THE UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC LICENSING AND SAFETY BOARD

IN RE: SOUTH TEXAS PROJECT	NRC-2010-0375 March 14, 2011
UNITS 1 & 2	DOCKET NOS. 50-498; 50-499

PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING OF
SEED COALITION AND SUSAN DANCER

Pursuant to the Federal Register notice published on January 13, 2011, at 76 Fed. Reg. 2426 and 10 C.F.R. 2.309 SEED Coalition and Susan Dancer hereby move to intervene and request a hearing in the above-captioned matter.

Description of the Petitioners

SEED Coalition is a statewide non-profit organization working for clean air and clean energy in Texas. Karen Hadden is the executive director of the Seed Coalition. The SEED Coalition office is located at 1303 San Antonio, #100, Austin, Texas 78701. SEED Coalition advocates for safe energy alternatives and opposes the use of nuclear power to generate electricity including the relicensing of South Texas Project (STP) Units 1 & 2. SEED Coalition has members who reside within 50 miles of the STP 1 & 2 including Susan Dancer who lives in Blessing, Texas, approximately 8 miles from STP 1 & 2. Ms. Dancer wishes to be represented by SEED Coalition in this matter. (See Declaration of Susan Dancer, attached)

Standing

Pursuant to 10 CFR 2.309, a request for hearing by these petitioners must:

> Set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the result of the

> proceeding, including the reasons why the petitioner should be permitted to intervene with particular reference to the factors set forth in 10 CFR 2.309(d)(1), and the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner can and wishes to intervene.
>
> *In the Matter Pacific Gas & Electric Co.,* (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), LBP-02-23, 56 NRC 413, 426 (2002).

According to the Atomic Safety and Licensing Board (ASLB) standing requirements are described as follows:

> In determining whether a petitioner has sufficient interest to intervene in a proceeding, the Commission has traditionally applied judicial concepts of standing. See Metropolitan Edison Co., (Three Mile Island Nuclear Station, unit 1), CLI-83-25, 18 NRC 327, 332 (1983)(citing Portland General Electric Co.(Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610(1976). Contemporaneous judicial standard for standing require a petitioner to demonstrate that (1) it has suffered or will suffer any distinct and palpable harm that constitutes injury-in-fact within the zone of interests arguably protected by the governing statutes (e.g. the Atomic Energy Act of 1954 (AEA), the National Environmental Policy Act of 1969 (NEPA); (2) the injury can be fairly traced to the challenged action; and (3) the injury is likely to be redressed by a favorable decision. See *Carolina Power and Light Co.*,(Shearon Harris Nuclear Power Plant), LBP-99-25, 50 NRC 25, 29 (1999). An organization that wishes to intervene in a proceeding may do so either in its own right by demonstrating harm to its organizational interests, or any representational capacity by demonstrating harm to its members. *See Hydro Resources, Inc. (2929 Coors Road, Suite 101, Albuquerque, NM 87120),* LBP-98-9, 47 NRC to 61, 271 (1998). To intervene in a representational capacity, an organization must show not only that at least one of its members would fulfill the standing requirements, but also that he or she has authorized the organization to represent his or her interests. See *Private Fuel 3 Storage*, LLC (Independent Fuel Storage Installation), LBP-98-7, *47 NRC 152, 168, aff'd on other grounds,* CLI-98-13, 48 NRC 26 (1998). *Diablo Canyon*, *supra*, 56 NRC at 426. *See Also, Southern Nuclear Operating Co.* (Vogtle Electric Generating Plant), 52-011-ESP, Board Memorandum and Order (March 12, 2007) (Ruling on Standing and Contentions) at 5-6.

The Petitioners herein have standing to participate in this proceeding as demonstrated by the declarations attached hereto. The individual Petitioner, Ms. Dancer, has authorized her affiliated organization, SEED Coalition, named herein to represent her interests in this proceeding. *See: Diablo Canyon*, 56 NRC at 426.

The attached declaration establishes that Ms. Dancer resides within 50 miles of the proposed STP Units 1 and 2. Accordingly, Ms. Dancer has presumptive standing because of her proximity to the STP Units 1 & 2. *Diablo Canyon*, *supra*, 56 NRC *at* 426-27, citing *Florida Power & Light Co.,* (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-01-6, 53 NRC 138, 146, affirmed, CLI-01-17, 54 NRC 3 (2001) (petitioners who reside within 50 miles of a proposed nuclear power plant have presumptive standing in nuclear reactor construction permit and operating license cases due to an “obvious potential for off-site consequences"). Further, her declaration establishes that she would suffer a distinct and palpable harm to constitute injury-in-fact within the zone of interests that are to be protected by the Atomic Energy Act, 42 USC 2011, et seq. (AEA) and the injury can be fairly traced to the challenged action and the injury is likely to be redressed by a favorable decision. The Petitioners’ objectives in this matter are to protect public health and safety, and the environment by opposing the construction and operation of any new nuclear plants, including the proposed STP Units 3 and 4. Accordingly, the Petitioners’ intent is to assure that the proposed relicensing be denied by the NRC unless the applicant can establish that it meets the requirements of the AEA, 42 U.S.C. 2133(b)(d), that require the public's health, safety and property will not be jeopardized by the Applicant's operation of a nuclear plant.

Contentions

1. (a.) The Applicant's License Renewal Application and Environmental Report fail to adequately address the Applicant's capacity to deal with fires and explosions that cause a loss of large areas (LOLA) of the plant. This requirement for mitigative strategies related to LOLA events is specified at 10 C.F.R. 50.54(hh)(2).

(b.) The basis for this contention is derived from the regulatory requirements of 10 C.F.R. 52.80(d).

(c.) This issue is within the scope of this proceeding based on the Applicant's Final Safety Analysis Report (FSAR) Supplement, Appendix A, section 1.12, Fire Protection.

(d.) This issue is material because it relates directly to the Applicant's abilities to meet its obligations under 10 C.F.R. 50.54(hh)(2).

(e.) Based on information and belief, the Applicant's mitigative strategies for addressing LOLA events are inadequate to address the consequences of events such as the impacts of large commercial aircraft into the Applicant's power plants and related facilities.

(f.) There is a dispute of material fact because neither the Applicant's FSAR or ER describe the mitigation strategies necessary to establish that the fire protection plan is adequate.

2. (a.) The Applicant's License Renewal Application is deficient because it does not describe the means that it will use to determine radiation exposures to LOLA responders.

(b.) The basis for this contention is derived from the regulatory requirements of 10 C.F.R. 52.80(d).

(c.) This issue is within the scope of this proceeding based on the Applicant's ER sections 4.21.9, 4.21.10 and 4.21.10.1.

(d.) This issue is material because it relates directly to the Applicant's abilities to meet its obligations under 10 C.F.R. 50.54(hh)(2).

(e.) Based on information and belief, the Applicant's mitigative strategies for addressing LOLA events are inadequate to determine radiation exposures for responders to LOLA events.

(f.) There is a dispute of material fact because the Applicant's License Renewal Application is deficient because it does not describe the means that will be utilized to determine radiation exposures for responders to LOLA events.

3. (a.) The Applicant's License Renewal Application is deficient because it does not describe the means that it will use to protect LOLA responders from excessive radiation exposures.

(b.) The basis for this contention is derived from the regulatory requirements of 10 C.F.R. 52.80(d).

(c.) This issue is within the scope of this proceeding based on the Applicant's ER sections 4.21.9, 4.21.10 and 4.21.10.1.

(d.) This issue is material because it relates directly to the Applicant's abilities to meet its obligations under 10 C.F.R. 50.54(hh)(2).

(e.) Based on information and belief, the Applicant's mitigative strategies for addressing LOLA events are inadequate to protect LOLA responders from excessive radiation exposures.

(f.) There is a dispute of material fact because the Applicant's License Renewal Application is deficient because it does not describe the means that will be utilized to determine radiation exposures for responders to LOLA events.

4. (a.) The Applicant's License Renewal Application is deficient because it does not determine the projected decline in demand for electricity attributable to adoption of energy efficient building code in Texas.

(b.) The basis for this contention is 10 C.F.R. 51.53(c).

(c.) This issue is within the scope of this proceeding because it relates to the Applicant's abilities to meet its obligations under 10 C.F.R. 51.53(c)(2) because the costs and benefits of the energy efficient building code are essential to determine whether the adoption of an energy efficient building code should be included as an alternative under 10 C.F.R. 51.53(b)(2).

(d.) This issue is material because the Applicant is required to consider alternatives under the requirements of the National Environmental Policy Act, 42 U.S.C. 4332(c)(iii).

(e.) The Applicant's ER at section 7.2.1.4 discusses demand side management as an alternative to relicensing but fails to specify the estimated diminished demand anticipated from adoption of the energy efficient building code. On information and belief, petitioners allege that the energy efficient building code will result in energy savings of approximately 2362 MW by 2023. Such savings would nearly offset the net electrical output of 2500 MW from STP Units 1 & 2.

WHEREFORE, SEED Coalition and Susan Dancer request that the contentions stated above be admitted and that a hearing be ordered for the contentions.

Respectfully submitted,

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