

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Michael M. Gibson, Chairman
Dr. Gary S. Arnold
Dr. Randall J. Charbeneau

In the Matter of

SOUTH TEXAS PROJECT NUCLEAR
OPERATING CO.

(South Texas Project Units 3 and 4)

Docket Nos. 52-012-COL & 52-013-COL

ASLBP No. 09-885-08-COL-BD01

February 23, 2010

ORDER

(Clarifying Time Limits for Motions for Summary Disposition of Environmental Contentions)

In response to the Applicant's February 22, 2010 Unopposed Motion for Clarification regarding deadlines for filing dispositive motions, the Board responds with the following guidance. Our October 20, 2009 Scheduling Order specifies two separate deadlines for dispositive motions. First, we required that all such motions be filed promptly, e.g., within 20 days after the occurrence or circumstance giving rise to the motion.¹ This is based on 10 C.F.R. § 2.323(a). Second, we established an ultimate deadline beyond which no such motions could be filed. Thus, we stated that motions for summary disposition or other dispositive motions regarding contentions based on 10 C.F.R. Part 51 or the National Environmental Policy Act must be filed within 20 days after the NRC Staff publishes the Final Environmental Statement ("FEIS").² The latter deadline does not displace the former, nor does it relieve the movant from the duty to file a motion promptly.

¹ Initial Scheduling Order at 12-13.

² Initial Scheduling Order (Oct. 20, 2009) at 13.

Therefore, to the extent new information arises in the Draft Environmental Impact Statement (“DEIS”) that would form the basis for a dispositive motion, such a motion filed more than 20 days after issuance of the DEIS would be untimely. The parties may incorporate by reference other pending motions.

It is so ORDERED.

FOR THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson
CHAIRMAN

Rockville, Maryland
February 23, 2010

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NUCLEAR REGULATORY COMMISSION

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OPERATING COMPANY)
)
(South Texas Project Units 3 and 4))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (CLARIFYING TIME LIMITS FOR MOTIONS FOR SUMMARY DISPOSITION OF ENVIRONMENTAL CONTENTIONS) have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 52-012-COL and 52-013-COL
ORDER (CLARIFYING TIME LIMITS FOR MOTIONS FOR SUMMARY
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[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of February 2010