

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

NUCLEAR INNOVATION NORTH AMERICA  
LLC

(South Texas Project Units 3 and 4)

Docket No. 52-12-COL and 52-13-COL

ASLBP No. 09-885-08-COL-BD01

December 29, 2011

MEMORANDUM AND ORDER

(Ruling on Admissibility of Intervenors' New Contention  
Regarding Fukushima Task Force Report)

This proceeding concerns the application of Nuclear Innovation North America LLC (Applicant) for combined licenses (COLs) under 10 C.F.R. Part 52 that would permit the construction and operation of two new nuclear reactor units—South Texas Project (STP) Units 3 and 4, employing the Advanced Boiling Water Reactor certified design—on the existing South Texas site, located near Bay City, Texas.<sup>1</sup> The South Texas site currently houses two reactors, STP Units 1 and 2.

On March 11, 2011, an earthquake and subsequent tsunami struck the northeast coast of Japan, including the area around the city of Fukushima. These events contributed to the crippling of four nuclear power reactors at Tokyo Electric Power Company's Fukushima Dai-ichi

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<sup>1</sup> South Texas Project Nuclear Operating Company; Notice of Receipt and Availability of Application for a Combined License, 72 Fed. Reg. 60,394 (Oct. 24, 2007).

Nuclear Power Plant.<sup>2</sup> Intervenors (the Sustainable Energy and Economic Development Coalition, the South Texas Association for Responsible Energy, and Public Citizen) have moved for leave to file a new contention alleging that the Final Environmental Impact Statement (FEIS) for STP Units 3 and 4 is inadequate in light of the NRC's "Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident" (Task Force Report):

The EIS for STP 3 & 4 fails to satisfy the requirements of NEPA [the National Environmental Policy Act of 1969] because it does not address the new and significant environmental implications of the findings and recommendations raised by the NRC's Fukushima Task Force Report. As required by 10 C.F.R. § 51.92(a)(2) and 40 C.F.R. § 1502.9(c), these implications must now be addressed in a supplemental Draft EIS.<sup>3</sup>

For the reasons stated below, we conclude that Intervenors' Fukushima Contention is inadmissible and deny Intervenors' motion.

## I. BACKGROUND

### A. Procedural History

On August 27, 2009, we granted Intervenors' hearing request and petition to intervene.<sup>4</sup> Intervenors moved for leave to file the Fukushima Contention on August 11, 2011.<sup>5</sup> Applicant

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<sup>2</sup> See U.S. Nuclear Regulatory Commission, "Recommendations for Enhancing Reactor Safety in the 21st Century: The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident" at 7-14 (July 12, 2011) (ADAMS Accession No. ML111861807) (Task Force Report).

<sup>3</sup> Contention Regarding NEPA Requirement to Address Safety and Environmental Implications of the Fukushima Task Force Report (Aug. 11, 2011) at 4 (New Contention).

<sup>4</sup> South Texas Project Nuclear Operating Co. (South Texas Project, Units 3 and 4), LBP-09-21, 70 NRC 581, 588, 637-38 (2009).

<sup>5</sup> Motion to Admit New Contention Regarding the Safety and Environmental Implications of the Nuclear Regulatory Commission Task Force Report on the Fukushima Dai-ichi Accident (Aug. 11, 2011) (Intervenors Motion); see also New Contention. Included with Intervenors' motion was a petition that sought suspension of this proceeding and rescission of regulations "that make generic conclusions about the environmental impacts of severe reactor and spent fuel pool accidents and that preclude consideration of those issues in individual licensing proceedings." Rulemaking Petition to Rescind Prohibition Against Consideration of Environmental Impacts of Severe Reactor and Spent Fuel Pool Accidents and Request to Suspend Licensing Decision (Aug. 11, 2011) at 1. The Commission has denied both requests.

and Staff both oppose admission of the Fukushima Contention.<sup>6</sup> Intervenors filed a reply on September 13, 2011.<sup>7</sup> We held oral argument on the admissibility of the Fukushima Contention on October 31, 2011.<sup>8</sup>

B. The Near-Term Task Force Report and CLI-11-05

Following the events at the Fukushima Dai-ichi Nuclear Power Plant, the Chairman of the NRC directed the NRC Executive Director for Operations (EDO) to “establish a senior level agency task force to conduct a methodical and systematic review of [the agency’s] processes and regulations to determine whether the agency should make additional improvements to [its] regulatory system and make recommendations to the Commission for its policy direction.”<sup>9</sup> On July 12, 2011, the Near-Term Task Force published its recommendations.<sup>10</sup>

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See Union Elec. Co. d/b/a Ameren Missouri (Callaway Plant, Unit 2) et al., CLI-11-05, 74 NRC \_\_\_, \_\_\_-\_\_\_ (slip op. at 41-42) (Sept. 9, 2011); see also Nuclear Innovation North America LLC (South Texas Project, Units 3 and 4), CLI-11-06, 74 NRC \_\_\_, \_\_\_ (slip op. at 10) (Sept. 9, 2011). Accordingly, that petition is moot and need not be considered further by this Board.

<sup>6</sup> Nuclear Innovation North America LLC’s Answer in Opposition to Proposed Contention Regarding Fukushima Task Force Report (Sept. 6, 2011) (Applicant Answer); NRC Staff Answer to Intervenors’ Motion to Admit New Contention Regarding the Safety and Environmental Implications of the NRC Task Force Report on the Fukushima Dai-ichi Accident (Sept. 6, 2011) (Staff Answer).

<sup>7</sup> Intervenors’ Reply to Oppositions to Admission of New Contention (Sept. 13, 2011) & attach., Reply Memorandum Regarding Timeliness and Admissibility of New Contentions Seeking Consideration of Environmental Implications of Fukushima Task Force Report in Individual Reactor Licensing Proceedings (Sept. 13, 2011).

<sup>8</sup> See Tr. at 1868-1908.

<sup>9</sup> NRC Actions Following the Events in Japan, COMGBJ-11-0002 at 1 (Mar. 21, 2011) (ADAMS Accession No. ML110800456).

<sup>10</sup> See, e.g., Task Force Report at 69-76.

On September 9, 2011, the Commission denied requests by intervenors in this and other reactor licensing proceedings to suspend these proceedings in light of the events at Fukushima.<sup>11</sup>

## II. LEGAL STANDARDS

### A. Contention Admissibility

New contentions may be admitted as long as they (1) meet the timely contention criteria in 10 C.F.R. § 2.309(f)(2) or the nontimely contention criteria in 10 C.F.R. § 2.309(c)(1) and (2) fulfill the contention admissibility requirements of 10 C.F.R. § 2.309(f)(1). We have reviewed the standards for new contentions on multiple occasions in this proceeding<sup>12</sup> and thus we provide only a brief summary of those precepts here.

#### 1. Timely New Contentions Under 10 C.F.R. § 2.309(f)(2)

A timely new contention challenging the sufficiency of Staff's NEPA documents may be filed where data or conclusions in these documents "differ significantly" from data or conclusions in previous versions of these documents or in the applicant's environmental report.<sup>13</sup>

Alternatively, a party may seek leave of the Board to file a new contention that challenges the sufficiency of Staff's NEPA documents where:

- (i) The information upon which the . . . new contention is based was not previously available;
- (ii) The information upon which the . . . new contention is based is materially different than information previously available; and
- (iii) The . . . new contention has been submitted in a timely fashion based on the availability of the subsequent information.<sup>14</sup>

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<sup>11</sup> Callaway, CLI-11-05, 74 NRC at \_\_-\_\_ (slip op. at 41-42).

<sup>12</sup> See, e.g., Nuclear Innovation North America LLC (South Texas Project Units 3 and 4), LBP-11-07, 73 NRC \_\_, \_\_-\_\_ (slip op. at 26-30) (Feb. 28, 2011); South Texas Project Nuclear Operating Co. (South Texas Project Units 3 and 4), LBP-10-14, 72 NRC 101, 107-09 (2010).

<sup>13</sup> 10 C.F.R. § 2.309(f)(2).

<sup>14</sup> Id. § 2.309(f)(2)(i)-(iii).

Our Initial Scheduling Order in this proceeding specifies that a new contention is deemed “submitted in a timely fashion” pursuant to 10 C.F.R. § 2.309(f)(2)(iii) “if it is filed . . . within thirty (30) days of the date when the new and material information on which it is based first becomes available.”<sup>15</sup>

## 2. Contention Admissibility Under 10 C.F.R. § 2.309(f)(1)

In addition to meeting the requirements for timely new contentions pursuant to 10 C.F.R. § 2.309(f)(2)(i)-(iii) or nontimely contentions pursuant to 10 C.F.R. § 2.309(c), a new contention must also satisfy the general contention admissibility requirements of 10 C.F.R. § 2.309(f)(1).

To be admissible, a contention must:

- (i) Provide a specific statement of the issue of law or fact to be raised or controverted . . . . ;
- (ii) Provide a brief explanation of the basis for the contention;
- (iii) Demonstrate that the issue raised in the contention is within the scope of the proceeding;
- (iv) Demonstrate that the issue raised in the contention is material to the findings the NRC must make to support the action that is involved in the proceeding;
- (v) Provide a concise statement of the alleged facts or expert opinions which support the requestor’s/petitioner’s position on the issue and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the requestor/petitioner intends to rely to support its position on the issue;
- (vi) . . . [P]rovide sufficient information to show that a genuine dispute exists with the applicant/licensee on a material issue of law or fact. This information must include references to specific portions of the application (including the applicant’s environmental report and safety report) that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner’s belief.<sup>16</sup>

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<sup>15</sup> Licensing Board Initial Scheduling Order (Oct. 20, 2009) at 8 (unpublished). Even when a proposed new contention is not found timely, it may be admitted if it meets a balancing of the eight nontimely filing factors of 10 C.F.R. § 2.309(c). See LBP-10-14, 71 NRC at 108 & nn.27-28.

<sup>16</sup> 10 C.F.R. § 2.309(f)(1)(i)-(vi).

## B. NEPA

As we have explained in prior orders in this proceeding,<sup>17</sup> NEPA imposes procedural obligations on Federal agencies proposing to take “actions significantly affecting the quality of the human environment.”<sup>18</sup> This procedural obligation is carried out through an agency’s issuance of an environmental impact statement (EIS) documenting the agency’s “hard look” at the potential environmental impacts of the proposed action and reasonable alternatives to the proposed action.<sup>19</sup> Although the EIS’s hard look must examine “reasonably foreseeable” environmental impacts emanating from the proposed action,<sup>20</sup> the EIS is subject to a rule of reason that grants the agency a degree of deference exempting it from examining impacts that it in good faith deems to be “remote and speculative” or “inconsequentially small.”<sup>21</sup>

The NRC’s review of a COL application is the type of proposed action obliging the Staff to prepare an EIS or a supplement thereto.<sup>22</sup> Before taking the proposed action, the Staff must issue a supplemental EIS where “[t]here are substantial changes in the proposed action that are relevant to environmental concerns” or “[t]here are new and significant circumstances or information relevant to environmental concerns and bearing on the proposed action or its

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<sup>17</sup> See, e.g., LBP-11-07, 73 NRC at \_\_\_-\_\_\_ (slip op. at 30-31); LBP-10-14, 72 NRC at 109-10 (2010).

<sup>18</sup> 42 U.S.C. § 4332(2)(C); see Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 350-51 (1989).

<sup>19</sup> 42 U.S.C. § 4332; Louisiana Energy Services, L.P. (Claiborne Enrichment Center), CLI-98-03, 47 NRC 77, 87-88 (1998).

<sup>20</sup> Progress Energy Florida, Inc. (Levy County Nuclear Power Plant, Units 1 and 2), CLI-10-02, 71 NRC 27, 46 (2010) (referencing 42 U.S.C. § 4332; Sierra Club v. Marsh, 976 F.2d 763 (1st Cir. 1992)).

<sup>21</sup> Southern Nuclear Operating Co. (Early Site Permit for Vogtle ESP Site), LBP-09-07, 69 NRC 613, 631-32 (2009) (citations omitted). Courts presume that a Federal agency is acting in good faith. See Comcast Corp. v. FCC, 526 F.3d 763, 769 n.2 (D.C. Cir. 2008).

<sup>22</sup> 10 C.F.R. § 51.20(b)(2).

impacts.”<sup>23</sup> Only where new information presents “a seriously different picture of the environmental impact of the proposed project from what was previously envisioned,” is supplementation of an EIS required.<sup>24</sup>

### III. ANALYSIS

In their Fukushima Contention, Intervenors argue that Staff’s FEIS is inadequate under NEPA for “not address[ing] the new and significant environmental implications of the findings and recommendations raised by the NRC’s Fukushima Task Force Report.”<sup>25</sup> Intervenors state that the Task Force Report is the type of event necessitating a supplemental FEIS. They describe it as “new and significant” because it was published after the Fukushima event and because, “[f]or the first time since the Three Mile Island accident occurred in 1979, a highly respected group of scientists and engineers within the NRC Staff has fundamentally questioned the adequacy of the current level of safety provided by the NRC’s program for nuclear reactor regulation.”<sup>26</sup> Therefore, Intervenors reason, “the NRC must revisit any conclusions in the STP [Units 3 and 4] EIS based on the premise that compliance with NRC safety regulations is sufficient to ensure that environmental impacts of accidents are acceptable.”<sup>27</sup>

Further, in light of the Task Force’s recommendation to incorporate some severe accident mitigation measures into a plant’s design basis, as well as its conclusion that certain “SAMAs [severe accident mitigation alternatives] . . . should be elected as a matter of course,”

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<sup>23</sup> Id. § 51.92(a)(1)-(2).

<sup>24</sup> Callaway, CLI-11-05, 74 NRC at \_\_ (slip op. at 31) (internal quotations and citations omitted) (referencing 10 C.F.R. § 51.72, the regulation outlining the conditions for supplementing a Draft EIS).

<sup>25</sup> New Contention at 4.

<sup>26</sup> Id. at 10-11.

<sup>27</sup> Id. at 11.

Intervenors also assert that the cost-benefit analysis for SAMAs in the FEIS should be re-examined.<sup>28</sup> Supported by the declaration of their expert, Dr. Arjun Makhijani, Intervenors declare that, were the NRC to require implementation of some of these SAMAs, the cost would be so great that other alternatives to the proposed action and the no-action alternative “may be more attractive,” thus altering the conclusions of the FEIS for STP Units 3 and 4.<sup>29</sup> Intervenors also argue that the FEIS must be supplemented because language in the Task Force Report suggests that seismic and flooding hazards, design alternatives to counter such hazards, and other plant components need to be re-evaluated for the STP site.<sup>30</sup>

Applicant and Staff both argue that the Fukushima Contention is inadmissible.<sup>31</sup>

Although the Fukushima Contention challenges the FEIS—which is a NEPA document—the Fukushima Contention does not rest on any claims that data or conclusions in the FEIS “differ significantly” from previous NEPA documents issued for the instant proposed action.<sup>32</sup> Therefore, its timeliness must be evaluated under the three-part test of Section 2.309(f)(2)(i)-(iii). Pursuant to Section 2.309(f)(2)(i), Intervenors’ Fukushima Contention is based on information that was previously unavailable before the issuance of the Task Force Report, principally the recommendations contained therein. Pursuant to Section 2.309(f)(2)(ii), the information in the Task Force Report is materially different from previously available information

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<sup>28</sup> Id. at 12-13. In a prior order, we have explained the role SAMA analyses play in NRC environmental reviews. See LBP-11-07, 73 NRC at \_\_\_-\_\_\_ (slip op. at 8-10).

<sup>29</sup> New Contention at 12.

<sup>30</sup> See id. at 13-15; Tr. at 1892-94.

<sup>31</sup> See Applicant Answer at 11-30; Staff Answer at 5-19.

<sup>32</sup> See Intervenors Motion at 2-4; 10 C.F.R. § 2.309(f)(2) (“On issues arising under [NEPA], . . . [t]he petitioner may . . . file new contentions if there are data or conclusions in the NRC draft or final environmental impact statement . . . that differ significantly from the data or conclusions in the applicant’s documents.”).



because there is no NRC document predating the Task Force Report that analyzes the impact of the Fukushima events on reactor operations in this country and that makes similar suggestions for future plant improvements. Further, because the Task Force Report was issued on July 12, 2011, and Intervenor's Fukushima Contention was filed within thirty days, on August 11, 2011, the contention was timely filed pursuant to Section 2.309(f)(2)(iii) and our Initial Scheduling Order. Therefore, we agree with the Intervenor's that the Fukushima Contention is timely pursuant to Section 2.309(f)(2).<sup>33</sup>

Although timely, to be admitted the contention also must meet the remaining criteria under Section 2.309(f)(1). A number of boards in other reactor licensing proceedings have dismissed substantially identical contentions that were also based on the Task Force Report.<sup>34</sup> We agree with their reasoning that, at this time, it would be premature to adjudicate the environmental impacts of any potential requirements on reactor licensees that result from the recommendations in the Task Force Report. Unless and until it is reasonably clear that the Task Force's recommendations will result in new safety or design basis prerequisites for granting a COL for STP Units 3 and 4, it is not evident that those recommendations could have any material impact on the conclusions made by Staff in its FEIS for STP Units 3 and 4, or that they "present a seriously different picture" of the already-analyzed impacts of the proposed action.

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<sup>33</sup> See Intervenor's Motion at 2-4. Accordingly, we need not evaluate it as a nontimely filing pursuant to Section 2.309(c).

<sup>34</sup> See, e.g., Tennessee Valley Auth. (Bellefonte Nuclear Power Plant Units 3 and 4), LBP-11-37, 74 NRC \_\_\_ (slip op.) (Nov. 30, 2011); FirstEnergy Nuclear Operating Co. (Davis-Besse Nuclear Power Station, Unit 1), LBP-11-34, 74 NRC \_\_\_ (slip op.) (Nov. 23, 2011); Florida Power & Light Co. (Turkey Point Units 6 and 7), LBP-11-33, 74 NRC \_\_\_ (slip op.) (Nov. 21, 2011); Pacific Gas & Elec. Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2), LBP-11-32, 74 NRC \_\_\_ (slip op.) (Nov. 18, 2011); NextEra Energy Seabrook, LLC (Seabrook Station, Unit 1), LBP-11-28, 74 NRC \_\_\_ (slip op.) (Oct. 19, 2011); PPL Bell Bend, L.L.C. (Bell Bend Nuclear Power Plant) et al., LBP-11-27, 74 NRC \_\_\_ (slip op.) (Oct. 18, 2011).

At oral argument, however, counsel for Intervenors argued that disposition of this contention in this proceeding should diverge from the course taken by those other licensing boards because of an October 18, 2011 Staff Requirements Memorandum (SRM) from the Commission to the NRC EDO.<sup>35</sup> Counsel explained that this SRM is “now the basis for Agency action in terms of adopting [the Task Force’s] recommendations.”<sup>36</sup>

While we recognize that this issue was raised neither in the original contention nor in a separate pleading,<sup>37</sup> it was addressed by each party and the Board at oral argument and we have considered the SRM in weighing the admissibility of the contention. However, we conclude that its existence does not alter our determination regarding the contention’s admissibility. In the SRM, the Commission directed the EDO to complete and implement lessons learned from Fukushima in light of the Task Force Report. The SRM directed Staff to employ an array of tools, including orders and rulemakings.<sup>38</sup> Recently, the Commission approved certain proposals by Staff that were purportedly undertaken to comply with the SRM (although the Commission did not specify what new requirements it will adopt or when they will be implemented).<sup>39</sup> Although the SRM and the Commission’s recent approval of the Staff actions to be taken certainly provide additional insight regarding the direction the Commission might ultimately take, we agree with the reasoning of another licensing board that “what

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<sup>35</sup> Tr. at 1871-74.

<sup>36</sup> Id. at 1872.

<sup>37</sup> See id. at 1876.

<sup>38</sup> Staff Requirements – SECY-11-0124 – Recommended Actions to be Taken without Delay from the Near-Term Task Force Report at 1 (Oct. 18, 2011), available at <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2011/2011-0124srm.pdf>.

<sup>39</sup> Staff Requirements – SECY-11-0137 – Prioritization of Recommended Actions to be Taken in Response to Fukushima Lessons Learned at 1-2 (Dec. 15 2011), available at <http://www.nrc.gov/reading-rm/doc-collections/commission/srm/2011/2011-0137srm.pdf>.

changes, if any, actually result from the NRC process, cannot be predicted. Absent better knowledge of those regulatory changes, it is impossible to predict what costs, if any, such changes may impose on<sup>40</sup> a particular reactor, such as STP Units 3 and 4, much less how such changes would materially affect the conclusions in the FEIS in this proceeding.

Because this proceeding is at the advanced stage where an FEIS has already issued,<sup>41</sup> we recognize that the time might never arise before a license is issued to Applicant when safety and design basis requirements are sufficiently defined to frame Intervenor's concerns as a litigable contention. But we share the confidence exhibited by another licensing board that in the future the Commission might provide the relevant guidance regarding the proper timeframe for adjudicating a similar contention.<sup>42</sup> Most importantly, at this juncture, any impact that recommendations from the Task Force Report might have on the proposed action in this proceeding is necessarily "remote and speculative." Thus, Intervenor has not "provide[d] sufficient information to show that a genuine dispute exists . . . on a material issue of law or fact" pursuant to 10 C.F.R. § 2.309(f)(1)(vi) and, consequently, the Fukushima Contention is inadmissible.<sup>43</sup>

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<sup>40</sup> Diablo Canyon, LBP-11-32, 74 NRC at \_\_\_ (slip op. at 19).

<sup>41</sup> See Office of New Reactors, U.S. Nuclear Regulatory Commission, Environmental Impact Statement for Combined Licenses (COLs) for South Texas Project Electric Generating Station Units 3 and 4: Final Report, NUREG-1937 Vols. 1 & 2 (Feb. 2011) (ADAMS Accession Nos. ML11049A000 & ML11049A001).

<sup>42</sup> Seabrook, LBP-11-28, 74 NRC at \_\_\_ (slip op. at 8 & n.35) (citing Callaway, CLI-11-05, 74 NRC at \_\_\_ (slip op. at 36) ("Although we do not establish a timetable for future adjudicatory pleadings today, we will monitor our ongoing adjudicatory proceedings and will reassess this determination if it becomes apparent that additional guidance would be appropriate.")).

<sup>43</sup> See Turkey Point, LBP-11-33, 74 NRC at \_\_\_ - \_\_\_ (slip op. at 9-10); see also Vogtle, LBP-09-07, 69 NRC at 631.

IV. CONCLUSION

For the reasons stated above, we find Intervenors' Fukushima Contention is inadmissible. Accordingly, we deny their motion for leave to admit the contention.

It is so ORDERED.

THE ATOMIC SAFETY  
AND LICENSING BOARD

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Michael M. Gibson, Chairman  
ADMINISTRATIVE JUDGE

*/RA/*

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Gary S. Arnold  
ADMINISTRATIVE JUDGE

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Randall J. Charbeneau  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
December 29, 2011

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
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NUCLEAR INNOVATION NORTH AMERICA LLC ) Docket Nos. 52-012-COL and 52-013-COL  
(NINA) )  
)  
(South Texas Project Units 3 and 4) )  
)

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **MEMORANDUM AND ORDER (Ruling on Admissibility of Intervenor's New Contention Regarding Fukushima Task Force Report) (LBP-11-39)** have been served upon the following persons by the Electronic Information Exchange.

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Docket Nos. 52-012-COL and 52-013-COL

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New Contention Regarding Fukushima Task Force Report) (LBP-11-39)**

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Docket Nos. 52-012-COL and 52-013-COL

**MEMORANDUM AND ORDER (Ruling on Admissibility of Intervenors'  
New Contention Regarding Fukushima Task Force Report) (LBP-11-39)**

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

Dated at Rockville, Maryland  
this 29<sup>th</sup> day of December 2011