

**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION**

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD PANEL

**In the Matter of
South Texas Project Nuclear Operating Co.
Application for the South Texas Project
52-013
Units 3 and 4
Combined Operating License**

**Docket Nos. 52-012,
September 13, 2011**

**INTERVENORS' REPLY TO OPPOSITIONS TO ADMISSION OF NEW
CONTENTION**

Pursuant to 10 C.F.R. § 2.309(h)(2), Intervenors hereby reply to the oppositions submitted by the Applicant NRC Staff to Intervenor's new contention seeking consideration of the environmental implications of the Fukushima Task Force Report. Intervenors respectfully submit that the arguments by Applicant and Staff regarding the timeliness and admissibility of the contention are without merit and therefore the contention should be admitted.

The arguments raised by Applicant and Staff in response to Intervenors' contention are similar or identical to arguments made by the applicant and staff in response to Fukushima Task Force Report-related contentions that were filed in other reactor licensing proceedings on the same day. Intervenors attach and incorporate by reference the attached Reply Memorandum, which addresses the most common arguments that are made in the responses and was prepared by counsel for intervenors in

several of the cases.¹ The Reply Memorandum also discusses the effect of the NRC Commissioners' recent decision regarding the Emergency Petition that was submitted by SACE and many other intervenors and petitioners in April 2011. *Union Electric Co., d/b/a/ Ameren Missouri* (Callaway Plant, Unit 2), et al., CLI-11-05, __ NRC __ (Sept. 9, 2011) ("CLI-11-05").²

In addition, Intervenors hereby reply to arguments by Applicant and NRC Staff that the contention is not specific and therefore fails to meet the NRC's standard for admissibility of contentions. This argument is incorrect. Intervenors specifically challenge the failure of the EIS to address the significant environmental implications of the findings and recommendations raised by the NRC's Fukushima Task Force Report. Contention at 4-9. The contention also specifically identifies the language in the EIS in which the environmental impacts of the proposed reactor are described as insignificant. *Id.* at 11.

Intervenor's demand has yet to be satisfied in any respect. Neither the NRC nor Applicant has prepared a single document under the National Environmental Policy Act that addresses the environmental implications of the Fukushima accident or the Task Force Report. Unless and until the NRC or Applicant makes some attempt to satisfy NEPA, Intervenor's contention of omission is admissible.

¹ The Reply Memorandum was prepared by Intervenors' counsel in the Watts Bar and Diablo Canyon license renewal proceedings.

² Because the applicant and the NRC Staff have not had an opportunity to address the effect of CLI-11-05 on the timeliness and admissibility of SACE's contention, SACE would not object to a response by the applicant and the Staff to their arguments regarding the relevance of CLI-11-05 to their contention.

Respectfully submitted,

/s/Robert V. Eye

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CERTIFICATE OF SERVICE

I hereby certify that on September 13, 2011 a copy of Intervenors' "REPLY TO OPPOSITIONS TO ADMISSION OF NEW CONTENTION" was served by the Electronic Information Exchange on the following recipients:

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