

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

May 9, 2013

ORDER

(Requesting Additional Briefing on NINA's Motion)

On May 8, 2013, Applicant Nuclear Innovation North America LLC (NINA) submitted a motion to toll the deadline for it to file a new contention challenging the Nuclear Regulatory Commission (NRC) Staff's determination that NINA is subject to foreign ownership, control, or domination (FOCD) and thus ineligible to receive a license under 10 C.F.R. § 50.38.<sup>1</sup> NINA asserts that such a contention would be duplicative with Intervenor's currently-admitted Contention FC-1, but it fears that if in the future Contention FC-1 is dismissed, withdrawn, or otherwise disposed of without a decision on the merits, an attempt to put forward its own contention will fail as untimely.<sup>2</sup>

The issue presented by NINA's motion is unusual, if not one of first impression. To assist in resolving the motion, the Board seeks additional briefing from the parties on the following issues:

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<sup>1</sup> NINA's Unopposed Motion to Toll Deadline to Submit a New Contention Challenging the Staff's FOCD Evaluation (May 8, 2013).

<sup>2</sup> Id. at 3-5.

- 1) The authority of the Board to admit in this proceeding a contention put forward by the Applicant, in light of 10 C.F.R. § 2.309(f)(1)(vi).
- 2) Whether a hearing demand under 10 C.F.R. § 2.103(b)(2) provides an adequate remedy to address the Applicant's concerns.

The parties shall submit their filings on or before **Friday, May 17, 2013**. Although the Board makes no determination now as to whether NINA must file its contention, while considering the instant motion we will extend the period to file a timely contention based on the Staff's FOCD determination to June 17, 2013.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD  
**/RA/**

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Michael M. Gibson, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
May 9, 2013

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  
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(South Texas Project, Units 3 and 4) )  
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **ORDER (Requesting Additional Briefing on NINA's Motion)** 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.  
Michael Spencer, Esq.  
Jody Martin, Esq.  
Anthony C. Wilson, Esq.  
Richard Harper, Esq.  
Patrick Moulding, Esq.  
Catherine Scott, Esq.  
Lloyd Clark, Esq.

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

E-mail:  
[sara.kirkwood@nrc.gov](mailto:sara.kirkwood@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)  
[richard.harper@nrc.gov](mailto:richard.harper@nrc.gov)  
[patrick.moulding@nrc.gov](mailto:patrick.moulding@nrc.gov)  
[catherine.scott@nrc.gov](mailto:catherine.scott@nrc.gov)  
[lloyd.clark@nrc.gov](mailto:lloyd.clark@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)

James Maltese, Law Clerk  
E-mail: [james.maltese@nrc.gov](mailto:james.maltese@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 (Requesting Additional Briefing on NINA's Motion)**

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.  
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)  
[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 Clara I. Sola]  
Office of the Secretary of the Commission

Dated at Rockville, Maryland  
this 9<sup>th</sup> day of May 2013