

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
STP NUCLEAR OPERATING COMPANY)	Docket Nos. 52-012-COL
(South Texas Project Units 3 and 4))	52-013-COL
	February 22, 2010

UNOPPOSED MOTION FOR CLARIFICATION

In accordance with 10 C.F.R. § 2.323(a), STP Nuclear Operating Company (“STPNOC”) hereby submits this unopposed Motion requesting that the Atomic Safety and Licensing Board (“Board”) clarify the timing to submit motions for summary disposition of environmental contentions.

Section II.G.5 of the October 20, 2009 Initial Scheduling Order states that motions for summary disposition of environmental contentions must be submitted within 20 days after publication of the Final Environmental Impact Statement (“FEIS”). Section II.G.2 of the Initial Scheduling Order states that dispositive motions, including motions for summary disposition, must be filed within 20 days after the “occurrence or circumstance” giving rise to the motion.

When those two provisions are read in conjunction, STPNOC understands that motions for summary disposition of the existing environmental contentions¹ do not need to be filed within 20 days after publication of the Draft Environmental Impact Statement (“DEIS”) and instead that motions for summary disposition of environmental contentions can be filed at any time up to 20

¹ In this regard, STPNOC uses the phrase “existing environmental contentions” to refer to the admitted contentions and to the proposed new and modified contentions to the extent that the Board admits any of them prior to issuance of the DEIS.

days after publication of the FEIS. STPNOC requests that the Board confirm this understanding of the Initial Scheduling Order.

If the Board disagrees with the above understanding and is of the position that motions for summary disposition of existing contentions must be filed within 20 days after publication of the DEIS, then STPNOC requests that the Board modify the deadline for submitting motions for summary disposition of environmental contentions. This modification is predicated upon the fact that (1) there are currently pending motions to dismiss the contentions and motions to admit new and modified contentions, (2) the DEIS is scheduled to be issued next month, and (3) the Board is unlikely to rule on the motions within 20 days of issuance of the DEIS given that oral argument is scheduled on the motions for April 7, 2010.

Under these circumstances, if the Board disagrees with STPNOC's understanding of the Initial Scheduling Order, then STPNOC requests that the deadline for submitting motions for summary disposition of the existing environmental contentions be 20 days after (1) the publication of the DEIS, (2) the Board's ruling on the pending motions to dismiss the admitted contentions as moot, or (3) the Board's ruling on the motions to admit the Intervenors' new and modified contentions, whichever comes last. STPNOC believes that such a deadline would result in the most efficient use of the resources of the Board and the parties, since any motion for summary disposition filed prior to a Board ruling on the pending motions could be rendered moot if the Board were to grant the motions to dismiss, and since any motion for summary disposition would need to be augmented or modified if the Board were to admit the new or modified contentions.

Respectfully submitted,

Executed in Accord With 10 CFR § 2.304(d)

/s/ Steven P. Frantz

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Dated in Washington, D.C.
this 22nd day of February 2010

CERTIFICATIONS

I certify that I have made a sincere effort to contact the other parties in this proceeding, to explain to them the factual and legal issues raised in this motion, and to resolve those issues, and I certify that counsel for the Intervenors and counsel for the NRC staff have informed me that they do not oppose the motion.

Executed in Accord With 10 CFR § 2.304(d)

/s/ Steven P. Frantz

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CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2010 a copy of “Unopposed Motion for Clarification” was served by the Electronic Information Exchange on the following recipients:

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