



Tennessee Valley Authority, Post Office Box 2000, Spring City, Tennessee 37381-2000

January 24, 2013

10 CFR 51.23

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, D.C. 20555-0001

Watts Bar Nuclear Plant, Unit 2
NRC Docket No. 50-391

**Subject: WATTS BAR NUCLEAR PLANT (WBN) UNIT 2 – WASTE
CONFIDENCE RULEMAKING AND ENVIRONMENTAL IMPACT
STATEMENT (EIS)**

- References:
1. Federal Register Notice for the 2010 Update and Final Revision of Waste Confidence Decision NRC-2008-0842 dated December 23, 2010 (ADAMS ML103350186)
 2. *State of New York et al. v. NRC*, No. 11-1045 (D.C. Cir. filed June 8, 2012)
 3. NRC Memorandum and Order CLI 2012-16 dated August 7, 2012 (ADAMS ML12220A095)
 4. Staff Requirements - COMSECY-12-016, Approach for Addressing Policy Issues Resulting from Court Decision to Vacate Waste Confidence Decision and Rule, dated September 6, 2012

TVA is submitting this letter regarding the Nuclear Regulatory Commission's (NRC's) schedule for completing actions in support of generic Waste Confidence Rulemaking and the potential impact on the licensing of the Tennessee Valley Authority's (TVA's) WBN Unit 2.

In June 2012, the NRC's 2010 Waste Confidence Decision (Reference 1) was vacated by the U.S. Court of Appeals for the District of Columbia Circuit (Reference 2). As a result of the Court's action, the NRC issued an Order (Reference 3) that effectively precludes final licensing decisions from being made when such decisions are contingent upon the conclusions of the Waste Confidence Decision. Proceedings affected by this Order include WBN Unit 2 for which TVA is currently seeking an operating license under

DO30
NRC

10 CFR Part 50. The NRC Commission directed the Staff to resolve the issues with the 2010 revision of the Waste Confidence Decision identified by the Court by completing a new rulemaking and EIS in a 24-month period, that is, by September 2014 (Reference 4). However, the guidance provided by the Commission in the Staff Requirements Memorandum also allows applicants to seek site specific review of waste storage if an exceptional or compelling need is present.

Upon successful completion of construction activities, TVA plans to ask for a license to load fuel and operate WBN Unit 2, with a current goal to receive this license by June 2015. TVA's most recent quarterly review of construction progress indicated that the project is meeting, and in fact, slightly ahead of the safety, quality, schedule and budget goals in support of the June 2015 date. A significant delay in NRC's Waste Confidence Rulemaking activities could have an adverse impact on the start-up of WBN Unit 2; consequently, a time may come when it is prudent for TVA to request a site specific review before completion of the generic rulemaking and EIS.

On December 19, 2012, a telecon was conducted between representatives of TVA and the NRC Staff regarding the above-mentioned Waste Confidence Rulemaking and WBN Unit 2 licensing and start-up schedules. TVA appreciates the organizational resources, amount of effort, and expertise dedicated to meeting the challenging 24-month Waste Confidence Rulemaking schedule. TVA will keep abreast of developments and will ensure that our respective staffs communicate regularly to inform each other of the progress that is being made and of the best alternatives going forward to help ensure the timely completion of both NRC rulemaking and TVA WBN Unit 2 licensing efforts.

There are no new regulatory commitments contained in this letter. If you have any questions, please contact me at (423) 365-1260.

Respectfully,



Raymond A. Hruby, Jr.
General Manager, Technical Services
Watts Bar Unit 2

cc: U. S. Nuclear Regulatory Commission
Region II
Marquis One Tower
245 Peachtree Center Ave., NE Suite 1200
Atlanta, Georgia 30303-1257

NRC Resident Inspector Unit 2
Watts Bar Nuclear Plant
1260 Nuclear Plant Road
Spring City, Tennessee 37381