

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 COMPANY

(South Texas Project, Units 3 and 4)

Docket Nos. 52-12-COL and 52-13-COL

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

April 13, 2010

ORDER
(Granting Access to ABWR DCD Chapter 19)

In their New Accident Contentions,¹ Intervenors state that Chapter 19 of the Advanced Boiling Water Reactor design control document (“ABWR DCD”) is not publicly available. At oral argument on April 7, 2010, the Applicant and NRC Staff agreed that Intervenors have not been afforded access to this document. Chapter 19 of the ABWR DCD is material to this proceeding because the Applicant incorporates portions of it by reference into the South Texas Project Units 3 and 4 Environmental Report. The NRC Staff has not asserted any claim of privilege to Chapter 19 of the ABWR DCD, nor has it publicly asserted that Chapter 19 contains material it deems to be Classified information, Safeguards information (“SGI”), or Sensitive Unclassified Non-Safeguards information (“SUNSI”). Accordingly, we hereby direct NRC Staff to afford Intervenors with access to Chapter 19 of the ABWR DCD within 14 days from the date of this Order. If NRC Staff wishes to impose restrictions on Intervenors’ use and disclosure of Chapter 19 of ABWR DCD, it may move for a protective order within 7 days from the date of this Order.

¹ Intervenors’ Contentions Regarding Applicant’s Proposed Revision to Environmental Report Section 7.5S (Dec. 22, 2009).

Any such motion shall specify the legal basis on which NRC Staff claims it may restrict use and disclosure of Chapter 19 of ABWR DCD and shall include a proposed Protective Order.

Intervenors shall file any new or amended contentions based on the contents of Chapter 19 of the ABWR DCD within 30 days from the date they are afforded access to Chapter 19 of the ABWR DCD.²

It is so ORDERED.

THE ATOMIC SAFETY
AND LICENSING BOARD

/RA/

Michael M. Gibson
CHAIRMAN

/RA by Thomas Moore for:/

Dr. Gary S. Arnold
ADMINISTRATIVE JUDGE

/RA by Thomas Moore for:/

Dr. Randall J. Charbeneau
ADMINISTRATIVE JUDGE

Rockville, Maryland
April 13, 2010

² This order neither reaches nor affects the merits of contentions and other motions addressed during the April 7, 2010 oral argument.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
SOUTH TEXAS PROJECT NUCLEAR) Docket Nos. 52-012-COL and 52-013-COL
OPERATING COMPANY)
)
(South Texas Project Units 3 and 4))
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER (Granting Access to ABWR DCD Chapter 19) have been served upon the following persons by the Electronic Information Exchange.

Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Mail Stop: T-3F23
Washington, DC 20555-0001

Office of the General Counsel
U.S. Nuclear Regulatory Commission
Mail Stop - O-15 D21
Washington, DC 20555-0001

Michael M. Gibson, Chair
Administrative Judge
E-mail: michael.gibson@nrc.gov

Marian Zabler, Esq.
Sara Kirkwood, Esq.
Maxwell Smith, Esq.
Jessica Bielecki, Esq.
Michael Spencer, Esq.
Jody Martin, Esq.
Joseph Gilman, Paralegal
E-mail:

Gary S. Arnold
Administrative Judge
E-mail: gxa1@nrc.gov

Marian.Zabler@nrc.gov
Sara.Kirkwood@nrc.gov
jsq1@nrc.gov
maxwell.smith@nrc.gov
jab2@nrc.gov
michael.spencer@nrc.gov
jody.martin@nrc.gov

Randall J. Charbeneau
Administrative Judge
E-mail: Randall.Charbeneau@nrc.gov

Kara Wenzel, Law Clerk
E-mail: kara.wenzel@nrc.gov
Wen Bu, Law Clerk
E-mail: wxb3@nrc.gov

OGC Mail Center : OGCMailCenter@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 of the Commission
U.S. Nuclear Regulatory Commission
Mail Stop: O-16C1
Washington, DC 20555-0001
Hearing Docket
E-mail: hearingdocket@nrc.gov

Docket Nos. 52-012-COL and 52-013-COL
ORDER (Granting Access to ABWR DCD Chapter 19)

Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Ave., NW
Washington, DC 20004
Counsel for the Applicant
Stephen J. Burdick, Esq.
Steven P. Frantz, Esq.
Alvin Gutterman, Esq.
John E. Matthews, Esq.
Mary Freeze, Assistant
E-mail:
sburdick@morganlewis.com
sfrantz@morganlewis.com;
agutterman@morganlewis.com
jmatthews@morganlewis.com
mfreeze@morganlewis.com

Sustainable Energy and Economic
Development (SEED) Coalition
Diane Curran
Harmon, Curran, Spielberg, & Eisenberg, LLP
1726 M Street N.W., Suite 600
Washington, DC 20036
E-mail: dcurran@harmoncurran.com

Sustainable Energy and Economic
Development (SEED) Coalition
Robert V. Eye, Esq.
Kauffman & Eye
112 SW 6th Avenue, Suite 202
Topeka, Kansas 66603
E-mail: bob@kauffmaneye.com

Sustainable Energy & Economic
Development (SEED) Coalition
Eliza Brown, Clean Energy Advocate
1303 San Antonio #100
Austin, Texas 78701
E-mail: eliza.seedcoalition@gmail.com

Southwest Workers' Union
Lanny Alan Sinkin, Esq.
1801 Westlake Drive #212
Austin, Texas 78746
E-mail: lanny.sinkin@gmail.com

[Original signed by Nancy Greathead]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 13th day of April 2010