INTS 003

June 23, 2009

MEMORANDUM TO: Jeffrey Cruz
ESBWR/ABWR Projects Branch 1
Division of New Reactor Licensing
Office of New Reactors

FROM: John A. Nakoski, Chief ***/RA/***
Quality and Vendor Branch 2
Division of Construction Inspection
& Operational Programs
Office of New Reactors

SUBJECT: FERMI 3 APPLICATION QUALITY ASSURANCE (QA) PROGRAM

The purpose of this memorandum is to document a concern with the Fermi 3 COL application. No response to this memorandum is required. As the result of my staff's review of the Fermi 3 Combined License Application, Part 2: Final Safety Analysis Report (FSAR), Section 17.5, "Quality Assurance Program Description - Design Certification, Early Site Permits, and New License Applicants," it is not evident that the FSAR provides for a QA program that governs the design activities performed in support of the FSAR. Specfically, CQVB staff needs to understand how DTE is meeting the requirements of 52.79(a)(25), which requires the applicant to provide a QA program consistent with Appendix B to 10 CFR Part 50 (Appendix B) for design, fabrication and construction activities. DTE needs to clarify which DTE QA programs were used for all safety-related design activities performed in support of the FSAR (e.g. site characterization, geotechnical, departures from the DCD).

Section 17.5 of the FSAR states that the COL Application Project has been performed under a DTE contract issued to Black and Veatch, which included safety-related activities in support of the application. It also states that DTE provided oversight of the contracted activities by way of procurement control and oversight / surveillances. Within the context of our acceptance review this was sufficient information to conclude that the application was adequate for us to continue our review. On the surface, the DTE approach appeared consistent with the practice used during the development of other COL applications. However, based on our continued review, the staff determined that the oversight provided by DTE was not governed by a DTE QA program meeting the requirements of Appendix B.

Even though the requirements for Appendix B allows for the delegation of QA programs to other organizations, the guidance of Regulatory Guide 1.206 states that the FSAR should describe how the applicant will retain responsibility for, and maintain control over, those portions of the QA program delegated to other organizations. The guidance also states that the FSAR should identify the responsible organization and the process for verifying that delegated QA functions are effectively implemented. After a review of their submission and subsequent discussions during conference calls, it is not clear how DTE has met these requirements**.**

These concerns will be assessed during an inspection, but in any case, are of sufficient concern at this time that they might question the quality of the overall application.

CONTACT: George Lipscomb, DCIP/CQVB
301-415-6838

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