



COMMONWEALTH of VIRGINIA

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Preston Bryant
Secretary of Natural Resources

January 31, 2006

Ms. Pamela F. Faggert
Vice-President and Chief Environmental Officer
Dominion Virginia Power Company
5000 Dominion Boulevard
Glen Allen, Virginia 23060

RE: Federal Consistency Certification under Coastal Zone Management Act
and Virginia Coastal Resources Management Program: North Anna Early
Site Permit Application to U.S. Nuclear Regulatory Commission
DEQ-05-079F

Dear Ms. Faggert:

This letter follows up our November 3, 2005, letter to you in which we documented an agreement between Dominion Virginia Power Company ("Dominion") and the Department of Environmental Quality ("DEQ") upon a stay of the federal consistency review process pursuant to the Federal Consistency Regulations at 15 CFR Part 930, section 930.60(a)(3). The stay was intended to allow development and review, by Dominion and state agencies respectively, of information relating to the proposed change in the cooling regime associated with the proposed third nuclear reactor unit under consideration for the North Anna Power Station by way of the Early Site Permit process.

Because of a pending change in these Regulations involving different requirements for agreement upon a stay of the review process (among other things), we must discuss and agree upon specific time frames for the duration of the stay (see "Change in Federal Consistency Regulations," below). In addition, it is necessary to estimate times and efforts required by Dominion and the state agencies involved in this review to provide necessary information for review, and to review it and conclude upon the question of consistency of the proposed third and fourth nuclear reactor units with the Virginia Coastal Resources Management Program (hereinafter "Coastal Program").

Background

Under the Regulations in effect last November, it is possible for the state agencies administering the Coastal Program to agree with the applicant for a federal permit on an open-ended stay of the time clock for review, or on an extension of the six-month review period (section 930.60(a)(3)). Dominion requested a 45-day extension of the review period on September 16, 2005, and DEQ agreed to a new date of November 7. The new approach to cooling the third nuclear unit was introduced by Dominion on or about October 25, 2005, when Dominion requested another 45-day extension. We discussed and agreed upon a stay, instead, for the reasons articulated in our November 3 letter.

The purposes of the stay were twofold. First, the stay would allow Dominion to develop and submit information concerning its October 2005 proposal to revise the approach to cooling the third nuclear reactor unit at the North Anna Power Station. The third unit and a fourth unit are both proposed in the Early Site Permit application; the application contemplates an air-cooled fourth unit and a closed-cycle, combination wet and dry cooling system for the third unit. The revised approach to cooling the third unit would reduce the water requirements for that unit.

The second purpose of the stay was to allow DEQ and other state agencies and offices to analyze the information provided by Dominion, and to develop comments on whether the new proposal would be consistent with the Coastal Program.

Since we agreed upon the stay, there have been several exchanges of questions and information between Dominion and the state agencies. In addition, the rules governing the consistency review process have changed. One of the information exchanges took place when Dominion communicated, by e-mail, copies of its January 13 document (see "Supplemental Information," below) explaining the changes in the cooling regime that were announced in October.

In addition, state agencies and the Nuclear Regulatory Commission (NRC) discussed the supplemental information in a conference call on January 25, 2006. NRC staff indicated that a Supplemental Draft EIS would be required, along with an amended application document for the Early Site Permit from Dominion (NRC/DEQ/DGIF, 1/25/06).

Ms. Pamela F. Faggert
Page 3

Change in Federal Consistency Regulations and the Stay

Since our November 3 letter, the National Oceanic and Atmospheric Administration, a component of the U.S. Department of Commerce, has published a revision of the Federal Consistency Regulations which will take effect on February 6, 2006 (see Federal Register, Volume 71, Number 3, dated January 5, 2006, pages 788-831). The revised regulations (hereinafter "New Regulations") allows the state and the applicant for a federal license or permit to agree upon a stay, but the stay must have a specific ending date (section 930.60(b); see page 828 of the Federal Register notice cited above).

The New Regulations, therefore, make it necessary for Dominion and DEQ to agree on a specific ending date for the stay in the federal consistency review process. The ending date for the stay is left to agreement between the state agencies and the applicant for a federal permit or license, under the New Regulations (section 930.60(b), cited above).

Please note that in accordance with 15 CFR Part 930, sub-sections 930.66(a)(1) and (a)(2), a new federal consistency certification may be necessary if there are significant changes in the ESP submitted for federal consistency review resulting from the Supplemental Draft EIS. In short, it is possible that the Early Site Permit would be amended as a result of the Supplemental Draft EIS, necessitating a new consistency certification and review for the project as modified.

Remaining Questions

The following questions remain, following the meeting between representatives of Dominion, DEQ, and the Department of Game and Inland Fisheries on November 18, 2005, and Dominion's submission, by e-mail attachment, of its "Supplement to Address a Modified Approach to Unit 3 Cooling and to Ensure the Plant Parameter Envelope Remains Bounding," dated January 13, 2006. DEQ received this document (hereinafter "Supplement") on January 19 and forwarded it to reviewing agencies for a cursory (1-week) review. The purpose of the cursory review was to determine whether the Supplement provides information sufficient to enable state agencies administering the enforceable policies and advisory policies of the Coastal Management Program to develop comments on the consistency of the new approach to Unit 3 cooling with the requirements of the Coastal Management Program.

Participants in this cursory review included the Department of Game and Inland Fisheries, the Department of Conservation and Recreation, and DEQ's Division of Water Resources. The remaining questions and comments follow.

Ms. Pamela F. Faggert

Page 4

1. DEQ's Division of Water Resources (DWR) awaits spreadsheets promised by Dominion on December 9, 2005, that show inflow, outflow, and change in storage components for the existing two units, and also for the existing two units with a new once-through cooling unit.

(a) DEQ-DWR requests a similar spreadsheet analysis for the new cooling system, operating the system (1) in maximum water conservation mode all the time, and (2) in the mode contemplated by Dominion at the time of its November 18 meeting with state agencies.

(b) What would be the average additional consumptive use over the period of record that Dominion's consultant, Bechtel, used for each set of rules in (a) above?

2. DEQ-DWR asked how much additional storage would be required so as not to change the frequency and duration of the 20 cubic feet per second (cfs) minimum in-stream flow (MIF). Dominion answered this question by stating that 7 inches of additional storage would be required.

3. DEQ-DWR asked, in connection with question 2, what the impacts of the required amount (7 inches) of additional storage would be on fringe wetlands. This question was not answered. A seasonal spring surcharge in the volume of water stored, of just a few inches, may be part of a package allowing the permitting of the project. Accordingly, we request that Dominion make an analysis of the impacts of the required amount of additional storage upon fringe wetlands and submit it for our review.

4. DGIF requested that an Index of Hydrologic Analysis (IHA) be conducted, using two scenarios: water conservation mode and energy conservation mode. Table 5.2-5 in the Supplement provides an analysis, but does not make clear the assumptions used in the calculations. Is the table computed using the proposed Dominion operating rules or some other rules? If it is computed using the operating rules proposed by Dominion, then DGIF will need only the analysis conducted using water conservation mode for the entire time. Low flows are most likely to occur during times when constraints may be present on maximum water conservation mode (dry cooling only), i.e., the times of greatest need from a fisheries perspective.

5. DEQ-DWR indicates that the IHA analyses (question 5) are needed especially for the pre-dam condition. On December 9, Dominion wrote:

Ms. Pamela F. Faggert
Page 5

Currently our resources are focused on completing the ESP supplement to the USNRC by January 13, 2006. After that effort is completed we will provide a schedule indicating when the pre-dam IHA can be supplied.

6. According to DGIF, certain portions of Table 5.2-5 do not appear consistent with the proposed plant operation. For example, on page 115, in the post-impact period for November and December, the water loss at the 75% exceedance (50 and 63 cfs) is greater than the maximum evaporative water loss (37.8 cfs) listed in Table 3.1-9. Please clarify.

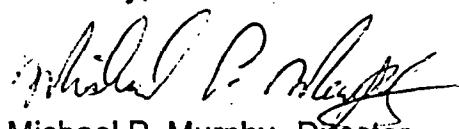
7. Table 3.1-9 provides maximum make-up flow and evaporation rates. DGIF staff assumes that these will vary by ambient air temperature, and that in some cases cooling needs can be met entirely by the dry tower. DGIF requests some type of monthly or seasonal analysis to aid in determining when cooling by evaporation is minimal and when the maximum values occur.

8. DGIF requested, in earlier correspondence, a chart that shows the timing and duration of flows at 20 cfs. This was provided in earlier documents, but does not appear in the Supplement. Figure 5.2-2 visually illustrates the duration of those events, but it is impossible to determine the duration with precision. We request that Dominion supply this chart and information.

In addition to the questions and requests above, DCR expressed its interest in Dominion's use of a dry tower for Unit 3 as well as the proposed dry tower for Unit 4. In the alternative, Dominion should consider not using Unit 3 during low flows. In the interests of the condition of the North Anna River downstream of the Lake, DCR urges new consideration of the release schedule and flow rates below the dam as part of the ESP process.

Again, we must agree on a specific ending time for the stay in the federal consistency review process in order to comply with the New Regulations, which take effect on February 6. We believe a meeting or conference call would be the best way to arrange this discussion. Please feel free to call me (telephone 698-4003) or Ellie Irons, the EIR Program Manager (telephone 698-4325) to arrange the meeting. Thank you.

Sincerely,



Michael P. Murphy, Director
Division of Environmental Enhancement

cc: (next page)

Ms. Pamela F. Faggert

Page 6

Ellie L. Irons, DEQ-DEE-OEIR

John Kauffman, DGIF

Andrew K. Zadnik, DGIF

John Odenkirk, DGIF

Joseph P. Hassell, DEQ-DWR

Robert S. Munson, DCR

Scott Bedwell, DCR

Tony Watkinson, MRC

Joan Crowther, DEQ-NVRO

Thomas Fahy, DEQ-NVRO

Jack Cushing, NRC

Ellis,Charles

From: John Kauffman [John.Kauffman@dgif.virginia.gov]
Sent: Thursday, January 26, 2006 11:21 AM
To: Robert.Munson@dcr.virginia.gov; Scott.Bedwell@dcr.virginia.gov; Ellis,Charles;
Crowther,Joan; Hassell,Joseph; Andrew Zadnik; Tony.Watkinson@mrc.virginia.gov
Cc: Irons,Ellie; Fred Leckie; Gary Martel; John Odenkirk
Subject: Re: FW: Dominion's 1/13/06 ESP Application Supplement (Additional information from
Dominion Virgin

We have reviewed the revised document for Lake Anna units 3 and 4 and need the additional information prior to any evaluation. These requests were expressed in our Nov 22 email to Judd White.

1. In our email to Judd White, we requested that an Index of Hydrologic analysis be conducted using two scenarios: water conservation mode and energy conservation mode. Table 5.2-5 provides an analysis but we are unsure of the assumptions used in those calculations. Is it computed using the proposed Dominion operating rules or some other rules? If so we will only need the analysis conducted using water conservation mode for the entire time. Low flows are most likely to occur during times when constraints may be present on MWC mode (dry cooling only)...e.g., the times of greatest need (from our perspective). What constraints would be present on this scenario?
2. Certain portions of Table 5.2-5 do not appear consistent with the proposed plant operation. For example on page 115 in the post impact period for November and December the water loss at the 75% exceedence (50 and 63 cfs) is greater than the maximum evaporative water loss (37.8 cfs) listed in Table 3.1-9
3. Table 3.1-9 provides maximum make-up flow and evaporation rates. I would assume these will vary by ambient air temperatures, and in some conditions cooling needs can be handled entirely by the dry tower. Some type of monthly/seasonal analysis would help us visualize when cooling by evaporation is minimal and when the maximum values occur.
4. In our earlier email we requested a chart that shows the timing and duration of flows at 20 cfs. This was provided in earlier documents for the proposed plant but is not in the current document. Figure 5.2-2 visually illustrates the duration but it is impossible to determine the duration of those events.

Ellis,Charles

From: Robert Munson [Robert.Munson@dcr.virginia.gov]
Sent: Monday, January 30, 2006 2:34 PM
To: Ellis,Charles
Subject: Re: Draft of Letter to Dominion regarding specific Date forending the Stay in the federal consistency p



Robert Munson.vcf
(331 B)

Looks ok to me. Good job, Charlie.

>>> "Ellis,Charles" <chellis@deq.virginia.gov> 01/30/06 12:58 PM >>>
Everybody - please review the attached draft letter to Dominion and tell us whether it
properly reflects your issues and conclusions communicated to us in the past week or so
(DCR e-mail dated 1/19, DEQ-DWR and DGIF e-mails dated 1/26).

John K. and John O. - I need your help in fleshing out question 4 in the "Remaining Questions" section, page 4.

If anyone can name the other parties to the January 25 conference call (cited, middle of page 2), I would appreciate it. This is not as important, however, as the substantive review of the questions.

Please let me know as soon as possible, since we must get the letter out to Dominion and obtain a response by February 2, 2006. Thanks very much.

Charlie Ellis

DEQ-OEIR

1/30/06