

**UNITED STATES COURT OF APPEALS
DISTRICT OF COLUMBIA CIRCUIT**

CENTER FOR A SUSTAINABLE COAST,)	
<i>et al.</i> ,)	
)	
Petitioners,)	No. 09-1262
)	
v.)	
)	
NUCLEAR REGULATORY COMMISSION)	
and THE UNITED STATES OF AMERICA,)	
)	
Respondents.)	
_____)	

PETITIONERS' STATEMENT OF ISSUES

Introduction

Pursuant to the Court's October 28, 2009 Order, Center for a Sustainable Coast, *et al.*, ("Petitioners") hereby provide a statement of the issues they intend to raise in challenging the Nuclear Regulatory Commission's ("NRC's") decision to issue an Early Site Permit ("ESP") and Limited Work Authorization ("LWA") to Southern Nuclear Operating Company, Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, (collectively "SNC"), for Units 3 and 4 of the Vogtle nuclear power plant ("Plant Vogtle Units 3 & 4"). *See* Notice of Issuance of Early Site Permit

and Limited Work Authorization for the Vogtle Electric Generating Plant ESP Site, 74 Fed. Reg. 44,879 (August 31, 2009) (“ESP-004”).

ESP-004 relies in part on safety and environmental findings made by the NRC in a contested proceeding before the NRC’s Atomic Safety and Licensing Board (“ASLB”), as reported in the ASLB’s First Partial Initial Decision in the contested proceeding, LBP-09-19 (August 17, 2009). The issues identified by Petitioners below arise from LBP-09-19, as well as procedural and evidentiary rulings that support LBP-09-19.

Statement of Issues

Petitioners intend to raise the following issues in this appeal:

1. Whether, in issuing ESP-004, the NRC violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. §§ 4321-4370(f), and NRC implementing regulations in 10 C.F.R. Parts 51 and 52, by:
 - a) failing to take a hard look at all of the relevant and reasonably foreseeable cumulative impacts of Plant Vogtle Units 3 & 4 on aquatic biota in Savannah River;
 - b) failing to take a hard look at the direct, indirect, and cumulative impacts of dredging the federal navigation channel of the Savannah River to permit the barging of

reactor components to the Plant Vogtle site (the

“Dredging Impacts”); and

- d) improperly deferring to the Army Corps of Engineers to take a hard look at the Dredging Impacts sometime after the issuance of ESP-004.

2. Whether the NRC violated the procedural requirements of the Atomic Energy Act, 42 U.S.C. § 2239(a), and the Administrative Procedure Act, 5 U.S.C. § 556, by prohibiting Petitioners from introducing testimony or evidence regarding all of the relevant and reasonably foreseeable cumulative impact of Plant Vogtle Units 3 & 4 on aquatic biota in the Savannah River, at the same time it allowed other parties to testify and present evidence on the same issues.

Respectfully submitted,

/s/

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