

November 12, 2010

Mr. Louis A. Zeller  
Blue Ridge Environmental Defense League  
P.O. Box 88  
Glendale Springs, NC 28629

SUBJECT: REQUEST TO OVERTURN WITHHOLDING OF INFORMATION FROM PUBLIC  
DISCLOSURE AND A CALL FOR A SPECIAL INVESTIGATION

Dear Mr. Zeller:

Your letter dated October 18, 2010, to the U.S. Nuclear Regulatory Commission (NRC) Chairman Gregory B. Jaczko has been referred to me for response. You asked the NRC to rescind its decision to withhold from public disclosure, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR), Section 2.390, "Public Inspections, Exemptions, Requests for Withholding," certain documents submitted by Westinghouse Electric Company related to its application to amend the AP1000 design certification rule (Appendix D, "Design Certification Rule for the AP1000 Design," to 10 CFR Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants") (a rulemaking activity). Two of the documents listed in your letter pertain to design information for the shield building; the third pertains to weld inspection procedures for the reactor coolant pump casing.

Your letter further states that this information is directly related to your filed contention of August 12, 2010, on containment liner corrosion for the Vogtle combined license application.

With respect to the withholding of documents under 10 CFR 2.390, an applicant must request NRC approval to withhold information by providing an affidavit with its basis for withholding, including a statement of harm that would result from the disclosure of information deemed trade secrets or confidential commercial information. The NRC reviews the material sought to be withheld and the supporting basis and makes a decision to grant or deny the request. In making its decision, the NRC weighs the public interest in information with the legitimate commercial interests of applicants. In the cited instances, the NRC concluded that the requirements of 10 CFR 2.390 were satisfied.

The shield building and containment designs are within the scope of the design covered by the certification. The functions that were certified in Appendix D have not changed, including the free flow of air outside the containment, safety-related coatings on the inside and outside of containment, access for inspection, specification of installation and periodic visual inspection requirements, and capabilities for the drainage of water between the containment and shield building. Accordingly, the staff had already considered the potential for the corrosion of the containment as part of its review for the design certification in Appendix D to 10 CFR Part 52. The April 21, 2010, report submitted by Fairwinds offered no new information, enabling the staff to conclude in July 2010 that there were no "show-stopping issues."

L. Zeller

-2-

The changes described in the two reports withheld relate to the structure of the building and the analysis demonstrating the building's response to design-basis events (such as earthquakes). The changes do not affect the items noted above that bear on the concern for containment corrosion and any resultant cracking or leakage.

When the notice of proposed rulemaking for the AP1000 design certification amendment is published, it will contain provisions for persons seeking to comment on the rule to request access to material otherwise withheld from public disclosure so that they can make meaningful comments on the proposed rule.

A copy of your letter has been provided to the NRC Office of the Inspector General with respect to your request for a special investigation of these activities.

If you have any questions about this response, please contact Eileen McKenna at (301) 415-7110.

Sincerely,

*/RA/*

Michael R. Johnson, Director  
Office of New Reactors

Docket Nos. 52-006, 52-025 and 52-026

L. Zeller

-2-

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