

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 Nos. 52-12-COL and 52-13-COL

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

July 18, 2012

ORDER

(Monthly Status Updates Regarding FOCD Review)

Presently, one admitted contention—Contention FC-1<sup>1</sup>—remains in this proceeding and the environmental record has been closed.<sup>2</sup>

To efficiently schedule the remainder of this proceeding, the Board directed Staff to provide an update on its review of FOCD issues.<sup>3</sup> Staff responded in a June 26, 2012 filing, in

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<sup>1</sup> In Contention FC-1, intervenors allege that statutory and regulatory prohibitions on foreign ownership, control, and domination (FOCD) forbid the licensing of proposed STP Units 3 and 4.

<sup>2</sup> Licensing Board Memorandum and Order (Adopting Transcript Corrections and Closing Evidentiary Record) (Nov. 29, 2011) at 2 (unpublished).

<sup>3</sup> Licensing Board Order (Requesting Status Update in 90 Days) (Mar. 28, 2012) at 1-2 (unpublished).

Although it certainly may be appropriate to conduct a hearing on FC-1 before Staff completes this portion of its safety evaluation report (SER) on proposed STP Units 3 and 4, Southern Nuclear Operating Co. (Early Site Permit for Vogtle ESP Site), CLI-07-17, 65 NRC 393, 394 (2007), for now, the Board deems it preferable to allow Staff an opportunity to do so. See Potomac Elec. Power Co. (Douglas Point Nuclear Generating Station, Units 1 & 2), ALAB-277, 1 NRC 539, 547 (1975). Particularly is this the case in light of Staff's ongoing review and

(continued . . .)

which it stated that it “does not anticipate asking any additional RAIs related to FOCD” and that it “is currently drafting the section of its [SER] related to FOCD.”<sup>4</sup> However, during a July 10, 2012 conference call with the parties to discuss the status of the proceeding, counsel for Staff stated that “[S]taff has not come to a position yet on the [FOCD] issues.”<sup>5</sup>

As part of its monthly status report to the Board,<sup>6</sup> Staff is directed to provide the best estimate projected decision date for its review of FOCD issues.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD

*/RA/*

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Michael M. Gibson, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
July 18, 2012

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<sup>3</sup> (. . . continued)

requests for additional information (RAIs) regarding FOCD that have prompted Applicant to amend its application and may prompt further amendments. See, e.g., Letter from John E. Matthews, Counsel for Nuclear Innovation North America, LLC, to Licensing Board (May 18, 2012), attach., April 18, 2012 RAIs and Responses.

<sup>4</sup> Letter from Andrea L. Silvia, Counsel for NRC Staff, to Licensing Board (June 26, 2012) at 1.

<sup>5</sup> Tr. at 1936.

<sup>6</sup> Licensing Board Initial Scheduling Order (Oct. 20, 2009) sec. II.C (unpublished).

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)  
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 **ORDER (Monthly Status Updates Regarding FOCD Review)** have been served upon the following persons by the Electronic Information Exchange.

Atomic Safety and Licensing Board Panel  
U.S. Nuclear Regulatory Commission  
Mail Stop: T-3F23  
Washington, DC 20555-0001

Office of the General Counsel  
U.S. Nuclear Regulatory Commission  
Mail Stop - O-15 D21  
Washington, DC 20555-0001

Michael M. Gibson, Chair  
Administrative Judge  
E-mail: [michael.gibson@nrc.gov](mailto:michael.gibson@nrc.gov)

Sara Kirkwood, Esq.  
Maxwell Smith, Esq.  
Michael Spencer, Esq.  
Jody Martin, Esq.  
Anthony C. Wilson, Esq.  
Andrea Silvia, Esq.  
Patrick Moulding, Esq.  
E-mail:  
[sara.kirkwood@nrc.gov](mailto:sara.kirkwood@nrc.gov)  
[maxwell.smith@nrc.gov](mailto:maxwell.smith@nrc.gov)  
[michael.spencer@nrc.gov](mailto:michael.spencer@nrc.gov)  
[jody.martin@nrc.gov](mailto:jody.martin@nrc.gov)  
[anthony.wilson@nrc.gov](mailto:anthony.wilson@nrc.gov)  
[andrea.silvia@nrc.gov](mailto:andrea.silvia@nrc.gov)  
[patrick.moulding@nrc.gov](mailto:patrick.moulding@nrc.gov)

Gary S. Arnold  
Administrative Judge  
E-mail: [gary.arnold@nrc.gov](mailto:gary.arnold@nrc.gov)

Randall J. Charbeneau  
Administrative Judge  
E-mail: [Randall.Charbeneau@nrc.gov](mailto:Randall.Charbeneau@nrc.gov)

Jonathan C. Eser, Law Clerk  
E-mail: [jonathan.eser@nrc.gov](mailto:jonathan.eser@nrc.gov)

OGC Mail Center :  
[OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov)

Office of Commission Appellate  
Adjudication  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
E-mail: [ocaamail@nrc.gov](mailto:ocaamail@nrc.gov)

Office of the Secretary of the  
Commission  
U.S. Nuclear Regulatory Commission  
Mail Stop: O-16C1  
Washington, DC 20555-0001  
Hearing Docket  
E-mail: [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov)

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

**ORDER (Monthly Status Updates Regarding FOCD Review)**

Morgan, Lewis & Bockius, LLP  
1111 Pennsylvania Ave., NW  
Washington, DC 20004  
Counsel for the Applicant  
Stephen J. Burdick, Esq.  
Steven P. Frantz, Esq.  
Alvin Gutterman, Esq.  
John E. Matthews, Esq.  
Kathryn M. Sutton, Esq.  
Charles B. Moldenhauer, Esq.  
Mary Freeze, Assistant  
Audrea Salters, Legal Secretary  
E-mail:

[sburdick@morganlewis.com](mailto:sburdick@morganlewis.com)  
[sfrantz@morganlewis.com](mailto:sfrantz@morganlewis.com);  
[agutterman@morganlewis.com](mailto:agutterman@morganlewis.com)  
[jmatthews@morganlewis.com](mailto:jmatthews@morganlewis.com)  
[ksutton@morganlewis.com](mailto:ksutton@morganlewis.com)  
[cmoldenhauer@morganlewis.com](mailto:cmoldenhauer@morganlewis.com)  
[mfreeze@morganlewis.com](mailto:mfreeze@morganlewis.com);  
[asalters@morganlewis.com](mailto:asalters@morganlewis.com)

Sustainable Energy and Economic  
Development (SEED) Coalition  
Robert V. Eye, Esq.  
Brett A. Jarmer, Esq.  
April Middleton, Assistant  
Kauffman & Eye  
112 SW 6<sup>th</sup> Avenue, Suite 202  
Topeka, Kansas 66603  
E-mail: [bob@kauffmaneye.com](mailto:bob@kauffmaneye.com)  
E-mail: [brett@kauffmaneye.com](mailto:brett@kauffmaneye.com)  
E-mail: [april@kauffmaneye.com](mailto:april@kauffmaneye.com)

Southwest Workers' Union  
Lanny Alan Sinkin, Esq.  
1801 Westlake Drive #212  
Austin, Texas 78746  
E-mail: [lanny.sinkin@gmail.com](mailto:lanny.sinkin@gmail.com)

Sustainable Energy and Economic  
Development (SEED) Coalition  
Diane Curran  
Harmon, Curran, Spielberg, &  
Eisenberg, LLP  
1726 M Street N.W., Suite 600  
Washington, DC 20036  
E-mail: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

Sustainable Energy & Economic  
Development (SEED) Coalition  
Eliza Brown, Clean Energy Advocate  
1303 San Antonio #100  
Austin, Texas 78701  
E-mail: [eliza.seedcoalition@gmail.com](mailto:eliza.seedcoalition@gmail.com)

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

Dated at Rockville, Maryland  
this 18<sup>th</sup> day of July 2012