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December 17, 2004

MEMORANDUM TO: Lawrence J. Chandler
Associate General Counsel for Hearings, Enforcement
and Administration
Office of the General Counsel

FROM: William D. Beckner, Program Director */RA/*
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

SUBJECT: REQUESTED LEGAL DETERMINATION ON EXCLUSION AREA
AUTHORITY AND CONTROL

We are submitting this memo to request that the Office of the General Counsel (OGC) determine whether System Energy Resources, Inc. (SERI), applicant for an early site permit (ESP) for the Grand Gulf ESP site, has sufficient authority over the land and water at the site to meet the exclusion area requirements of 10 CFR 100.3. This request is being made in accordance with Section 2.1.2 of Review Standard RS-002, "Processing Applications for Early Site Permits." The guidance therein calls for the staff to request a determination by OGC in cases where the applicant does not have absolute ownership of all lands within the exclusion area.

Consistent with the guidance in RS-002, the applicable sections and figures of the ESP site safety analysis report (SSAR) are attached (ADAMS Accession No. ML043450262). In addition, we are attaching a relevant response to a staff request for additional information.

Please provide written response as to whether the applicant's claimed authority meets the requirements of 10 CFR 100.3. Also, please determine whether the applicant's stated plans for making arrangements for exclusion of persons from water areas that lie within the exclusion area are adequate from a legal perspective. Finally, please provide a recommendation as to whether a permit condition is required to ensure such arrangements are made prior to undertaking activities in accordance with 10 CFR 52.25.

<p align="center">OFFICIAL USE ONLY</p> <p>May be exempt from public release under the Freedom of Information Act (5 U.S.C. 552)</p> <p>Exemption number <u> 4 </u> Nuclear Regulatory Commission review required before public release.</p> <p>W. D. Beckner, Director, NRR/RNRP Name and organization of person making determination.</p> <p>Date of Determination <u>12/15/2004</u></p>

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Receipt of your response by January 7, 2005, will allow the staff to make timely notification to the applicant if additional actions on their part are required.

Attachments: As stated

cc w/o atts: J. Dyer
R. Borchardt
D. Matthews
F. Gillespie

CONTACT: Raj K. Anand, NRR/RNRP
(301) 415-1146

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(301) 415-1146

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* See previous concurrence

ADAMS ACCESSION NUMBER: ML043450464-Package
ML043450012-Cover Memorandum
ML043450262-Pages From Grand Gulf SSAR

OFFICE	PM:RNRP	SC/SPSB*	SC/RNRP	PD/RNRP
NAME	RAnand	RDennig	LDudes	WBeckner
DATE	12/14/2004	12/13/2004	12/14/2004	12/15/2004

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