

August 4, 2010

MEMORANDUM TO: William F. Burton, Branch Chief
Rulemaking and Guidance Development Branch
Division of New Reactor Licensing
Office of New Reactors

FROM: R. Frederick Schofer, Project Manager */RA/*
Rulemaking and Guidance Development Branch
Division of New Reactor Licensing
Office of New Reactors

SUBJECT: SUMMARY OF July 8, 2010, PUBLIC MEETING WITH INDUSTRY'S
NEW PLANT WORKING GROUP ON COMBINED LICENSE
APPLICATIONS

On July 8, 2010, the U.S. Nuclear Regulatory Commission (NRC) staff held a public meeting at the Nuclear Energy Institute (NEI) Office in Washington, D.C., with the industry's New Plant Working Group (NPWG) on Combined License Applications (COLAs). The purpose of the meeting was to discuss issues confronting the industry and the NRC regarding the licensing of new reactors. The associated meeting notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML101680346. The following provides a brief summary of the meeting.

Summary

Mr. R. Frederick Schofer, Rulemaking and Guidance Development Branch (NRGA), Division of New Reactor Licensing (DNRL), Office of New Reactors (NRO), opened the meeting and announced that the NRC was prepared to address the following topics and respond to industry questions and concerns raised during these discussions and any additional industry topics that may have been raised during internal industry discussions of the NPWG:

1. Update on NRO application reviews, budgets, and schedules
2. Construction Reactor Oversight Process (cROP) Update
3. Changes during Construction
4. Construction Impacts Guidance (DC/COL-ISG-22) Update

CONTACT: R. Frederick Schofer, NRO/DNRL
301-415-5682

Discussion Topics:

Update on NRO application reviews, budgets, and schedules (D. Matthews)

Mr. David B. Matthews, Director of DNRL, provided a presentation on “New Reactors: Licensing Process, Progress, and Projections” to supplement his presentation (see enclosure). He referred to the seventh slide to emphasize that the NRC has completed new reactor licensing actions for 4 early site permits (ESPs), 4 reactor design certifications (DCs), and 1 limited work authorization (LWA). As of the end of June 2010, there are 13 combined license (COL) applications under review, 3 DC applications, 2 amended DC applications, and 2 ESPs. He noted that Victoria Station withdrew its COL application and submitted an ESP application which was accepted by the NRC. Mr. Matthews then referred to slide 9, which shows where these activities exist. He estimated that the NRC is roughly midway through the reviews for these applications and permits. The NRC staff is working hard to maintain the necessary safety focus and schedule accountability across these multiple applications. This is made more challenging when reviewing evolving designs and complex technical subjects. There are many applications before the staff and some subjects are very technically complex – it just takes time to work through the issues and come to a safety decisions. In other cases, the design is altered and this causes rework.

Recently Interim Staff Guidance DC/COL-ISG-011, “Finalizing Licensing-basis Information” was issued (ADAMS accession number ML092890623). This puts a freeze on the design changes at a mutually agreeable point in the safety review process. What can happen is that a really good idea comes up late in the safety review process and changes are submitted, perhaps in the annual COL update. The impact of this can be that the staff has to go back and re-open previously closed portions of the safety evaluation, issue additional questions and basically the process starts all over again. Sometimes this is absolutely necessary when something in one chapter doesn’t work as expected and there is no alternative. However, if the change is optional, careful coordination with the staff is necessary prior to submitting a change to the review scope. Mr. Matthews emphasized that it is very beneficial to adhere to ISG-011 to help the staff identify and close issues. He added that having a roadmap is also important to meet schedule and to assign resources. Reopening portions of the design due to design changes late in the review cycle has a ripple effect, not just on the affected application, but it can take resources, and thus impact schedules of other applications.

Referring to slide 12, “Near Term New Applications,” Mr. Matthews shared that currently the NRC expects 2 DC renewal applications to be submitted before the end of FY 2010 which ends on September 31, 2010. The NRC does not expect any additional COL applications to be submitted until FY 2012 which begins October 1, 2011.

Mr. Matthews stated that the NRC issued Regulatory Issues Summary (RIS) 2010-01, found at ADAMS accession number ML093230517, requested applicants and potential applicants to voluntarily submit information to the NRC on their future plans for submittal of new reactor licensing applications or permits, amendments, topical reports, application revisions, construction activities, operator training, and pre-construction activities including construction plans and schedules for fabrication of modules and large components submittals. The information received in response to RIS 2010-01 provides the bases for estimating new NRC review work that starts in FY 2012.

Although the FY 2012 budget is not known at this time, the NRC expects that sufficient resources will be available for continuation of the reviews underway and those applications received during FY 2011.

In response to a question from Doug Walters, NEI, on the level of NRC workload on small modular reactors (SMRs), Mr. Matthew replied that his comments were focused on large baseload reactors and he expects some SMR work to begin in FY 2012. He reminded the audience that the responsibility for SMRs within the NRC falls under Mr. Michael Mayfield, who is the Advanced Reactor Program (ARP) Director. The ARP encompasses small modular reactors of various technologies including the Next Generation Nuclear Plant (NGNP) sponsored by the Department of Energy. Mr. Matthews added that discussions of ARP activities will be introduced to the New Plant Working Group at the appropriate time.

Chuck Pierce, SNC, commented that the reference combined license application process which uses an application containing standard licensing, engineering, technical, quality, and safety information that future applicants can use to develop their own applications much more efficiently is very successful. He then asked if there are any plans to extend a similar process to licensing amendments. Mr. Matthews responded that aspects of the program will remain but not to the specificity that you imply. The NRC plans to retain the design-centered working group concept through the completion of the construction process. However, after a combined license is received each licensee is responsible for their own license amendments in compliance with the Title 10 of the *Code of Federal Regulations* (10 CFR) 50.90, "Application for amendment of license, construction permit, or early site permit."

Greg Gibson, Unistar, noted that the NRC requests applicants and potential applicants to voluntarily submit information to the NRC on their future plans for submittal of new reactor licensing applications or permits, amendments, topical reports, application revisions, construction activities, operator training, and pre-construction activities including construction plans and schedules for fabrication of modules and large components submittals only once a year. Mr. Gibson asked whether there is any value for applicants or potential applicants to transmit any updates to their future plans throughout the year. Mr. Matthews responded that whenever there is a material change in a licensee's plan there is value for that licensee to inform the NRC of the changes as the agency wants to be in a position to support licensee planned activities that are underway. Mr. Gibson followed up his question with whether the NRC puts any contingency into the budget for unknowns. Mr. Matthews responded that the NRC does not add any contingency for unexpected work and emphasized the importance of applicant communication with the NRC of known plans for potential 10 CFR Part 52 licensing actions, related licensing activities submission dates, and plans for construction activities. He concluded that there is a great advantage to keeping the NRC informed of your plans.

Steve Byrne, SCANA, commented that he was unaware of the DC/COL-ISG-011, "Finalizing Licensing-basis Information" guidance document at the time that his company completed its RIS 2010-01 filing. Does the NRC have any flexibility in assigning resources for licensing actions after receipt of a combined license? Mr. Matthews responded that based on information provided by the applicants through the RIS process, the NRC has attempted to estimate the number of expected license actions and the average number of resources required to resolve each licensing action. Mr. Byrne followed up his question with whether there is an option to bill a licensee directly to ensure resources are available and assigned to review their application.

Mr. Matthews responded that the amount that the NRC spends annually must be within its authorized budget. The ability to assign NRC resources to fee-billable work does not alter our authorized yearly budget or our ability to spend funds in excess of the budget.

Frank Gillespie, Mitsubishi, asked whether the information received in response to RIS 2010-01 impacts the NRC budget submittal for FY 2012 or FY 2013. Mr. Matthews responded that a lot of budgeting work is done before applicants' RIS input is received. Currently, the FY 2011 budget is with Congress, FY 2012 budget is with the Commission, and FY 2013 budget is with the staff.

Construction Reactor Oversight Process (cROP) Update (J. Tappert)

Mr. John R. Tappert, Deputy Director of the Division of Construction Inspection and Operational Programs (NRO/DCIP), stated that a fully functional cROP is in place and that construction activities authorized by the limited work authorization issued to Vogtle Unit 3 and 4 warranted the implementation of the NRC's construction assessment program beginning July 1, 2010. The staff developed and issued an interim construction assessment program as described in inspection manual chapter (IMC) 2505, "Periodic Assessment of Construction Inspection Program Results," to ensure that the agency can appropriately assess licensee construction activities. Mr. Tappert stated the objective of construction oversight is to evaluate licensee performance of construction activities and the effectiveness of licensee/contractor oversight and quality assurance efforts associated with construction in order to provide a sufficient basis to support the Commission determination in accordance with Title 10 of the *Code of Federal Regulations*, Part 52, Section 52.103(g) that the acceptance criteria in a combined license have been met and the plant will be operated safely. Mr. Tappert added that information paper SECY-10-0038, "Update Status on the Development of Construction Reactor Oversight Process Options," (ADAMS Accession No. ML100550490) was written to inform the NRC Commissioners on the staff's progress and approach toward the development of cROP options for Commission consideration. The working group has developed two options, one option is risk-based and the other option is deterministic-based, regarding the Significance Determination Process (SDP), which is being developed to determine the significance of findings identified during implementation of the construction inspection program. The SDP was discussed and public feedback was provided during the July 1, 2010 public meeting (ADAMS Accession No. ML101610600). The next public meeting is scheduled for July 14, 2010 (ADAMS Accession No. ML101660137). He also reminded the audience that the NRC issued a *Federal Register* Notice on June 24, 2010 [NRC-2010-0230], requesting public comment on the cROP by August 9, 2010. Mr. Tappert ended his presentation by noting that the cROP development work is nearing completion and the working group is focused on finalizing an information paper in preparation for a Commission meeting at the end of September 2010.

Changes during Construction (J. Wilson / E. Libby)

Mr. Jerry Wilson (NRO/DNRL/NRGA) and Mr. Earl Libby (NRO/DNRL/NRGA) were introduced to present this topic. Mr. Wilson provided an overview of the status of this effort. He stated that NEI is developing a document similar to NEI 96-07, Revision 1, "Guidelines for 10 CFR 50.59 Implementation" (ADAMS Accession No. ML003771157) to provide guidance on implementing the Part 52 change control processes. An internal NRC working group was formed to interact with nuclear industry representatives and prepare recommendations and guidance for evaluating changes to the licensing basis during construction. The Changes during Construction Working Group consists of members from the Office of New Reactors, the Office of

Enforcement,

Region II, and the Office of General Counsel. Mr. Wilson said the working group has achieved agreement and alignment with NRC management on the four problem statements the group will address. These problem statements are:

1. Determine the activities, if any that can be performed by licensees during construction while the NRC is reviewing requested changes to the licensing basis.
2. Determine if changes should be recommended for the NRC's enforcement policy to provide for enforcement discretion during new plant construction.
3. Determine for new plants the applicability of the existing 10 CFR 50.59 guidance (NEI 96-07, Revision 1) and what changes are necessary to this guidance as the entry point for evaluating changes to the licensing basis during construction.
4. Establish guidance that should be used for evaluating changes to the severe accident design features (VIII.B.5.c) of each design certification rule (construction & operation).

Mr. Wilson continued by stating that the working group will prepare recommendations and guidance for evaluating changes to the licensing bases during construction and plans to update the public on the status of their activities at future ITAAC working group meetings. He concluded by stating the working group would like examples of anticipated design changes during construction that would inform the working group about the specific challenges facing the industry.

Mr. Steve Byrne, SCANA, expressed his appreciation of the formation of the Changes during Construction working group and expressed that the NPWG members would like to participate in the process and provide input. Mr. David Matthews responded that the NRC feels an urgency to address this topic and have assigned the requisite resources to move quickly. He concluded that the working group would benefit from timely participation and input from industry. Mr. Matthews also noted that during the American Nuclear Society (ANS) 2010 Utility Working Conference and Vendor Technology Expo, there is an August 9, 2010 afternoon session on "Licensing Challenges during Construction." Panel members will discuss challenges faced by licensees, constructors, and regulators in dealing with licensing processes such as 50.59-like screenings and evaluations, exemptions, and 50.90 amendments. The session panel members are Mr. Dave Matthews (NRC), Mr. Charles Cronan (Shaw Group), Mr. Jerry Wilson (NRC) and Mr. Russ Bell (NEI).

Mr. Russ Bell (NEI) stated that he was as anxious as the NRC in addressing these issues and would like the first follow-up meeting on this topic to occur before the ANS conference and offered to work with the NRC to schedule and plan this meeting. He proposed that this meeting focus on scope, schedule, and what can be accomplished before the next ITAAC meeting.

Construction Impacts Guidance (DC/COL-ISG-022) Update (E. Libby)

Mr. Libby stated that the draft DC/COL-ISG-022, Construction of New Nuclear Power Plants on Multi-Units Sites," is currently in the internal NRC concurrence process. This interim staff guidance documents was developed to assist the staff with the evaluation of COL applicant's compliance with the requirements of 10 CFR 52.79(a)(31). This regulation requires, among other things, that applicants for a COL intending to construct and operate new nuclear power

plants on multi-unit sites provide an evaluation of the potential hazards to structures, systems, and components important to safety for the operating units resulting from construction activities. This ISG also provides guidance for COL applicants regarding the information that should be submitted in the COL application to address compliance with 10 CFR 52.79(a)(31). This ISG supplements the guidance contained in Regulatory Guide (RG) 1.206, Rev. 0, "Combined License Applications for Nuclear Power Plants (LWR Edition)." Mr. Libby also noted that this ISG also supplements the guidance provided for NRC staff review of COL applications contained in NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants" Chapter 1.0, dated November 2007. Mr. Libby stated that the draft guidance document DC/COL-ISG-022 will be published in the *Federal Register* for public comment at the beginning of August 2010.

Industry identified issues

Mr. Steve Byrne, Chairman of the NPWG, thanked the NRC staff who travelled to the meeting and those who are tied in via conference phone for the presentations provided.

Mr. Byrne then commented on the benefits of having the Access Authorization and Physical Protection for Nuclear Power Plant Construction draft proposed rule language public workshop held in March. He then asked what is the status of the proposed rulemaking and whether there will be another public workshop scheduled. Mr. Schofer responded that on March 16, 2010, the staff released draft proposed rule language (ADAMS Accession No. ML100750461) and on March 31, 2010, the staff held a public workshop with stakeholders to exchange views and information regarding the general goals and objectives contained within the draft proposed rule text. Through these discussions the public gained an understanding of the current status of the NRC staff's rulemaking activities for access authorization and physical protection for nuclear power plant construction and the staff was informed with regard to the public's thoughts on the scope, detail, and approach that were under consideration. During this public exchange, the staff received numerous observations and views regarding the detailed rule language and the path forward. In order to have sufficient time to fully evaluate and vet the public input to the proposed rule package, the rulemaking working group requested a 6-week extension. As a result of this extension, the schedule to submit the proposed rule package and request Commission approval to publish this proposed rule in the *Federal Register* is early October 2010. Mr. Schofer added that the next public workshop is tentatively scheduled for early 2011 after the proposed rule is published in the *Federal Register*.

Mr. Byrne asked whether the Commission will make the proposed rule package publically available after they receive the package. Mr. Schofer responded that as a general policy, these documents are released to the public 10 days after receipt by the Commission unless they contain specific, limited types of information which warrant protection.

Public Comments

Other issues that were addressed during the meeting were based on comments and questions from the members of the public.

Mr. Steven Dolley, Platts, noted that construction on two nuclear plants at Plant Vogtle was suspended yesterday due to a fitness-for-duty issue. He asked whether this was caused by a broken process or is it something specific to Plant Vogtle. Mr. Libby responded that the Southern Nuclear Operating Company (SNOG) Plant Vogtle construction contractor, The Shaw Group Inc., voluntarily halted all safety-related construction work at Plant Vogtle 3 and 4 sites after an internal fitness for duty program audit revealed certain parts of background checks were not adequately documented. Based upon the preliminary information received, Mr. Libby classified this incident as an implementation issue limited to the Vogtle site.

Hearing no more questions, Mr. Schofer adjourned the meeting.

Enclosures:

1. Attendance List
2. New Reactors: Licensing Process, Progress, and Projections slides

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Hearing no more questions, Mr. Schofer adjourned the meeting.

Enclosures:

1. Attendance List
2. New Reactors: Licensing Process, Progress, and Projections slides

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NRC-002

OFFICE	PA:NRO/DNRL/NRGA	LA:NRO/DNRL/NRGA	BC:NRO/DNRL/NRGA
NAME	FSchofer	TWade	WBurton
DATE	7/22/10	7/26/10	8/04/10

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**PUBLIC MEETING WITH INDUSTRY'S NEW PLANT WORKING
GROUP ON COMBINED LICENSE APPLICATIONS**

July 8, 2010

Attendance List

Name	Organization
Fred Schofer	NRC
David Matthews	NRC
John Tappert	NRC
Charles Ader	NRC
Jerry Wilson	NRC
Earl Libby	NRC
Christopher Mehrvarzi	NRC
Bradford Olson	NRC
Mark M. Burnett	STPNUC
Doug Walters	NEI
Russ Bell	NEI
Charles R. Pierce	SNC
Buzz Miller	SNC
Marilyn Kray	Exelon
Patricia Campbell	GEH
Bryan Dolan	Duke Energy
Jim Maddox	INPO
Bill Maher	FPL
Tony Pietrangelo	NEI
Kimberly Keithline	NEI
Jack Bailey	TVA
Eugene Grecheck	Dominion
Rob Sisk	WEC
Bob Schrauder	TANE
Brian McIntyre	Areva
Greg Gibson	Unistar
John Elnitshy	Progress Energy
Frank Gillespie	Mitsubishi
Steve Byrne	SCANA
Rebecca Cooper	Nuclear New Build Monitor
Kenji Arai	Toshiba
Steve Frantz	Morgan Lewis
Marina Mateski	Numark Associates
Jerry Bonanno	NEI
Tom Houghton	NEI
Tony Llorens	SCE
Ken Barry	EPRI
Paul H. Genoa	NEI
Vijay M. Nilekani	NEI
Dan Shulman	ENERCON

Name	Organization
Gary Janosko	PSEG
Steven Dolley	Platts
Lynne Neal	NEI
Jim Riley	NEI
Via Telephone	
Daniel Barss	NRC
Jeffrey Grant	NRC
Deann Raleigh	Sciencetech

DCWG - Combined (All)

(Revised 02/01/2010)

cc:

Mr. Glenn H. Archinoff
AECL Technologies
481 North Frederick Avenue
Suite 405
Gaithersburg, MD 20877

Director
Division of Compliance & Inspection
Bureau of Radiation Control
Texas Department of State Health Services
1100 West 49th Street
Austin, TX 78756-3189

Mr. Ray Aycock
Field Supervisor
U.S. Fish and Wildlife Service
Mississippi Ecological Services Office
6578 Dogwood View Parkway
Jackson, MS 39213

Mr. Eugene S. Grecheck
Vice President
Nuclear Support Services
Dominion Energy, Inc.
5000 Dominion Blvd.
Glen Allen, VA 23060

Mr. Richard L. Baker
Bechtel Power Corporation
5275 Westview Drive
Frederick, MD 21703-8306

Mr. Jay M. Gutierrez
Morgan, Lewis & Bockius, LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Scott Bond
Callaway Plant
P.O. Box 620
Fulton, MO 65251

Ms. Sophie Gutner
P.O. Box 4646
Glen Allen, VA 23058

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Brian Hastings
Public Utility Commission
William B. Travis Building
P.O. Box 13326
1701 North Congress Avenue
Austin, TX 78701-3326

Ms. Cindy Brizes
U.S. Department of Energy
P.O. Box A
Aiken, SC 29802

Mr. Adam C. Heflin
Senior Vice President and
Chief Nuclear Officer
AmerenUE/Callaway Plant
P.O. Box 620
Fulton, MO 65251

Mr. Barton Z. Cowan, Esquire
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Mr. Ronald Kinney
South Carolina DHEC
2600 Bull Street
Columbia, SC 29201

DCWG - Combined (All)

Dr. Regis A. Matzie
Senior Vice President and
Chief Technology Officer
Westinghouse Electric Company
20 International Drive
Windsor, CT 06095

Mr. Norris McDonald
President
AAEA
9903 Caltor Lane
Ft. Washington, MD 20744

Dr. Masanori Onozuka
Mitsubishi Nuclear Energy Systems, Inc.
1001 19th Street North, 7th Floor
Arlington, VA 22201-5426

Dr. C. Keith Paulson
Mitsubishi Nuclear Energy Systems, Inc.
300 Oxford Drive, Suite 301
Monroeville, PA 15146

PBMR Pty. Limited
Lake Buena Vista Building
1267 Gordon Hood Avenue
PO Box 9396
Centurion 0046
Republic of South Africa

Charles Peterson
Pillsbury, Winthrop, Shaw & Pittman, LLP
2300 "N" Street, NW
Washington, DC 20037

Mr. Ernest Reed
Living Education Center
for Ecology and the Arts
P.O. Box 2612
Charlottesville, VA 22902

Mr. Tom Sliva
7207 IBM Drive
Charlotte, NC 28262

Mr. David W. Sutherland
Chesapeake Bay Field Office
U.S. Fish and Wildlife Service
177 Admiral Cochrane Drive
Annapolis, MD 21401

Mr. Robert E. Sweeney
IBEX ESI
4641 Montgomery Avenue
Suite 350
Bethesda, MD 20814

Mr. Ed Wallace
General Manager - Projects
PBMR Pty LTD
P. O. Box 9396
Centurion 0046
Republic of South Africa

Mr. Gary Wright, Director
Division of Nuclear Facility Safety
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

DCWG - Combined (All)

Email

alsterdis@tva.gov (Andrea Sterdis)
amonroe@scana.com (Amy Monroe)
APAGLIA@Scana.com (Al Paglia)
APH@NEI.org (Adrian Heymer)
awc@nei.org (Anne W. Cottingham)
bevans@enercon.com (Bob Evans)
Bill.Jacobs@gdsassociates.com (Bill Jacobs)
Bill.Moore@luminant.com (Bill Moore)
BrinkmCB@westinghouse.com (Charles Brinkman)
brock.degeyter@energyfutureholdings.com (Brock Degeyter)
Carellmd@westinghouse.com (Mario D. Carelli)
carey.fleming@constellation.com (Carey Fleming)
chris.maslak@ge.com (Chris Maslak)
ck_paulson@mnes-us.com (Keith Paulson)
ckpaulson@aol.com (C.K. Paulson)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
DeLaBarreR@state.gov (R. DeLaBarre)
DJW@NEI.org (Doug Walters)
donald.woodlan@luminant.com (Donald Woodlan)
ecullington@earthlink.net (E. Cullington)
eddie.grant@excelservices.com (Eddie Grant)
erg-xl@cox.net (Eddie R. Grant)
frank_quinn@comcast.net (Frank Quinn)
Fred.Madden@luminant.com (Fred Madden)
garry.miller@pgnmail.com (Garry D. Miller)
gcesare@enercon.com (Guy Cesare)
gedgar@morganlewis.com (George Edgar)
GovePA@BV.com (Patrick Gove)
gwcurtis2@tva.gov (G. W. Curtis)
gzinke@entergy.com (George Alan Zinke)
hickste@earthlink.net (Thomas Hicks)
ian.c.rickard@us.westinghouse.com (Ian C. Richard)
james.beard@gene.ge.com (James Beard)
JCaldwell@luminant.com (Jan Caldwell)
Jean.Amundson@luminant.com (Jean Amundson)
jeff.simmons@energyfutureholdings.com (Jeff Simmons)
jerald.head@ge.com (Jerald G. Head)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
jim.riccio@wdc.greenpeace.org (James Riccio)
jim@ncwarn.org (Jim Warren)
jin_chung@mnes-us.com

DCWG - Combined (All)

JJNesrsta@cpsenergy.com (James J. Nesrsta)
joel.Friday@ge.com (Joel Friday)
John.Conly@luminant.com (John Conly)
John.O'Neill@pillsburylaw.com (John O'Neill)
Joseph_Hegner@dom.com (Joseph Hegner)
joseph_tapia@mnes-us.com (Joseph Tapia)
junichi_uchiyama@mnes-us.com (Junichi Uchiyama)
karen@seedcoalition.org (Karen Hadden)
kcrogers@aol.com (K. C. Rogers)
KSutton@morganlewis.com (Kathryn M. Sutton)
kwaugh@impact-net.org (Kenneth O. Waugh)
lchandler@morganlewis.com (Lawrence J. Chandler)
lois@ieer.org (Lois Chalmers)
Marc.Brooks@dhs.gov (Marc Brooks)
maria.webb@pillsburylaw.com (Maria Webb)
marilyn.kray@exeloncorp.com
mark.beaumont@wsms.com (Mark Beaumont)
Marvin.Smith@dom.com (Marvin L. Smith)
masanori_onozuka@mnes-us.com (Masanori Onozuka)
masayuki_kambara@mhi.co.jp (Masayuki Kambara)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
maurerbf@westinghouse.com (Brad Maurer)
mbowling@numarkassoc.com (Marty Bowling)
media@nei.org (Scott Peterson)
mgiles@entergy.com (M. Giles)
mike.blevins@luminant.com (Mike Blevins)
mike_moran@fpl.com (Mike Moran)
mlucas3@luminant.com (Mitch Lucas)
MSF@nei.org (Marvin Fertel)
mwetterhahn@winston.com (M. Wetterhahn)
nirsnet@nirs.org (Michael Mariotte)
Nuclaw@mindspring.com (Robert Temple)
patriciaL.campbell@ge.com (Patricia L. Campbell)
paul.gaukler@pillsburylaw.com (Paul Gaukler)
Paul@beyondnuclear.org (Paul Gunter)
pshastings@duke-energy.com (Peter Hastings)
rbird1@luminant.com (Bobby Bird)
rclary@scana.com (Ronald Clary)
REB@NEI.org (Biff Bradley)
Rebecca.Smith-Kevern@nuclear.energy.gov (Rebecca Smith-Kevern)
RJB@NEI.org (Russell Bell)
robert.kitchen@pgnmail.com (Robert H. Kitchen)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)
shinji_kawanago@mnes-us.com (Shinji Kawanago)

DCWG - Combined (All)

sid.kere@dom.com (Sid Kere)
stephan.moen@ge.com (Stephan Moen)
steven.hucik@ge.com (Steven Hucik)
tgilder1@luminant.com (Tim Gilder)
tkkibler@scana.com (Tria Kibler)
tom.miller@nuclear.energy.gov (Thomas P. Miller)
tomccall@southernco.com (Tom McCallum)
Tony_Banks@dom.com (Tony Banks)
trsmith@winston.com (Tyson Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
VictorB@bv.com (Bill Victor)
vijukrp@westinghouse.com (Ronald P. Vijuk)
Wanda.K.Marshall@dom.com (Wanda K. Marshall)
wayne.marquino@ge.com (Wayne Marquino)
whorin@winston.com (W. Horin)

NEI New Reactors Mailing List

(Revised 12/15/2009)

cc:

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Ms. Kimberly Keithline
Senior Project Manager
Nuclear Energy Institute
1776 I Street, N.W.
Suite 400
Washington, DC 20006-3708

Mr. Ed Wallace
General Manager - Projects
PBMR Pty LTD
P. O. Box 9396
Centurion 0046
Republic of South Africa

Edward G. Wallace
Sr. General Manager
U.S. Programs
PBMR Pty. Ltd.
PO Box 16789
Chattanooga, TN 37416

Mr. Gary Wright, Director
Division of Nuclear Facility Safety
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

NEI New Reactors Mailing List

Email

APH@NEI.org (Adrian Heymer)
awc@nei.org (Anne W. Cottingham)
BrinkmCB@westinghouse.com (Charles Brinkman)
chris.maslak@ge.com (Chris Maslak)
cwaltman@roe.com (C. Waltman)
david.lewis@pillsburylaw.com (David Lewis)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
jim.riccio@wdc.greenpeace.org (James Riccio)
JJNesrsta@cpsenergy.com (James J. Nesrsta)
John.O'Neill@pillsburylaw.com (John O'Neill)
Joseph_Hegner@dom.com (Joseph Hegner)
KAK@nei.org (Kimberly Keithline)
KSutton@morganlewis.com (Kathryn M. Sutton)
kwaugh@impact-net.org (Kenneth O. Waugh)
lchandler@morganlewis.com (Lawrence J. Chandler)
Marc.Brooks@dhs.gov (Marc Brooks)
maria.webb@pillsburylaw.com (Maria Webb)
mark.beaumont@wsms.com (Mark Beaumont)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
media@nei.org (Scott Peterson)
mike_moran@fpl.com (Mike Moran)
MSF@nei.org (Marvin Fertel)
nirsnet@nirs.org (Michael Mariotte)
Nuclaw@mindspring.com (Robert Temple)
patriciaL.campbell@ge.com (Patricia L. Campbell)
paul.gaukler@pillsburylaw.com (Paul Gaukler)
Paul@beyondnuclear.org (Paul Gunter)
pshastings@duke-energy.com (Peter Hastings)
RJB@NEI.org (Russell Bell)
sabinski@suddenlink.net (Steve A. Bennett)
sandra.sloan@areva.com (Sandra Sloan)
sfrantz@morganlewis.com (Stephen P. Frantz)
stephan.moen@ge.com (Stephan Moen)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
VictorB@bv.com (Bill Victor)
Wanda.K.Marshall@dom.com (Wanda K. Marshall)