

**RAS 12541**

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION  
ATOMIC SAFETY AND LICENSING BOARD

**DOCKETED 11/17/06**

**SERVED 11/17/06**

Before Administrative Judges:

Alex S. Karlin, Chairman  
Dr. Thomas S. Elleman  
Dr. Richard F. Cole

In the Matter of

DOMINION NUCLEAR NORTH ANNA, LLC  
(Early Site Permit for North Anna ESP Site)

Docket No. 52-008-ESP

ASLBP No. 04-822-02-ESP

November 17, 2006

ORDER

(Scheduling Prehearing Teleconference)

This is to notify the applicant, Dominion Nuclear North Anna, L.L.C. (Dominion) and the NRC Staff that the Board will hold a prehearing conference call on December 14, 2006, at 10:00 A.M. EST to discuss, among other things, the conduct and timing of the mandatory hearing and limited appearance statement session in this proceeding. Attachment A to this order identifies the six fundamental questions that the Board is required to answer in this uncontested mandatory hearing concerning an early site permit. On the call the Board will solicit views as to the best methods for the Board to use in discharging this responsibility.

On or before December 9, 2006, each of the parties should submit written proposals regarding suggested specific locations (e.g., the address) for the limited appearance statement session and the mandatory hearing. On that same date, each party should also submit a calendar, covering February - May 2007 inclusive, showing those dates where they (and their primary witnesses) are not available due to prior significant commitments. We intend to discuss these locations and dates during the prehearing conference call. By that same date

counsel shall contact SherVerne Cloyd at 301-415-6504 to advise the Board of how many lines that party requires for the conference call and to obtain the telephone number and pass code for the conference call.

It is so ORDERED.

FOR THE ATOMIC SAFETY  
AND LICENSING BOARD<sup>1</sup>

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Alex S. Karlin, Chairman  
ADMINISTRATIVE JUDGE

Rockville, Maryland  
November 17, 2006

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<sup>1</sup> Copies of this order were sent this date by Internet e-mail transmission to counsel for the licensee, Dominion Nuclear North Anna, L.L.C. (Dominion) and counsel for the NRC Staff.

## ATTACHMENT A

In the Matter of  
DOMINION NUCLEAR NORTH ANNA, LLC  
(Early Site Permit for North Anna ESP Site)

### **SIX FUNDAMENTAL QUESTIONS THAT ESP BOARD MUST ANSWER IN AN UNCONTESTED MANDATORY PROCEEDING**

The following are the six questions that a Board must answer when handling an uncontested proceeding for an early site permit. These are sometimes referred to as the “mandatory findings.” These findings are required by (a) the notice that the Commission published in the Federal Register when it issued the Notice of Hearing, see 68 Fed. Reg. 67,489 (Dec. 2, 2003) regarding Dominion North Anna, (b) NRC regulations, including 10 C.F.R. §§ 2.104(b) and 51.105(a)(1)-(3), and (c) the Commission’s response to certified questions in Exelon Generation Company, LLC (Early Site Permit for Clinton ESP Site), CLI-05-17, 62 NRC 5 (2005).

1. Safety Issue 1: The Director of NRR is obligated to propose a finding as to whether issuance of the ESP will be inimical to the common defense and security or to the health and safety of the public.

The Board must decide whether the application and the record of the proceeding contain sufficient information, and the review of application by the NRC Staff has been adequate to support a finding that the issuance of the ESP will NOT be inimical to the common defense and security or to the health and safety of the public.

2. Safety Issue 2: The Director of NRR is obligated to propose a finding as to whether, taking into consideration the site criteria contained in 10 C.F.R. Part 100, a reactor, or reactors, having the characteristics that fall within the parameters for the site, can be constructed without undue risk to the health and safety of the public.

The Board must decide whether the application and the record of the proceeding contain sufficient information, and the review of application by the NRC Staff has been adequate to support a finding that, taking into consideration the site criteria contained in 10 C.F.R. Part 100, a reactor, or reactors, having the characteristics that fall within the parameters for the site, can be constructed without undue risk to the health and safety of the public.

3. NEPA Issue: The Director of NRR is obligated to propose a finding as to whether, in accordance with the requirements of subpart A of 10 C.F.R. Part 51, the ESP should be issued as proposed.

The Board must decide whether the review conducted by the Commission pursuant to NEPA has been adequate.

4. NEPA Baseline Issue 1: The Board must decide whether the requirements of Section 102(2)(A), (C), and (E) of NEPA and Subpart A of 10 C.F.R. Part 51 have been complied within the proceeding.
5. NEPA Baseline Issue 2: The Board must independently consider the final balance among the conflicting factors contained in the record of the proceeding and must determine the appropriate action to be taken.
6. NEPA Baseline Issue 3: The Board must determine, after considering reasonable alternatives, whether the ESP should be issued, denied, or appropriately conditioned to protect environmental values.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

In the Matter of )  
)  
DOMINION NUCLEAR ) Docket No. 52-008-ESP  
NORTH ANNA, LLC )  
)  
(Early Site Permit for North Anna ESP Site) )

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing LB ORDER (SCHEDULING PREHEARING TELECONFERENCE) have been served upon the following persons by U.S. mail, first class, or through NRC internal distribution.

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Docket No. 52-008-ESP  
LB ORDER (SCHEDULING PREHEARING TELECONFERENCE)

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[Original signed by Evangeline S. Ngbea]

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Office of the Secretary of the Commission

Dated at Rockville, Maryland,  
this 17<sup>th</sup> day of November 2006