



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

NORTHERN VIRGINIA REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Jeffery A. Steers
Regional Director

June 16, 2006

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

Re: Dominion Nuclear North Anna Early Site Permit Application, § 401 Certification of the Federal Clean Water Act

Dear Mr. Cushing:

The Department of Environmental Quality (DEQ) is providing the Commission with justification as to why, at this time, we cannot provide §401 Certification under the Federal Clean Water Act for Dominion Nuclear North Anna's Early Site Permit Application. It is our understanding that a specific scope and schedule for pre-construction activities and determination of specific activities that would result in impacts to state/federal waters or wetlands have not been established. Before the § 401 Certification, through the issuance of a Virginia Water Protection Permit can be authorized, DEQ must know the extent of the surface water impacts and conduct a project review to ensure that all avoidance and minimization to surface waters has occurred.

To address the timing of this certification, DEQ recommends that the ESP should include a condition prohibiting Dominion from conducting any pre-construction activity that would result in a discharge into navigable waters without first submitting to the NRC a Virginia Water Protection Permit (which under Virginia's State Water Control Law at Va. Code § 62.1-44.15:5(A) constitutes the certification required under FWPCA § 401) or a determination by the Virginia DEQ that no certification is required. This condition would make it clear that the ESP does not constitute a license or permit to conduct any activity resulting in a discharge, and therefore, a 401 certification would not be required for issuance of the ESP.

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Our inability to make a permitting determination outside of having received an application should not be construed to mean that this project would not be approvable for permitting under the VWP program. Clearly, should any future application submitted by Dominion meet the appropriate regulatory requirements for permitting, the agency would be prepared to act on said application, while following all administrative procedures.

Should you need any further information or clarification in this matter, please contact Ms. Joan Crowther of this office at (703) 583-3828.

Sincerely,



Jeffrey A. Steers
Regional Director

cc: Nitin Patel, NRC
Tony Banks, Dominion
Jud White, Dominion
Mike Murphy, DEQ/CO
Joan Crowther, DEQ/NVRO