

**From:** "Denson, Carol" <carol.denson@governor.virginia.gov>  
**To:** <JXC9@NRC.GOV>  
**Date:** Tue, Nov 7, 2006 3:53 PM  
**Subject:** Letters from The Honorable L. Preston Bryant, Jr.

Please find attached copies of letters Secretary Bryant sent to Messrs. Paine and Ruth today.

Carol B. Denson  
Executive Assistant to Secretary of Natural Resources  
Office of Governor Timothy M. Kaine  
Patrick Henry Building, 1111 East Broad Street  
Richmond, Virginia 23219  
EMail: [carol.denson@governor.virginia.gov](mailto:carol.denson@governor.virginia.gov)  
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[www.naturalresources.virginia.gov](http://www.naturalresources.virginia.gov)

**Mail Envelope Properties** (4550F221.6C7 : 20 : 34503)

**Subject:** Letters from The Honorable L. Preston Bryant, Jr.  
**Creation Date** Tue, Nov 7, 2006 3:52 PM  
**From:** "Denson, Carol" <[carol.denson@governor.virginia.gov](mailto:carol.denson@governor.virginia.gov)>

**Created By:** [carol.denson@governor.virginia.gov](mailto:carol.denson@governor.virginia.gov)

**Recipients**

nrc.gov  
 OWGWPO03.HQGWDO01  
 JXC9 (Jack Cushing)

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| <b>Files</b> | <b>Size</b> | <b>Date &amp; Time</b>            |
|--------------|-------------|-----------------------------------|
| MESSAGE      | 500         | Tuesday, November 7, 2006 3:52 PM |
| TEXT.htm     | 3500        |                                   |
| Paine.pdf    | 178476      |                                   |
| Ruth.pdf     | 175871      |                                   |
| Mime.822     | 1           |                                   |

**Options**

**Expiration Date:** None  
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**ReplyRequested:** No  
**Return Notification:** None

**Concealed Subject:** No  
**Security:** Standard

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 Junk Mail using personal address books is not enabled  
 Block List is not enabled

November 7, 2006

Mr. Christopher E. Paine  
Senior Nuclear Program Analyst  
Natural Resources Defense Council  
1535 Dairy Road  
Charlottesville, Virginia 22903

Dear Mr. Paine:

Thank you for your recent letter to Governor Kaine regarding the North Anna Power Station and the Early Site Permit process associated with its possible expansion. You have raised specific concerns over the Department of Environmental Quality's review of Dominion Nuclear North Anna, LLC's application and have requested an investigation. Governor Kaine has asked that I respond to you on his behalf.

The Department of Environmental Quality (DEQ) is currently considering whether this project is consistent with the Commonwealth's enforceable coastal policies, per the federal Coastal Zone Management Act. DEQ is giving full consideration to input received from the public and other state agencies, and a final decision has not been made.

Regarding your specific concerns about the validity of the Virginia Pollution Discharge Elimination System (VPDES) Permit Regulation and its consistency with the federal Clean Water Act, DEQ Director David K. Paylor has asked the Office of the Attorney General for advice on whether Virginia's program is consistent with the federal requirements. Mr. Paylor also has asked the Attorney General's opinion what authority Mr. Paylor has, under the existing regulations, to further regulate the discharge of heat into the "hot side" of Lake Anna.

Additionally, Mr. Paylor has asked the Attorney General for advice on whether these issues are relevant to a determination of whether the proposed project is consistent with the Commonwealth's enforceable coastal projects in effect at the time the coastal consistency determination is made.

The U.S. Environmental Protection Agency (EPA) is reviewing this issue as it relates to the Commonwealth's VPDES program and the requested re-issuance of the VPDES permit for the existing operation. While it is clear you feel some urgency in this manner, I would respectfully suggest that there is nothing you can do to predetermine the outcome or answer.

Mr. Christopher E. Paine  
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You should, of course, understand that the federal consistency review process is a mechanism for the Commonwealth to provide comments and impose requirements on the issuance of a federal permit. The Commonwealth's action must be based upon the laws, regulations, and policies in effect at the time certification is made. The Commonwealth can in no way alter or override state regulatory programs, nor can it pre-empt a state permitting process through this process.

You also have raised concerns over past meetings between the applicant, DEQ, and other reviewing agencies. That these meetings have occurred means, quite simply, that state agencies are taking seriously public comments and are working to address those concerns. The federal coastal consistency regulations anticipate that state agencies will meet with applicants to resolve issues and agree upon conditions that would permit the state to concur. Specifically, Section 930.62(d) (State agency concurrence with a consistency certification) states:

*During the period when the State agency is reviewing the consistency certification, the applicant and the State agency should attempt, if necessary, to agree upon conditions, which, if met by the applicant, would permit State agency concurrence. The parties shall also consult with the Federal agency responsible for approving the federal license or permit to ensure that proposed conditions satisfy federal as well as management program requirements.*

These meetings should suggest to you that DEQ and the Department of Game and Inland Fisheries are doing their jobs and complying with the federal regulations.

In your letter, you allege that DEQ and/or some of its staff have predetermined the outcome of this review. I have looked into the matter, and I can assure you that this is not true. I have directed DEQ and the other agencies involved to make certain that the process used is fair and consistent with the federal regulations as well as state procedures for evaluating consistency with our enforceable coastal policies.

Sincerely,

L. Preston Bryant, Jr.

LBPJr/cbd

c: The Honorable Robert McDonnell  
The Honorable Eric Cantor  
The Honorable Charles Colgan  
The Honorable R. Edward Houck  
The Honorable Ryan McDougal  
The Honorable Russell Potts  
The Honorable Clifford Athey  
The Honorable William Janis  
The Honorable Robert Orrick, Sr.

Mr. Christopher E. Paine  
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The Honorable Christopher Peace  
The Honorable Edward Scott  
David K. Paylor, Director, Department of Environmental Quality  
Ellie Irons, DEQ Environmental Program Manager  
Jeff Steers, DEQ Northern Virginia Regional Director  
J. Carlton Courter, III, Director, Department of Game and Inland Fisheries  
Jack Cushing, NRC Environmental Project Manager  
Donald S. Welsh, Region 3 Administrator, EPA  
Jon Capacasa, Division Director - Water Protection, EPA  
Michelle Brown, Office of Inspector General, EPA  
Kevin Magerr, EPA Environmental Engineer  
David Kaiser, NOAA  
John Kuriawa, NOAA  
Christopher Paine, NRDC  
Morgan Butler, SELC  
Eugene Grecheck, Dominion

November 7, 2006

Mr. Harry Ruth  
230 Heather Drive  
Bumpass, Virginia 23024

Dear Mr. Ruth:

Thank you for your recent letter to Governor Kaine regarding the North Anna Power Station and the Early Site Permit process associated with its possible expansion. You have raised specific concerns over the Department of Environmental Quality's review of Dominion Nuclear North Anna, LLC's application and have requested an investigation. Governor Kaine has asked that I respond to you on his behalf.

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Mr. Harry Ruth  
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L. Preston Bryant, Jr.

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Michael P. Murphy, Director, DEQ Division of Environmental Enhancement  
Ellie Irons, DEQ Environmental Program Manager  
Jeff Steers, DEQ Northern Virginia Regional Director  
J. Carlton Courter, III, Director, Department of Game and Inland Fisheries  
Jack Cushing, NRC Environmental Project Manager  
Kevin Magerr, EPA Environmental Engineer  
Mark Smith, EPA  
Brian Trulear, EPA  
Randy Schneider, NOAA  
Christopher Paine, NRDC  
Morgan Butler, SELC