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February 14, 2017

John T. Lucas
Acting General Counsel
Office of the General Counsel
1000 Independence Ave., SW
Washington, DC, 20585

Re: DOE/FE Docket No. 16-22-CGL

Dear Mr. Lucas:

Please accept the following in response to your letter of February 1, 2017.

As a matter of record, please note that this is the second instance in which the Office of General Counsel has refused to grant a SeaOne request for a meeting to discuss the Office's legal conclusions. As we have consistently pointed out, both in our communications with DOE staff and in our submissions to your office, these conclusions are legally inaccurate and have created unreasonable and improper delays. SeaOne's requests for meetings to discuss these determinations have been not only reasonable but also have sought audiences to which our client is legally entitled.

In the attached letter of July 26, 2016, SeaOne requested a meeting with your office to discuss certain DOE/FE determinations, which "cannot be justified as good faith determinations based on informed legal advice," observing that "the record is closed and complete" and noting that there was "no evidence in the record which would justify any further delay in this proceeding." An attachment to that letter included the following statement:

> As a matter of law, all U.S. Agencies must act in conformity with their own regulations. The violations here identified are pervasive and beyond justification. The record in this matter is closed and complete and there is no evidence in the record which would support a decision to require further proceedings or, in any way, to condition or delay the requested authorization.

We note, for the record, that SeaOne never received a response to this letter nor were the letter and its attachments ever included in the record of this matter – though many comparable, subsequent communications have been so included. Your office's refusal to address this submission regarding the clear and indisputable legal errors which were then preventing, and, to this day continue to prevent, timely action by DOE/FE to fulfill its clear and mandatory duties is inexcusable and must be corrected immediately.

As to the second major instance of your office's failure to respond regarding issues critical to this matter, we have attached a memorandum which was included with our letter of January 3, 2017 to then-Assistant Secretary Smith. In this memorandum, SeaOne pointed out that the Agency's actions to date in this matter appear to have been predicated on a "clear, profound and possibly intentional misunderstanding" of the Act which has "pervasively affected the Office's treatment of SeaOne's application. SeaOne's statement identifying this clear and critically important misreading of the Act has never been addressed by either your office or the agency staff. The assertion in your letter of February 1, 2017 that this critical issue has been addressed in the letter of December 23, 2017 is simply wrong. The words of the Statute are clear. DOE's reading is obviously incorrect. Rather than providing a substantive response to this and the other issues that we have long sought to discuss, your letter simply cites back to the previous order and the December 23rd letter, neither of which even purports to address the clear errors which our letter called to your attention.

SeaOne's CGL project is the subject of significant international interest, e.g. SIDS DOCK, an international, United Nations-recognized intergovernmental organization, which assists and represents the interests of the world's small islands and low lying coastal nations (32 in number) in their efforts to develop sustainable clean energy economies. As the record also shows, the project is actively supported by the Governor of Mississippi, the Port of Gulfport, both Mississippi Senators and the Congressman from the district in which the project is to be located.

DOE's continued refusal to address these core issues has forced us to take the extreme step of sharing this letter with DOE's Office of Inspector General. We regret the necessity of this step. However, it is our firm belief that the Department's actions must be properly grounded on the applicable law, and where requested, the Department must be willing to respond to questions regarding the legality of its actions. Your office's failure to observe these obligations to date requires independent assessment at this point in the process.

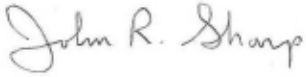
We are disappointed that to date we have received at best a cursory acknowledgement of our requests for clarification of the basis for your office's positions and will continue to take all practicable steps to resolve these issues and to determine the cause for the Office's failures to date. However, we acknowledge that you, personally, are coming in late to this process and may well have not been aware of the serious problems which we have outlined above. Given a

willingness to discuss these matters fairly and in conformity with the applicable laws, SeaOne remains willing to work with your office to resolve these issues and determine an appropriate path forward.

Sincerely,

Counsel to SeaOne Gulfport LLC

J. Gordon Arbuckle, Esq.



John Sharp

Senior Attorney
Squire Patton Boggs (US) LLP

Attachments

cc: April Stephenson, Acting Inspector General
U.S. Department of Energy