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TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

February 2, 2010

Mr. Ryan Whited, Environmental Projects Branch Chief
Division of Site and Environmental Reviews
Office of New Reactors
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001 Mailstop: T-7E30

Re: 401 Water Quality Certification of South Texas Nuclear Project

Dear Mr. Whited:

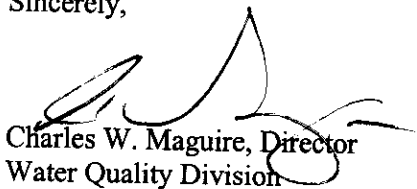
The South Texas Project Nuclear Operating Company (STPNOC) has filed an application for a Combined License with the Nuclear Regulatory Commission (NRC) to operate two new Advanced Boiling Water Reactors at the South Texas Project near Wadsworth, Texas. In conjunction with license application, STPNOC is requesting a Section 401 water quality certification from the Texas Commission on Environmental Quality (TCEQ).

The STPNOC understands that a Section 401 certification is required for this combined NRC license. STPNOC has requested a certification decision from the TCEQ. Staff of the NRC and TCEQ have discussed the STPNOC request for a 401 certification for the NRC Combined License, and have not identified any discharges to waters of the U.S. that would not also be subject to regulation under either Section 402 (NPDES Permits) or Section 404 (Fill Permits). The TCEQ would like to satisfy the NRC requirement for a 401 certification decision but avoid a duplicate regulatory review of an activity that will be evaluated under a separate permitting process.

Therefore and in response to STPNOC's February 3, 2009 request for a Section 401 certification the TCEQ waives our authority under Title 30, Texas Administrative Code (TAC), Chapter 279.2(b)(4) to act on this request for water quality certification.

If you have any questions or need additional information regarding this waiver decision please contact Mr. David Galindo at (512) 239-0951 or by email at dgalindo@tceq.state.tx.us.

Sincerely,


Charles W. Maguire, Director
Water Quality Division

cc: Mr. Scott Head, South Texas Project Electric Generating Station, 4000 Avenue F - Suite A, Bay City, Texas 77414
Mr. Russell Keisling, South Texas Project Electric Generating Station, 4000 Avenue F - Suite A, Bay City, Texas 77414

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