

July 13, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)		
)		
STP NUCLEAR OPERATING COMPANY)	Docket No.	52-012
)		52-013
(South Texas Project, Units 3 & 4))		

NOTICE TO COMMISSION OF INFORMATION
RELEVANT TO THE NRC STAFF APPEAL OF LBP-10-2

On February 9, 2010, the NRC staff (Staff) filed an appeal (Appeal) and a request for a stay (Stay Request) of portions of the Atomic Safety and Licensing Board's (Board's) decision in *South Texas Project Nuclear Operating Co.* (South Texas Project Units 3 and 4), LBP-10-2, 71 NRC __ (Jan. 29, 2010) (slip op.) ("Order").¹ The Staff appealed a portion of the Order directing the Staff to provide within twenty days a redacted version of Interim Staff Guidance DC/COL-ISG-016 ("ISG-016") to the Sustainable Energy and Economic Development (SEED) Coalition, the South Texas Association for Responsible Energy, and Public Citizen (Intervenors). *Id.* at __ (slip op. at 19).² Specifically, the Board directed the Staff to "segregate those paragraphs of the document that contain SUNSI from those that do not contain SUNSI" and provide the remaining portions of ISG-016 to the Intervenors. *Id.* at __ (slip op. at 11). The Staff also appealed a portion of the Order directing the Staff to reevaluate the Intervenors'

¹ The Board issued a SUNSI and non-SUNSI version of the Order. The SUNSI portion of the Order discusses the Board's determinations on the admissibility of Intervenors' contentions. The issues raised in the Staff Appeal, however, are considered in the public version of the Order. On February 16, 2010, the Board issued a corrected version of the non-SUNSI Order that is available at ML100470855. All references herein will be to the corrected, non-SUNSI version of the Order.

² At the time of the Order, ISG-016 was issued for comment, although it was not available publicly. The Board, however, stated that references to ISG-016 in the Order were to the "up-to-date version, regardless of its designation at that time." *Id.* at __ (slip op. at 2 n.3).

request for access to ISG-016 using the standard for access to SUNSI articulated within the Order and to file a memorandum explaining this reevaluation within 30 days. *Id.* at ___ (slip op. at 19). A “housekeeping stay” was granted by the Secretary of the Commission with respect to these portions of the Order and the stay is still in effect. *South Texas Project Nuclear Operating Co.* (South Texas Project Units 3 and 4), at 1 (Feb. 17, 2010) (unpublished order) (ML100481206).

On February 26, 2010, a representative of the SEED Coalition filed a request under the Freedom of Information Act (FOIA) seeking access to ISG-016, among other documents. FOIA/PA-2010-0145 (Feb. 26, 2010) (ML100600345). On June 24, 2010, the NRC issued a partial response (ML101760165) to the FOIA request that provided a redacted copy of a draft version of Final ISG-016. Final ISG-016 (June 24, 2010) (ML101760164) (redacted draft version). A redacted copy of the final version of Final ISG-016 has been sent today.

Respectfully submitted,

/Signed (electronically) by/
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Dated at Rockville, Maryland
this 13th day of July 2010

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CERTIFICATE OF SERVICE

I hereby certify that copies of the NRC staff's "Notice to Commission of Information Relevant to the NRC Staff Appeal of LBP-10-2," have been served upon the following persons by Electronic Information Exchange this 13th day of July 2010:

Administrative Judge Michael M. Gibson Atomic Safety and Licensing Board Panel Mail Stop – T-3 F23 U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 (E-mail: Michael.Gibson@nrc.gov)	Office of Commission Appellate Adjudication Mail Stop O-16C1 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail:OCAAmail@nrc.gov
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Administrative Judge Gary S. Arnold Atomic Safety and Licensing Board Panel Mail Stop – T-3 F23 U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 (E-mail: Gary.Arnold@nrc.gov)	Office of the Secretary ATTN: Docketing and Service Mail Stop: O-16C1 U.S. Nuclear Regulatory Commission Washington, DC 20555-0001 E-mail: HEARINGDOCKET@nrc.gov
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Administrative Judge Randall J. Charbeneau Atomic Safety and Licensing Board Panel Mail Stop – T-3 F23 U.S. Nuclear Regulatory Commission Washington, D.C. 20555-0001 (E-mail: Randall.Charbeneau@nrc.gov)	Robert V. Eye, Esq. Counsel for the Intervenors Kauffman & Eye Suite 202 112 SW 6th Ave. Topeka KS 66603 bob@kauffmaneye.com
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