

Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) The applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the NRC's Public Document Room (PDR), located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through the Agencywide Documents Access and Management System (ADAMS) in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR Reference staff at 1-800-397-4209, 301-415-4737 or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

**Exelon Generation Company, LLC, Docket Nos. STN 50-456 and STN 50-457, Braidwood Station, Units 1 and 2, Will County, Illinois; Docket Nos. STN 50-454 and STN 50-455, Byron Station, Unit 1 and 2, Ogle County, Illinois**

*Date of application for amendment:* June 29, 2010, as supplemented on August 24, 2010, and January 13, 2011.

*Brief description of amendment:* The license amendments revise Technical Specifications (TS) Section 3.4.12, "Low Temperature Overpressure Protection (LTOP) System," to correct an inconsistency between the TS, and implementation of procedures and administrative controls for Safety Injection pumps required to mitigate a postulated loss of decay heat removal during mid-loop operation as discussed in NRC Generic Letter 88-17, "Loss of Decay Heat Removal."

*Date of issuance:* June 29, 2011.

*Effective date:* As of the date of issuance and shall be implemented within 60 days.

*Amendment Nos.:* 167, 167, 174, 174.

*Facility Operating License Nos. NPF-72, NPF-77, NPF-37, and NPF-66:* The amendments revise the TSs and license.

*Date of initial notice in Federal Register:* October 5, 2010 (75 FR 61526). The August 24, 2010, and January 13, 2011, supplements contained clarifying information and did not change the NRC staff's initial proposed finding of no significant hazards consideration.

The Commission's related evaluation of the amendments is contained in a safety evaluation dated June 29, 2011.

*No significant hazards consideration comments received:* No.

Dated at Rockville, Maryland, this 15th day of July 2011.

For the Nuclear Regulatory Commission.

**Joseph G. Gitter,**

*Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.*

[FR Doc. 2011-18525 Filed 7-25-11; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

**[ Docket No. 030-33305; License No. 25-10994-04; EA-10-258; NRC-2011-0163]**

**In the Matter of Bozeman Deaconess Foundation, dba Bozeman Deaconess Hospital, Bozeman, MT; Confirmatory Order Modifying License; (Effective Immediately)**

### **I**

Bozeman Deaconess Hospital (Licensee) is the holder of Materials License No. 25-10994-04 issued by the Nuclear Regulatory Commission (NRC or the Commission) pursuant to Title 10 of the Code of Federal Regulations (10 CFR) parts 30 and 35. The license authorizes the operation of the Licensee's facility in accordance with the conditions specified therein, at 915 Highland Boulevard, Bozeman, Montana.

This Confirmatory Order is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on May 25, 2011, at the NRC Region IV offices in Arlington, Texas.

### **II**

On January 27, 2010, the NRC conducted a routine unannounced inspection of the Bozeman Deaconess Hospital facility to evaluate radiation safety and security, as well as compliance with Commission rules and regulations and the conditions of the license. During the inspection, it was determined that an employee of Bozeman Deaconess Hospital failed to secure radioactive materials from unauthorized access or removal from the facility's nuclear medicine laboratory (hot lab). On March 8, 2010, the NRC Office of Investigations (OI), Region IV, began an investigation (OI Case No. 4-2010-033) to determine whether employees from Bozeman Deaconess Hospital willfully failed to secure radioactive material during periods when authorized personnel were absent from the hot lab. Based on the results of the inspection and the evidence developed during the investigation, the NRC identified two apparent violations. The first apparent violation involved a willful failure to secure licensed materials from unauthorized removal or access as required by 10 CFR 20.1801. The second violation involved a failure to control and maintain constant surveillance of licensed material as required by 10 CFR 20.1802.

By letter dated April 12, 2011, the NRC transmitted the results of the inspection and a factual summary of OI's Investigation Report 4-2010-033 to Bozeman Deaconess Hospital. In the April 12 letter, the NRC informed the Licensee that the NRC was considering escalated enforcement action for the apparent violations. The NRC offered the Licensee the opportunity to request a predecisional enforcement conference or request ADR with the NRC in an attempt to resolve issues associated with this matter. In response, on April 21, 2011, Bozeman Deaconess Hospital requested ADR to resolve this matter with the NRC.

On May 25, 2011, the NRC and Licensee representatives met in an ADR session with a professional mediator, arranged through the Cornell University Institute on Conflict Resolution. ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement on resolving any differences regarding the dispute. This

Confirmatory Order is issued pursuant to the agreement reached during the ADR process.

### III

In response to the NRC's offer, the Licensee requested use of the NRC's ADR process to resolve differences it had with the NRC. During that ADR session, a preliminary settlement agreement was reached. The elements of the agreement consisted of the following:

Pursuant to the NRC's ADR program, the following are the terms and conditions agreed upon in principle by Bozeman Deaconess Hospital (the hospital) and the NRC relating to the NRC Inspection Report 030-33305/2010-001 (and Investigation Report No.4-2010-033) dated April 12, 2011.

Whereas, the NRC identified an apparent violation of 10 CFR 20.1801 and 20.1802 in that a nuclear medicine technician deliberately failed to secure the nuclear medicine door during periods when hospital staff were not available to secure radioactive materials from unauthorized access and/or removal;

Whereas, the NRC identified instances of willfulness where hospital employees raised a concern about the nuclear medicine technician's failures to secure the nuclear medicine door, yet hospital managers did not adequately address the concern and as a result, the violation had been occurring for approximately 10 years;

Whereas, the NRC identified instances in which the hospital's radiation safety officer also raised the concern to a hospital manager, yet hospital management failed to adequately address the concern and failed to prevent the violation from recurring;

Whereas, the NRC identified that the hospital's former radiation safety officer stated he had no knowledge of NRC regulations that required the nuclear medicine door to be secure in order to prevent the removal and/or access to radioactive material, and the former radiation safety officer did not attempt to become familiar with NRC requirements in order to meet his responsibilities as defined in 10 CFR 35.24;

Whereas, the NRC is interested in obtaining comprehensive corrective actions by the hospital that would prevent future failures to secure licensed material; and any future willful violations;

Whereas, the NRC is interested in obtaining comprehensive corrective actions that ensure hospital staff and managers understand NRC regulations and the conditions of the license;

Whereas, the NRC is interested in obtaining comprehensive corrective actions to ensure that hospital workers understand their obligations to follow NRC requirements and to raise safety concerns to hospital management;

Whereas the NRC is interested in ensuring that hospital managers understand their obligations to follow NRC requirements and their obligations to review and act on any concerns raised to them by hospital staff;

Whereas, the NRC is interested in obtaining comprehensive corrective actions by hospital management to ensure that the hospital selects radiation safety officers who understand NRC regulations and the license conditions, and who understand their responsibilities under 10 CFR 35.24;

Whereas, these terms and conditions shall not be binding on either party until memorialized in a confirmatory order issued by the NRC to the hospital relating to this matter.

Therefore, the parties agree to the following terms and conditions:

1. Within 45 days of the date of this Confirmatory Order, the Licensee shall submit a license amendment request and provide its procedure to comply with 10 CFR 20.1801 and 20.1802.

2. Within 30 days from the date of this confirmatory order, the Licensee must contract with an independent third-party organization to provide training to hospital staff and managers who are required to receive training under 10 CFR 19.12 on: (1) What constitutes deliberate misconduct under NRC regulations at 10 CFR 30.10, (2) the range of enforcement actions that the NRC has taken against individuals and licensees who engaged in deliberate misconduct, and (3) the definitions of willfulness and careless disregard contained in the NRC Enforcement Policy. The NRC Enforcement Policy (ADAMS Accession No. ML093480037) and examples of significant NRC enforcement actions are found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>. At least 14 days prior to commencing the training, the Licensee must submit the name and resume of the independent third-party individual who will be providing this training to the Director, Division of Nuclear Material Safety; 612 E. Lamar Blvd., Arlington, TX 76011. The training must be completed within 90 days of the date of this Confirmatory Order.

3. The Licensee must contract with an independent third-party organization to provide training to hospital staff and managers who are required to receive training under 10 CFR 19.12 on the following topics:

A. The model training program in Appendix J to NUREG 1556, Volume 9, Revision 2; and

B. An overview of 10 CFR 19.16 and 10 CFR 30.7.

The extent of this training must be commensurate with potential radiological health protection problems present in the work place. In addition, the Licensee must develop a mechanism to assess the effectiveness of the training that was conducted. At least 14 days prior to commencing the training, the Licensee must submit the name and resume of the independent third-party individual who will be providing this training to the Director, Division of Nuclear Materials Safety; 612 E. Lamar Blvd., Arlington, TX 76011. The training must be completed within 90 days of the date of this Confirmatory Order.

4. The hospital shall modify its internal requirements for new worker training and for its annual refresher training to require that the topics presented in Conditions 2 and 3 be made part of the training. Training in these areas may be provided by qualified hospital staff, and is required for managers and staff who are required to receive training under 10 CFR 19.12. The training requirements must include a mechanism to assess the effectiveness of the training. This training must be commensurate with the potential radiological health protection issues present in the work place. Within 45 days of the date of this Confirmatory Order, the Licensee must submit to the NRC a license amendment request to incorporate these requirements for new worker training and annual refresher training.

5. Within 30 days of the date of this Confirmatory Order, the Licensee must develop a procedure which assesses, during the selection process for radiation safety officers, the person's understanding of 10 CFR parts 19, 20, and 35. Within 45 days of the date of this Confirmatory Order, the Licensee shall submit a license amendment request to have the procedure incorporated into its NRC license.

6. Within 30 days of the date of this Confirmatory Order, the Licensee must develop and implement a procedure that allows hospital employees and contractors to raise radiation safety concerns to hospital management. The procedure must: (a) Accommodate anonymous concerns and must maintain the anonymity of the individual; (b) describe the reviews to be conducted by hospital management; and (c) describe when the radiation safety committee will review and resolve employee safety concerns. The procedure must describe the Licensee's process for reviewing and

approving changes to this procedure. The Licensee is authorized to make changes to this procedure without prior Commission approval as long as: (a) The proposed revision is documented, reviewed, and approved by the Licensee's radiation safety committee; (b) the revised procedure is in accordance with regulatory requirements; (c) the Licensee's staff is trained in the revised procedure prior to its implementation; and (d) the Licensee's audit program evaluates the effectiveness of the change and its implementation. Within 45 days of the date of this Confirmatory Order, the Licensee must submit a license amendment request, which requires that the Licensee maintain such a procedure.

7. Between 12–15 months from the date of this Confirmatory Order, the Licensee shall perform an assessment of the effectiveness of the training provided in Conditions 2 and 3. The results of its assessment shall be maintained by the Licensee for 3 years and shall be available for the NRC to review.

8. The Licensee agrees to pay a civil penalty of \$3,500 within 30 days of the date of this Confirmatory Order.

On July 1, 2011, the Licensee consented to issuing this Order with the commitments, as described in Section V below. The Licensee further agreed that this Order is to be effective upon issuance and that it has waived its right to a hearing.

#### IV

Since the Licensee has agreed to take additional actions to address NRC concerns, as set forth in Item III above, the NRC has concluded that its concerns can be resolved through issuance of this Confirmatory Order.

I find that the Licensee's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that the Licensee's commitments be confirmed by this Order. Based on the above and the Licensee's consent, this Confirmatory Order is immediately effective upon issuance.

#### V

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182 and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 20, 30, and 35, *It is hereby ordered, effective immediately, that License No. 25–10994–04 is modified as follows:*

1. Within 45 days of the date of this Confirmatory Order, the Licensee shall submit a license amendment request and provide its procedure to comply with 10 CFR 20.1801 and 20.1802.

2. Within 30 days from the date of this Confirmatory Order, the Licensee must contract with an independent third-party organization to provide training to hospital staff and managers who are required to receive training under 10 CFR 19.12 on the following topics:

A. What constitutes deliberate misconduct under NRC regulations at 10 CFR 30.10;

B. The range of enforcement actions that the NRC has taken against individuals and licensees who engaged in deliberate misconduct.

C. The definitions of willfulness and careless disregard contained in the NRC Enforcement Policy (ADAMS Accession No. ML093480037).

The NRC Enforcement Policy (ADAMS Accession No. ML093480037) and examples of significant NRC enforcement actions are found at <http://www.nrc.gov/about-nrc/regulatory/enforcement/current.html>. At least 14 days prior to commencing the training, the Licensee must submit the name and resume of the independent third-party individual who will be providing this training to the Director, Division of Nuclear Materials Safety; 612 E. Lamar Blvd., Arlington, TX 76011. The training must be completed within 90 days of the date of this Confirmatory Order.

3. The Licensee must contract with an independent third-party organization to provide training to hospital staff and managers who are required to receive training under 10 CFR 19.12 on the following topics:

A. The Model Training Program in Appendix J to NUREG 1556, Volume 9, Revision 2; and

B. An overview of 10 CFR 19.16 and 10 CFR 30.7.

The extent of this training must be commensurate with potential radiological health protection problems present in the workplace. In addition, the Licensee must develop a mechanism to assess the effectiveness of the training that was conducted. At least 14 days prior to commencing the training, the Licensee must submit the name and resume of the independent third-party individual who will be providing this training to the Director, Division of Nuclear Materials Safety; 612 E. Lamar Blvd., Arlington, TX 76011. The training must be completed within 90 days of the date of this Confirmatory Order.

4. The Licensee shall modify its internal requirements for new worker training and for its annual refresher training to require that the topics

presented in Conditions 2 and 3 be made part of the training. Training in these areas may be provided by qualified hospital staff, and is required for managers and staff who are required to receive training under 10 CFR 19.12. The training requirements must include a mechanism to assess the effectiveness of the training. This training must be commensurate with the potential radiological health protection issues present in the workplace. Within 45 days of the date of this Confirmatory Order, the Licensee must submit to the NRC a license amendment request to incorporate these requirements for new worker training and annual refresher training.

5. Within 30 days of the date of this Confirmatory Order, the Licensee must develop a procedure which assesses, during the selection process for radiation safety officers, the person's understanding of 10 CFR parts 19, 20, and 35. Within 45 days of the date of this Confirmatory Order, the Licensee shall submit a license amendment request to have the procedure incorporated into its NRC license.

6. Within 30 days of the date of this Confirmatory Order, the Licensee must develop and implement a procedure that allows hospital employees and contractors to raise radiation safety concerns to hospital management. The procedure must: (a) Accommodate anonymous concerns and must maintain the anonymity of the individual; (b) describe the reviews to be conducted by hospital management; and (c) describe when the radiation safety committee will review and resolve employee safety concerns. The procedure must describe the Licensee's process for reviewing and approving changes to this procedure. The Licensee is authorized to make changes to this procedure without prior Commission approval as long as: (a) The proposed revision is documented, reviewed, and approved by the Licensee's radiation safety committee; (b) the revised procedure is in accordance with regulatory requirements; (c) the Licensee's staff is trained in the revised procedure prior to its implementation; and (d) the Licensee's audit program evaluates the effectiveness of the change and its implementation. Within 45 days of the date of this Confirmatory Order, the Licensee must submit a license amendment request, which requires that the Licensee maintain such a procedure.

7. Between 12 and 15 months from the date of this Confirmatory Order, the Licensee shall perform an assessment of the effectiveness of the training provided in Conditions 2 and 3. The results of its assessment shall be

maintained by the Licensee for 3 years and shall be available for the NRC to review.

8. The Licensee agrees to pay a civil penalty of \$3,500 within 30 days of the date of this Confirmatory Order. The Licensee must pay the civil penalty, in accordance with NUREG/BR-0254 and by submitting to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, a statement indicating when and by what method payment was made.

The Regional Administrator, NRC Region IV, may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

#### VI

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its publication in the **Federal Register**. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC E-Filing rule (72 FR 49139, August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least ten (10) days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at [hearing.docket@nrc.gov](mailto:hearing.docket@nrc.gov), or by telephone at 301-415-1677, to request (1) A digital ID certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be

submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/apply-certificates.html>. System requirements for accessing the E-Submittal server are detailed in NRC's "Guidance for Electronic Submission," which is available on the agency's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange (EIE), users will be required to install a Web browser plug-in from the NRC Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>.

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC public Web site at <http://www.nrc.gov/site-help/e-submittals.html>. A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an e-mail notice confirming receipt of the document. The E-Filing system also distributes an e-mail notice that provides access to the document to the NRC Office of the General Counsel and any others who have advised the Office of the Secretary

that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the "Contact Us" link located on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by e-mail at [MSHD.Resource@nrc.gov](mailto:MSHD.Resource@nrc.gov), or by a toll-free call at 866-672-7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at <http://ehd1.nrc.gov/EHD/>, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as Social

Security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than the Licensee) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Confirmatory Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained. In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 20 days from the date this Confirmatory Order is published in the **Federal Register** without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received. A request for hearing shall not stay the immediate effectiveness of this order.

Dated this 8th day of July 2011.

For the Nuclear Regulatory Commission.

**Elmo E. Collins,**

*Administrator, NRC Region IV.*

[FR Doc. 2011-18853 Filed 7-25-11; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 52-12-COL and 52-13-COL; ASLBP No. 09-885-08-COL-BD01]

### **Atomic Safety and Licensing Board; In the Matter of Nuclear Innovation North America LLC (South Texas Project Units 3 and 4); Notice of Hearing; Opportunity To Submit Written Limited Appearance Statements; and Notice of Oral Argument**

July 7, 2011.

Before Administrative Judges: Michael M. Gibson, Chairman, Dr. Gary S. Arnold, Dr. Randall J. Charbeneau.

The Atomic Safety and Licensing Board hereby gives notice that it will convene an evidentiary hearing to receive testimony and exhibits in the contested portion of this proceeding regarding the application of Nuclear Innovation North America LLC (NINA) for combined licenses that would authorize NINA to construct and operate two new nuclear reactor units on an existing site near Bay City, Texas. In addition, the Board gives notice that, in accordance with 10 CFR 2.315(a), it will entertain written limited appearance statements from members of the public in connection with this proceeding. Finally, the Board gives notice that it will hold oral argument on a new contention proposed by Intervenor<sup>1</sup> related to foreign control.

#### **A. Matters To Be Considered at Evidentiary Hearing**

This evidentiary hearing will concern two environmental contentions: one related to estimating replacement power costs in the evaluation of severe accident mitigation design alternatives, the other related to accounting for energy efficient building code rules in the assessment of a need for power.

#### **B. Date, Time, and Location of Evidentiary Hearing**

The Board will conduct this evidentiary hearing<sup>2</sup> beginning at 9:30 a.m., Central Daylight Time (CDT) on Thursday, August 18, 2011, at the Campus of the Texas Commission on Environmental Quality, Building E, Room 201S, 12100 Park 35 Circle, Austin, TX 78753. The hearing will continue day-to-day until concluded.

Any members of the public who plan to attend the evidentiary hearing are advised that security measures will be employed at the entrance to the facility, including searches of hand-carried items such as briefcases or backpacks.

#### **C. Submitting Written Limited Appearance Statements**

As provided in 10 CFR 2.315(a), any person (other than a party or the representative of a party to this proceeding) may submit a written statement setting forth his or her position on matters of concern relating to this proceeding. Although these statements do not constitute testimony or evidence, they nonetheless may help the Board or the parties in their

<sup>1</sup> Intervenor<sup>1</sup> are the Sustainable Energy and Economic Development Coalition, the South Texas Association for Responsible Energy, and Public Citizen.

<sup>2</sup> NINA, NRC Staff and Intervenor<sup>2</sup> will be parties to the hearing and will present witnesses and evidentiary material.

consideration of the issues in this proceeding.

A written limited appearance statement may be submitted at any time and should be sent to the Office of the Secretary using one of the methods prescribed below:

*Mail:* Office of the Secretary, Rulemakings and Adjudications Staff, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

*Fax:* (301) 415-1101 (verification (301) 415-1966).

*E-mail:* [hearingdocket@nrc.gov](mailto:hearingdocket@nrc.gov).

In addition, using the same method of service, a copy of the written limited appearance statement should be sent to the Chairman of this Licensing Board as follows:

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

*Fax:* (301) 415-5599 (verification (301) 415-7332).

*E-mail:* [Michael.Gibson@nrc.gov](mailto:Michael.Gibson@nrc.gov) and [Jonathan.Eser@nrc.gov](mailto:Jonathan.Eser@nrc.gov).

#### **D. Notice of Oral Argument**

The Board will hold oral argument on Intervenor<sup>3</sup> newly proffered foreign control contention beginning at 9:30 a.m. CDT on Wednesday, August 17, 2011, at the Campus of the Texas Commission on Environmental Quality, Building F, Room 2210, 12100 Park 35 Circle, Austin, TX 78753. As with hearing attendance, members of the public are welcome to attend oral argument, subject to facility security protocol.

#### **E. Availability of Documentary Information Regarding the Proceeding**

NINA's application and various Staff documents relating to the application are available on the NRC Web site at <http://www.nrc.gov/reactors/new-reactors/col/south-texas-project.html>.

These and other documents relating to this proceeding are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD 20852, or electronically from the publicly available records component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC Public Document Room reference staff by telephone at (800) 397-4209 or (301) 415-4737 (available