Units 3 and 4  
Combined Operating License**

**Docket Nos. 52-012, 52-013**

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 20, 2009 a copy of the Intervenor's November 20, 2009 Letter Appealing NRC Staff Denial of Intervenor's Request for DC/COL-ISG-016 was served by the Electronic Information Exchange on the following recipients:

Administrative Judge  
Ann Marshall Young, Chair  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop T-3F23  
Washington, D.C. 20555-0001  
E-mail: ann.young@nrc.gov

Administrative Judge  
Michael M. Gibson, Chair  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: mmg3@nrc.gov

Administrative Judge  
Dr. Alice C. Mignerey  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop T-3F23  
Washington, D.C. 20555-0001  
E-mail: acm3@nrc.gov

Administrative Judge  
Dr. Randall J. Charbeneau  
Atomic Safety and Licensing Board Panel  
Mail Stop T-3 F23  
U.S. Nuclear Regulatory Commission  
Washington, DC 20555-0001  
E-mail: Randall.Charbeneau@nrc.gov

Administrative Judge  
Dr. Gary S. Arnold  
Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop T-3 F23  
Washington, DC 20555-0001  
E-mail: gxa1@nrc.gov

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
E-mail: ocaamail@nrc.gov

Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Rulemakings and Adjudications Staff  
Washington, DC 20555-0001  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Mail Stop O-15D21  
Washington, DC 20555-0001  
Michael A. Spencer, Susan H. Vrahoretis  
James Biggins, Jessica Bielecki  
E-mail: [Michael.Spencer@nrc.gov](mailto:Michael.Spencer@nrc.gov)  
[Susan.Vrahoretis@nrc.gov](mailto:Susan.Vrahoretis@nrc.gov)  
[James.Biggins@nrc.gov](mailto:James.Biggins@nrc.gov)  
[Jessica.Bielecki@nrc.gov](mailto:Jessica.Bielecki@nrc.gov)

Steven P. Frantz, Stephen J. Burdick  
Alvin Gutterman, John E. Matthews  
Jonathan M. Rund, Timothy P. Matthews  
Martin J. O'Neill  
Morgan, Lewis & Bockius LLP  
1111 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004  
Phone: 202-739-3000  
Fax: 202-739-3001  
E-mail: [sfrantz@morganlewis.com](mailto:sfrantz@morganlewis.com)  
[sburdick@morganlewis.com](mailto:sburdick@morganlewis.com)  
[agutterman@morganlewis.com](mailto:agutterman@morganlewis.com)  
[jmatthews@morganlewis.com](mailto:jmatthews@morganlewis.com)  
[jrund@morganlewis.com](mailto:jrund@morganlewis.com)  
[tmatthews@morganlewis.com](mailto:tmatthews@morganlewis.com)  
[martin.o'neill@morganlewis.com](mailto:martin.o'neill@morganlewis.com)

*/Signed (electronically) by Robert V. Eye/*  
Robert V. Eye  
Counsel for the Intervenors  
Kauffman & Eye  
112 SW 6<sup>th</sup> Ave., Suite 202  
Topeka, KS 66603  
E-mail: [bob@kauffmaneye.com](mailto:bob@kauffmaneye.com)