

September 27, 2010

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	Docket Nos. 52-029-COL
Progress Energy Florida)	52-030-COL
)	
Levy County Nuclear Plant, Units 1 and 2)	ASLBP No. 09-879-04-COL

**MOTION FOR EXTENSION OF TIME TO FILE
AMENDED OR NEW CONTENTIONS ON HYDROECOLOGY**

On August 20, 2010 this Board granted a joint motion that originated from all parties – the applicant Progress Energy Florida, Inc. (“PEF”); Nuclear Information and Resource Service, the Ecology Party of Florida, and the Green Party of Florida (collectively, “Co- Intervenors”), and the Nuclear Regulatory Commission Staff (NRC Staff) in the above captioned case. We asked for the extension of time which would allow the applicant the option of filing a motion for Summary Disposition on Contention 4 after the otherwise scheduled deadline per the Board’s Initial Scheduling Order (20 days after new information) – in this very circumstance, the trigger is the issuance of the Draft Environmental Impact Statement (DEIS) by the NRC Staff.¹ The Board allowed an additional 40 days for the purpose of engagement in settlement discussions.

Settlement discussions have been engaged. As of this date it is not entirely clear what the outcome is, however the outer date for PEF to now, timely file a Motion for Summary Disposition on Contention 4 is the same day that ends the “timely” period for new or amended contentions related to the DEIS.

In footnote 1 of the above motion for extension, it was noted that, “The number of days requested is driven by Joint Intervenors’ representation regarding the availability of their expert.”

¹ NUREG 1941 Vol 1 & 2 released August 8, 2010

It was not explained further at the time, but Dr. Sydney Bacchus, upon whom much of the expert opinion and facts stated in Contention 4 depend, and upon whom we rely, was having medical problems. It was our hope that these problems would have been resolved by now, but unfortunately, our expert, Dr. Sydney Bacchus, is still in a medical crisis:

1. On 9/15/10 Dr. Bacchus underwent surgery for a bone graft and currently is incapacitated.

2. She also is awaiting eye surgery, which is being delayed because of previously scheduled, unrelated surgeries. Her vision is significantly impaired at this time.

3. The current estimated waiting period for her scheduled surgery is approximately 7 weeks. Recovery from her eye surgery may require 2 weeks.

4. Because of her recent and pending surgeries, and the impairment she is suffering in the interim (neither of which she can control) she will be unable to review the DEIS and prepare the necessary documents to meet the deadline for a response to the DEIS, including for any amendment to Contention 4 or new contentions (October 4, 2010).

Therefore, Co-intervenors are requesting an extension of time of 90 days from the October 4 deadline for the timely filing of new contentions on hydroecology and amendments to Contention 4 related to the Draft Environmental Impact Statement be granted due to medical incapacitation of our expert witness.

We have discussed this motion with representatives of PEF and NRC staff and they have offered partial support. Counsel for PEF offered that October 27 (close of comment period for the DEIS) would be acceptable, and NRC counsel offered "30 days" extension as appropriate. I certify that I have made a sincere effort explain to all parties the factual and legal issues raised

in this motion, and to resolve those issues, and I certify that my efforts have been unsuccessful insofar as the offered time is not sufficient given Dr. Bacchus' circumstance.

Respectfully Submitted,

Mary Olson
On behalf of the Co-Interveners

Asheville, North Carolina
September 27, 2010

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NUCLEAR REGULATORY COMMISSION**

Before the Atomic Safety and Licensing Board

In the Matter of)	
)	Docket Nos. 52-029-COL
Progress Energy Florida, Inc.)	52-030-COL
)	
(Combined License Application for)	
Levy County Nuclear Plant, Units 1 and 2))	ASLBP No. 09-879-04-COL

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing MOTION FOR EXTENSION OF TIME TO FILE AMENDED OR NEW CONTENTIONS ON HYDROECOLOGY, was provided to the Electronic Information Exchange for service to those individuals on the service list in this proceeding this 27th day of September 2010.

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