

From: <Margaret_Bennett@dom.com>
To: <bxs2@nrc.gov>
Date: 5/2/05 3:34PM
Subject: 05-194A: Dominion Nuclear North Anna, LLC North Anna Early Site PermitApplication Response to Draft Safety Evaluation Report Open Item 2.1-1

(See attached file: 05-194ALtr&Att.pdf)

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PermitApplication Response to Draft Safety Evaluation Report Open
Item 2.1-1

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Dominion Nuclear North Anna, LLC
5000 Dominion Boulevard, Glen Allen, VA 23060



May 2, 2005

U. S. Nuclear Regulatory Commission
Attention: Document Control Desk
Washington, D.C. 20555

Serial No. 05-194A
ESP/JDH
Docket No. 52-008

DOMINION NUCLEAR NORTH ANNA, LLC
NORTH ANNA EARLY SITE PERMIT APPLICATION
RESPONSE TO DRAFT SAFETY EVALUATION REPORT OPEN ITEM 2.1-1

On December 20, 2004, the NRC issued its Draft Safety Evaluation Report (DSER) for Dominion Nuclear North Anna, LLC's North Anna Early Site Permit application. The DSER contained several open items for which the NRC requested a response. This letter contains a response to the following open item:

- Open Item 2.1-1

It is our intent to update the North Anna ESP application to reflect our response to this open item. Planned changes to the application are identified following the response.

If you have any questions or require additional information, please contact Mr. Joseph Hegner at 804-273-2770.

Very truly yours,

A handwritten signature in black ink, appearing to read "E. Grecheck", written in a cursive style.

Eugene S. Grecheck
Vice President-Nuclear Support Services

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Commitments made in this letter:

1. Update the North Anna ESP application to reflect response to DSER Open Item 2.1-1.

cc: (with enclosure)

U. S. Nuclear Regulatory Commission, Region II
Sam Nunn Atlanta Federal Center
61 Forsyth Street, SW
Suite 23T85
Atlanta, Georgia 30303

Mr. Jack Cushing
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Mr. J. T. Reece
NRC Senior Resident Inspector
North Anna Power Station

Ms. Belkys Sosa
U. S. Nuclear Regulatory Commission
Washington, D.C. 20555

Serial No. 05-194A
Docket No. 52-008
Response to DSER Open Item 2.1-1

COMMONWEALTH OF VIRGINIA

COUNTY OF HENRICO

The foregoing document was acknowledged before me, in and for the County and Commonwealth aforesaid, today by Eugene S. Grecheck, who is Vice President, Nuclear Support Services, of Dominion Nuclear North Anna, LLC. He has affirmed before me that he is duly authorized to execute and file the foregoing document on behalf of Dominion Nuclear North Anna, LLC, and that the statements in the document are true to the best of his knowledge and belief.

Acknowledged before me this 2nd day of May, 2005.

My Commission expires: August 31, 2008

Margaret B. Bennett
Notary Public

(SEAL)

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Enclosure

**Response to Draft Safety Evaluation Report
Open Item 2.1-1**

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DSER Open Item 2.1-1 (DSER pages 2-6)

As noted in Section 2.1.2.1 of this SER, the applicant intends to reach appropriate legal terms with the present owners of the ESP site at such time as the applicant elects to construct a nuclear power plant on the site. The applicant has therefore not attempted to demonstrate that it currently has the authority to determine all activities, including exclusion or removal of personnel and property from the areas, as required by 10 CFR 100.3. To meet the exclusion area control requirement of 10 CFR 100.21(a), "Non-Seismic Site Criteria," and 10 CFR 100.3, the applicant does not need to demonstrate total control of the property before issuance of the ESP. However, the applicant must provide reasonable assurance that it can acquire the required control, i.e., that it has the legal right to obtain control of the exclusion area. The applicant should demonstrate that it has the legal right to control the exclusion area, or has an irrevocable right to obtain such control. **This is Open Item 2.1-1.**

Response

Under the Virginia Electric Utility Restructuring Act, a certificate issued by the Virginia State Corporation Commission ("SCC") will be required before DNNA may construct and operate additional nuclear units at North Anna. Virginia Code, § 56-580 D. That section provides that the SCC will permit the construction and operation of electrical generating facilities upon a finding that such generating facility and associated facilities (1) will have no material adverse effect upon the reliability of electric energy service provided by any regulated public utility and (2) are not otherwise contrary to the public interest.

DNNA and Virginia Electric Power Company ("Virginia Power") are "affiliated interests" as defined in the Virginia Affiliates Act, Va. Code §§ 56-76 *et seq.* As a result, the SCC must also grant prior approval of any agreements to purchase or lease the ESP site and to provide for joint control of the exclusion area before DNNA will have access to the site to commence construction. Under Virginia law, no contract or "arrangement" between a public utility and an affiliate for, among other things, the purchase, sale, lease or exchange of any property, right or thing is effective unless and until approved by the SCC. Va. Code § 56-77. (A similar approval may be required in North Carolina, in which a portion of Virginia Power's utility service territory is located.)

Under this statutory framework, if DNNA decides to proceed with the construction of new nuclear units at North Anna, it will negotiate an appropriate agreement to purchase or lease the ESP site and to provide joint control of the NAPS exclusion area. It is reasonable to presume that if the site owners are willing to sell or lease the ESP site to allow DNNA to construct and operate new nuclear units, they will be willing to allow the necessary joint control of the exclusion area. After this agreement is negotiated, DNNA

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and Virginia Power will apply to the SCC (and any other public utility commissions if required) for approval to make the agreement effective. DNNA would also apply to the SCC for a certificate of public convenience and necessity to allow construction and operation of the new units. If these approvals—both of which are prerequisites to construction—are granted, DNNA will have the requisite authority over the exclusion area before construction begins, consistent with section 2.1.2 of the Standard Review Plan. If these approvals are not granted, construction cannot occur.

Application Revision

The above response would be inserted following the first sentence of the first paragraph in SSAR Section 2.1.2.1, Authority. The second sentence, first paragraph would be reformatted to begin a new paragraph.