

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,<sup>1</sup> 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.

---

<sup>1</sup> 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.<sup>2</sup>

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

---

<sup>2</sup> 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](mailto: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](mailto:gxa1@nrc.gov)

[Marian.Zabler@nrc.gov](mailto:Marian.Zabler@nrc.gov)  
[Sara.Kirkwood@nrc.gov](mailto:Sara.Kirkwood@nrc.gov)  
[jsq1@nrc.gov](mailto:jsq1@nrc.gov)  
[maxwell.smith@nrc.gov](mailto:maxwell.smith@nrc.gov)  
[jab2@nrc.gov](mailto:jab2@nrc.gov)  
[michael.spencer@nrc.gov](mailto:michael.spencer@nrc.gov)  
[jody.martin@nrc.gov](mailto:jody.martin@nrc.gov)

Randall J. Charbeneau  
Administrative Judge  
E-mail: [Randall.Charbeneau@nrc.gov](mailto:Randall.Charbeneau@nrc.gov)

Kara Wenzel, Law Clerk  
E-mail: [kara.wenzel@nrc.gov](mailto:kara.wenzel@nrc.gov)  
Wen Bu, Law Clerk  
E-mail: [wxb3@nrc.gov](mailto:wxb3@nrc.gov)

OGC Mail Center : [OGCMailCenter@nrc.gov](mailto: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](mailto: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](mailto: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](mailto:sburdick@morganlewis.com)  
[sfrantz@morganlewis.com](mailto:sfrantz@morganlewis.com);  
[agutterman@morganlewis.com](mailto:agutterman@morganlewis.com)  
[jmatthews@morganlewis.com](mailto:jmatthews@morganlewis.com)  
[mfreeze@morganlewis.com](mailto: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](mailto:dcurran@harmoncurran.com)

Sustainable Energy and Economic  
Development (SEED) Coalition  
Robert V. Eye, Esq.  
Kauffman & Eye  
112 SW 6<sup>th</sup> Avenue, Suite 202  
Topeka, Kansas 66603  
E-mail: [bob@kauffmaneye.com](mailto: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](mailto:eliza.seedcoalition@gmail.com)

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

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

Dated at Rockville, Maryland  
this 13<sup>th</sup> day of April 2010