

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

---

In the Matters of	)	
	)	
DTE ELECTRIC COMPANY	)	Docket No. 50-341
(Fermi Nuclear Power Plant, Unit 2)	)	ASLBP No. 14-933-01-LR-BD01
	)	
DTE ELECTRIC CO.	)	Docket No. 52-033-COL
(Fermi Nuclear Power Plant, Unit 3)	)	
	)	
DUKE ENERGY CAROLINAS, LLC	)	Docket Nos. 52-018-COL,
(William States Lee III Nuclear Station,	)	52-019-COL
Units 1 and 2)	)	
	)	
ENTERGY NUCLEAR OPERATIONS, INC.	)	Docket Nos. 50-247-LR
(Indian Point Nuclear Generating Units 2 and 3)	)	50-286-LR
	)	
FIRSTENERGY NUCLEAR OPERATING CO.	)	Docket No. 50-346-LR
(Davis-Besse Nuclear Power Station, Unit 1)	)	
	)	
FLORIDA POWER & LIGHT CO.	)	Docket Nos. 52-040-COL,
(Turkey Point Units 6 and 7)	)	52-041-COL
	)	
LUMINANT GENERATION CO. LLC	)	Docket Nos. 52-034-COL,
(Comanche Peak Nuclear Power Plant,	)	52-035-COL
Units 3 and 4)	)	
	)	
NEXTERA ENERGY SEABROOK, LLC	)	Docket No. 50-443-LR
(Seabrook Station, Unit 1)	)	
	)	
NUCLEAR INNOVATION	)	Docket Nos. 52-012-COL,
NORTH AMERICA LLC	)	52-013-COL
(South Texas Project Units 3 and 4)	)	
	)	
PACIFIC GAS & ELECTRIC CO.	)	Docket Nos. 50-275-LR,
(Diablo Canyon Nuclear Power Plant,	)	50-323-LR
Units 1 and 2)	)	
	)	
PROGRESS ENERGY FLORIDA, INC.	)	Docket Nos. 52-029-COL,
(Levy County Nuclear Power Plant,	)	52-030-COL
Units 1 and 2)	)	
	)	

SOUTH TEXAS PROJECT	)	Docket Nos. 50-498-LR,
NUCLEAR OPERATING CO.	)	50-499-LR
(South Texas Project Units 1 and 2)	)	
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 52-014-COL,
(Bellefonte Nuclear Power Plant Units 3 and 4)	)	52-015-COL
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket Nos. 50-327-LR,
(Sequoyah Nuclear Plant, Units 1 and 2)	)	50-328-LR
	)	
TENNESSEE VALLEY AUTHORITY	)	Docket No. 50-391-OL
(Watts Bar Nuclear Plant, Unit 2)	)	
	)	
UNION ELECTRIC CO.	)	Docket No. 50-483-LR
(Callaway Nuclear Power Plant, Unit 1)	)	
	)	
VIRGINIA ELECTRIC AND POWER CO.	)	Docket No. 52-017-COL
d/b/a DOMINION VIRGINIA POWER and	)	
OLD DOMINION ELECTRIC COOPERATIVE	)	
(North Anna Power Station, Unit 3)	)	
	)	

**PETITIONERS’ AND INTERVENORS’ CONSOLIDATED REPLY TO ANSWERS TO PETITIONS TO SUSPEND FINAL REACTOR LICENSING DECISIONS, MOTIONS TO ADMIT A NEW CONTENTION, AND MOTIONS TO REOPEN THE RECORD**

**I. INTRODUCTION**

On September 19, 2014, the U.S. Nuclear Regulation Commission (“NRC” or “Commission”) issued the final Continued Storage Rule (the “Continued Storage Rule”) and supporting Generic Environmental Impact Statement (the “GEIS”).<sup>1</sup> This Continued Storage Rule and GEIS fail to include confidence or assurance findings about the safety of spent fuel disposal.

On September 29, 2014, petitioners and intervenors in the above-captioned proceedings (collectively, the “Citizen Groups”) filed virtually identical contentions (the “Contention”) asserting that the NRC lacks a lawful basis under the Atomic Energy Act (“AEA”) to issue

---

<sup>1</sup> Final Rule, Continued Storage of Spent Nuclear Fuel, 79 Fed. Reg. 56,238 (Sept. 19, 2014) (“Continued Storage Rule”) and Generic Environmental Impact Statement, 79 Fed. Reg. 56,263 (Sept. 19, 2014) (“GEIS”).

reactor licenses or license renewals until it makes valid findings of confidence or reasonable assurance that the hundreds of tons of highly radioactive spent fuel that will be generated during any reactor's license term can be safely disposed of in a repository.<sup>2</sup> In the absence of such findings, the Citizen Groups assert that NRC fails to satisfy the AEA's mandate to protect public health and safety from the risks posed by irradiated reactor fuel. Pursuant to the AEA, the Citizen Groups accordingly requested the Commission to suspend final licensing decisions in all current NRC licensing and relicensing proceedings pending completion of the required safety findings regarding spent fuel disposal (the "Petition").<sup>3</sup>

On October 31, 2014, the NRC Staff, licensing applicants, and the Nuclear Energy Institute (collectively, the "Respondents") filed responses to the Citizen Groups, asserting that the Contention and Petition should be denied.<sup>4</sup> The purpose of this consolidated reply is to address the most common arguments raised in those responses.<sup>5</sup>

---

<sup>2</sup> See e.g., Intervenor's Motion for Leave to File a New Contention Concerning the Absence of Required Waste Confidence Findings in the Licensing Proceeding at Turkey Point Nuclear Power Plant (Sept. 29, 2014) ("Contention").

<sup>3</sup> Petition to Suspend Final Decisions in All Pending Reactor Licensing Proceedings Pending Issuance of Waste Confidence Safety Findings (Sept. 29, 2014) ("Petition").

<sup>4</sup> In total, Respondents filed 16 answers and 1 amicus brief. In citing to a particular answer, the Citizen Groups will reference the plant name and page number. For example, FPL's Answer Opposing Petition to Suspend Licensing Proceedings and Related Contention for Turkey Point Units 6 & 7 (Oct. 31, 2014), will be cited as "Turkey Point Answer at [page number]." We use this abbreviated citation form for all answers except the NRC Staff's Answer and the Tennessee Valley Authority's Consolidated Answer for Bellefonte Nuclear Power Plant Units 3 & 4, Sequoyah Nuclear Plant Units 1 & 2, and Watts Bar Unit 2; those answers will be cited as, "NRC Staff Answer at [page number]" and "TVA Answer at [page number]." Nuclear Energy Institute's amicus brief will be cited as, "NEI Amicus at [page number]."

<sup>5</sup> In the Seabrook license renewal proceeding, intervenors – Friends of the Coast and New England Coalition – filed the Petition but inadvertently failed to file the Contention. Accordingly, for purposes of the Seabrook license renewal proceeding, Section II of this consolidated reply is inapplicable.

## II. THE NRC MUST MAKE SAFETY FINDINGS REGARDING SPENT FUEL DISPOSAL

The history of the Waste Confidence Decision (“WCD”) and its revisions is not in dispute. The Commission stated in 1977, it “would not continue to license reactors if it did not have reasonable confidence that the wastes can and will in due course be disposed of safely.”<sup>6</sup> In furtherance of this assertion and in accordance with the U.S. Court of Appeals ruling in *Minnesota v. NRC*, 602 F.2d 412, 418-19 (D.C. Cir. 1979), the NRC promulgated the WCD in 1984, issuing technical safety findings regarding spent fuel disposal.<sup>7</sup> The Commission has updated the WCD several times since 1984,<sup>8</sup> with each update containing safety findings regarding spent fuel disposal, supported by technical analyses of the feasibility and capacity of a repository.<sup>9</sup> In compliance with *Minnesota*, the NRC has used notice and comment rulemaking procedures to promulgate each iteration of the WCD. And the NRC has relied on the WCD for individual reactor licensing decisions.<sup>10</sup>

In 2014, the Commission changed course, and it issued the Continued Storage Rule without any findings regarding the safety of spent fuel disposal. The dispute between the Citizen Groups and Respondents arises over whether these safety findings were required by law.

---

<sup>6</sup> Denial of Petition for Rulemaking, 42 Fed. Reg. 34,391, 34,393 (July 5, 1977).

<sup>7</sup> Waste Confidence Decision, 49 Fed. Reg. 34,658 (Aug. 31, 1984) (“1984 WCD”); *see also* Continued Storage Rule 79 Fed. Reg. at 56,240 (“In 1979, the NRC initiated a generic rulemaking proceeding that stemmed from [challenges to NRC license amendments] and the Court’s remand in *Minnesota v. NRC*. At that time, the purpose of the Waste Confidence rulemaking was to generically assess whether the Commission could have reasonable assurance that radioactive wastes produced by nuclear power plants ‘*can be safely disposed of*, to determine when such disposal or offsite storage will be available, and to determine whether radioactive wastes can be safely stored onsite past the expiration of existing facility licenses until offsite disposal or storage is available.” (quoting 44 Fed. Reg. 61,372, 61,373 (Oct. 25, 1979) (emphasis added))).

<sup>8</sup> Waste Confidence Decision Review, 55 Fed. Reg. 38,474 (Sept. 18, 1990) (“1990 Revised WCD”); Waste Confidence Decision Update, 75 Fed. Reg. 81,037 (Dec. 23, 2010) (“2010 WCD Update”). The 2010 WCD Update was vacated by the U.S. Court of Appeals in *New York*.

<sup>9</sup> *Id.*

<sup>10</sup> *See New York v. NRC*, 681 F.3d 471, 477 (D.C. Cir. 2012).

The Citizen Groups assert that the law prohibits the Commission from simply dropping its safety findings regarding spent fuel disposal. Rather, to ensure protection of health and safety, the AEA requires the Commission to make findings of confidence or reasonable assurance that spent fuel can be stored *and ultimately disposed* of safely before it issues licenses that allow for the generation of nuclear waste. Without these findings, the Commission cannot be certain that the public health and safety is adequately protected.<sup>11</sup>

The Respondents disagree. Instead, they assert that the AEA requires the Commission to only consider the safety risks associated with spent nuclear fuel *storage*. They claim the AEA allows them to push aside safety considerations for disposal, arguing that any risks can be grappled with later. They further assert that despite the nearly thirty years of WCD safety findings made by the Commission in response to the Court of Appeal’s ruling in *Minnesota*, the agency and courts have never interpreted the AEA as requiring the Commission to make such findings before licensing. And, they assert that – even if safety findings are required – the GEIS adequately addresses safe disposal of nuclear waste. We address each of these arguments in turn.

**A. The Plain Language of the AEA Broadly Encompasses All Safety Risks Posed by Nuclear Reactor Operation, Including Risks Posed by the Irradiation of Reactor Fuel.**

Respondents mischaracterize and misunderstand the Commission’s statutory responsibilities under the AEA. Section 103(d) of the AEA precludes issuance of a license by the Commission if it would be “inimical” to public health and safety.<sup>12</sup> Section 182 requires the Commission to ensure that “the utilization or production of special nuclear material will . . .

---

<sup>11</sup> 42 U.S.C. § 2133(d).

<sup>12</sup> *Id.* (NRC cannot issue a license if it is “inimical to . . . the health and safety of the public.”).

provide adequate protection to the health and safety of the public.”<sup>13</sup> Respondents argue the Commission’s statutory responsibility for ensuring the public safety is limited to regulating the activities of licensees, and therefore should include an analysis of spent fuel storage (an activity conducted by licensees at reactor sites), but not its disposal (which will be an activity of the U.S. Department of Energy).<sup>14</sup> Thus, Respondents conclude that the AEA requires no discussion of the feasibility or capacity of nuclear waste disposal.<sup>15</sup>

This interpretation of the AEA ignores the plain language of the statute, which provides for no such arbitrary limitation. If the NRC’s issuance of an operating license would jeopardize public health and safety by allowing the generation of highly radioactive spent fuel for which no disposal solution exists, the NRC may not issue the license. Moreover, even accepting for purposes of argument Respondents’ claim that the only activities governed by the AEA are the licensee’s activities as described in the reactor license application, these activities include the irradiation of reactor fuel. In fact, irradiation of reactor fuel is the primary activity of a nuclear reactor licensee. And if the irradiation of reactor fuel would pose an unacceptable public health and safety hazard, the AEA requires the NRC to forbid it. Only by making a predictive safety finding regarding the technical feasibility of disposing of spent fuel in a repository of sufficient capacity can the NRC avoid denying applications for reactor licenses or license renewals.<sup>16</sup>

---

<sup>13</sup> See 42 U.S.C. § 2232(a) (NRC must ensure “the utilization or production of special nuclear material will . . . provide adequate protection to the health and safety of the public”).

<sup>14</sup> See e.g., NEI Amicus Brief at 10-11; TVA Answer at 11-12; Indian Point Answer at 13-14; Diablo Canyon Answer at 6-7, n.18 (“In the context of AEA safety findings, there is no analogue to the NEPA prohibition on improper segmentation of the review.”).

<sup>15</sup> See e.g., NRC Staff Answer at 14; NEI Amicus Brief at 9-10; Indian Point Answer at 13-14; Diablo Canyon Answer at 6-7.

<sup>16</sup> The Citizen Groups do not dispute the Commission’s discretion to decide on its criteria for making the predictive waste confidence findings. But those findings must be made, and they must be subject to notice and comment or another form of public participation. *Minnesota*, 602 F.2d at 416 (“We agree with the Commission’s position that it

Respondents' interpretation of the AEA would also lead to an absurd result. It is inconceivable that Congress would have established a regulatory scheme that allows nuclear reactor licensees to conduct an activity that generates a significant but latent public health and safety hazard, without requiring some assurance that the hazard could be managed in the long term. Indeed, the U.S. Court of Appeals for both the D.C. and Second Circuits have concluded that Congress relied on the NRC's waste confidence determinations in allowing the NRC to continue licensing reactors in spite of their generation of highly radioactive spent fuel.<sup>17</sup>

Accordingly, Respondents' argument that the Commission can choose to ignore the significant long-term health and safety risks that are created by the irradiation of reactor fuel (*i.e.*, the production of highly radioactive spent fuel) runs counter to the law.<sup>18</sup> Under the AEA, before licensing or re-licensing any reactor, the agency must have some reasonable basis for

---

could properly consider the complex issue of nuclear waste disposal in a 'generic' proceeding such as a rulemaking, and then apply its determination in subsequent adjudicatory proceedings.”).

<sup>17</sup> *NRDC v. NRC*, 582 F.2d 166, 174 (2nd Cir. 1978); *Minnesota*, 602 F.2d at 419.

<sup>18</sup> Respondents claim that rather than require safety findings for geologic disposal at time of reactor licensing, AEA-based safety findings should be made during licensing of a repository. *See e.g.*, NEI Amicus Brief at 13; Indian Point Answer at n.61; TVA Answer at 16-17; Diablo Canyon Answer at 7. *See also*, Natural Resources Defense Council, Denial of Petition for Rulemaking, 42 Fed. Reg. 34,391 (July 5, 1977).

In making this argument, Respondents rely in part on *NRDC v. NY*, 582 F.2d 166 (2nd Cir. 1978). *See e.g.*, NRC Staff Answer at 17-18; NEI Amicus at 15; Turkey Point Answer at 3-4; Diablo Canyon Answer at 8-9; Indian Point Answer at 15; TVA Answer at 15. In *NRDC*, the court found that NRC did not need to make “definitive” safety findings about the safe repository disposal of spent fuel when it licenses a reactor. Instead, it concluded that Congress allowed for determinations of safety of Government-owned disposal facilities to be made at the time those facilities are licensed. 582 F.2d at 174. But the court did not completely excuse NRC from making disposal-related safety findings at the time of reactor licensing. It concluded that Congress, in allowing NRC to continue licensing reactors, was relying on NRC's assertion that it “would not continue to license reactors if it did not have *reasonable confidence* that the wastes can and will in due course be disposed of safely. *Id.* at n.13 (emphasis added); *see also Minnesota v. NRC*, 602 F.2d at 418-19 (finding that “Congress has chosen to rely on the NRC's . . . assurances of confidence that a [spent fuel disposal] solution will be reached.”).

Respondents fail to distinguish between the “definitive” safety findings required for repository licensing and the predictive findings of “confidence” in the technical feasibility and capacity of a repository that must be made at the time of reactor licensing. Neither the plain language of the AEA nor the court's holding in *NRDC* permit NRC to allow licensees to start generating spent fuel without some assurance that NRC will, at some point in the future, be able to license one or more repositories that can safely dispose of the quantity of spent fuel to be generated.

confidence that the public will be protected from the health and safety risks posed by spent fuel.<sup>19</sup>

**B. A Waste Confidence Policy Is Not a Lawful Substitute for Safety Findings.**

The Respondents appear to argue that the Citizens Groups' claim that the AEA requires waste confidence safety findings is mooted by the NRC's declaration that as a matter of "policy" it would not license a reactor if it did not have confidence in the technical feasibility of safe spent fuel disposal.<sup>20</sup> As discussed above, this argument is based on a misinterpretation of the AEA, which clearly requires waste confidence findings regarding the technical feasibility and capacity of spent fuel disposal. In any event, a policy statement is no substitute for the safety findings required by the AEA, because policies are subject to arbitrary retraction and require no public participation. Nor are they binding. In contrast, safety findings must be made in a licensing proceeding (including rights of adjudication) or a rulemaking (including notice and opportunity for comment). As documented in their comments on the proposed Continued Storage Rule, the Citizen Groups do not agree with the NRC that it has a reasonable basis for confidence in the technical feasibility of a repository with sufficient capacity to accommodate all reactor fuel that will be generated by reactors now in licensing and license renewal proceedings.<sup>21</sup>

In any event, the NRC has never administered the WCD as a policy statement. Since the first WCD was promulgated in 1984, the NRC has relied on it in every licensing decision and precluded members of the public from raising any of its subject matter in individual licensing

---

<sup>19</sup> See 42 U.S.C. § 2133(d).

<sup>20</sup> See e.g., NRC Staff Answer at 17, 26-30; NEI Amicus at 12-13; Callaway Answer at 5-6; Indian Point Answer at n.60.

<sup>21</sup> Comments by Environmental Organizations on Draft Waste Confidence Generic Environmental Impact Statement and Waste Confidence Proposed Rule at 2-3, 17-20 (Dec. 20, 2013).



proceedings.<sup>22</sup> The NRC may not have it both ways, by basing licensing decisions on a waste confidence policy and then precluding any challenge to that policy in individual licensing proceedings.<sup>23</sup>

**C. The Findings in the Continued Storage Rule and GEIS Regarding the Technical Feasibility of Spent Fuel Disposal Do Not Satisfy the AEA.**

Respondents do not dispute the Citizen Groups' assertion that the NRC has completely dropped any claim to have "reasonable assurance" regarding the technical feasibility or capacity of safe spent fuel disposal. Instead, they mock the Citizen Groups' contention that the AEA requires such language for safety findings, arguing that the term "reasonable assurance" is a mere "incantation" to which the Citizen Groups have attached "magical significance," but which has no legal significance.<sup>24</sup> Contrary to Respondents' assertion, "reasonable assurance" constitutes a legally required phrase that must be included in the NRC's findings for the issuance or renewal of a reactor license.<sup>25</sup>

And as noted above, reasonable assurance findings regarding the technical feasibility and capacity of spent fuel disposal – which were included in all versions of the previous WCDs -- are

---

<sup>22</sup> See *New York*, 681 F.3d at 477.

<sup>23</sup> *Limerick Ecology Action v. NRC*, 869 F.2d 719, 733 (3rd Cir. 1989). Respondents' argument is also undermined by the fact that the NRC effectively conceded that the WCD was not a mere policy in *Minnesota v. NRC*, 602 F.2d 412 (D.C. Cir. 1979). In that case, the petitioners sought a hearing on the conclusions of the WCD in an individual reactor licensing case, as permitted for policy statements. In response to the lawsuit, the NRC announced that it would hold a rulemaking proceeding regarding the conclusions of the WCD so that they could be applied as a regulation. 602 F.2d at 416. The Court affirmed the NRC's generic approach. *Id.* at 419.

<sup>24</sup> See, e.g., NEI Brief at 20-21 (citing *Tenn. Valley Author.* (Hartsville Nuclear Plant, Units 1A, 2A, 1B, and 2B), ALAB-463, 7 NRC 341, 360 (1978)).

<sup>25</sup> See, e.g., 10 C.F.R. §§ 50.57(a)(3), (6); 54.29(a). *Tennessee Valley Authority*, the case cited by NEI, does not hold to the contrary. In that case, the Appeal Board found that the Endangered Species Act standard requiring that a proposed action would not "jeopardize" the continued existence of a species was satisfied by a conclusion that radiological releases from a proposed reactor would not have "significant adverse effects" on the species. 7 NRC at 360. The Appeal Board concluded that the term "jeopardize" did not imply that an activity should have no adverse effect at all. In this case, the NRC has eliminated, from the final rule and the GEIS, any assertion regarding the degree to which it can assure the public that spent fuel disposal of sufficient capacity can be accomplished safely. In fact, the NRC has completely removed the word "safe" from its representations.

conspicuously absent from either the final Continued Storage Rule or the GEIS. The Continued Storage Rule and GEIS merely assert, without providing any regulatory assurance regarding adequacy of protection of public health and safety, that spent fuel disposal is “technically feasible.”<sup>26</sup> This unqualified statement falls far short of the AEA’s requirement for “reasonable assurance” findings as a prerequisite to reactor licensing.<sup>27</sup>

Moreover, assuming only for purposes of argument that the findings in the GEIS could be construed as “reasonable assurance” safety findings under the AEA, those findings are inadequate as a matter of law because they are not supported by any National Environmental Policy Act (“NEPA”) analysis. As the Court held in *New York*, every WCD finding must be accompanied by an environmental assessment or an environmental impact statement.<sup>28</sup> Nowhere in the GEIS does the NRC present an environmental impact analysis of spent fuel disposal. The GEIS addresses spent fuel *storage* impacts only. In fact, the language of the GEIS expressly excludes consideration of disposal.<sup>29</sup> The Commission’s notice of the final Continued Storage Rule also expressly excludes disposal: “*The GEIS and rule do not consider disposal of spent fuel . . .*”<sup>30</sup> Thus, even if the limited findings in the GEIS could be construed as AEA-based safety

---

<sup>26</sup> See, e.g., GEIS at D-33- D-34; 79 Fed. Reg. at 56,251.

<sup>27</sup> As such, the GEIS itself reveals the falsity of Pacific Gas & Electric Co.’s assertion that the NRC has made any safety findings regarding disposal. See *Diablo Canyon Answer* at 13.

<sup>28</sup> 681 F.3d at 476-77.

<sup>29</sup> GEIS at xxiii (“Continued Storage applies to the storage of spent fuel after the . . . licensed life . . . and *before final disposal* in a permanent repository.”) (emphasis added). Moreover, the Commission defines the purpose of the Continued Storage Rule as providing processes for “addressing the environmental impacts of continued *storage*.” GEIS at 1-6 (emphasis added).

<sup>30</sup> 79 Fed. Reg. at 56243 (emphasis added).

findings, they are insufficient to support reactor licensing decisions because they do not comply with NEPA.<sup>31</sup>

### **III. THE COMMISSION MUST SUSPEND REACTOR LICENSING AND RE-LICENSING UNTIL IT COMPLIES WITH THE ATOMIC ENERGY ACT.**

Some of the Respondents argue that the Commission should deny the Citizen Groups' request to suspend reactor licensing because they did not address the equitable criteria for seeking a stay in their Petition.<sup>32</sup> The Citizen Groups wish to clarify that the Petition is *not* a motion for a stay of the effectiveness of a decision pursuant to 10 C.F.R. § 2.342 or any other kind of request for equitable relief. Instead, the Petition is a demand for compliance with the non-discretionary requirements of the AEA. Citizen Groups respectfully submit that by abandoning its predictive waste confidence safety findings regarding the technical feasibility and capacity of safe spent fuel repositories, and by failing to conduct any environmental analysis to support those findings, the Commission has deprived itself of a lawful basis for licensing or re-licensing nuclear reactors.

### **IV. CONCLUSION**

For the reasons stated above, Citizen Groups respectfully request that the Commission admit the Contention and grant the Petition. The Commission should issue an order that suspends all final nuclear licensing decisions pending completion of AEA-required safety findings regarding spent fuel disposal.

---

<sup>31</sup> The NRC Staff also argues that the "regulatory framework" established by NRC regulations for safe spent fuel storage and disposal provides a "foundation" that can substitute for AEA safety findings. NRC Staff Answer at 27-29. This "Field of Dreams" approach to NRC safety findings does not satisfy the AEA. The fact that NRC has set safety standards for spent fuel disposal does not mean that those standards can be met. The NRC implicitly recognized this by issuing the first WCD in 1984 (49 Fed. Reg. 34,666 (Aug. 31, 1984)), *after* it had promulgated the Part 60 repository standards (48 Fed. Reg. 28,194 (June 21, 1983)). Subsequently, neither the existence of repository standards nor the submission for a repository license application by the U.S. Department of Energy dissuaded the NRC from updating the WCD several times.

<sup>32</sup> See e.g., NRC Staff Answer at 8-13.

Respectfully submitted,

*Signed (electronically) by:*

Deborah Brancato

Philip Musegaas

Riverkeeper, Inc.

20 Secor Road

Ossining, NY 10562

914-478-4501

*Counsel to Riverkeeper in Indian Point Units 2 & 3 License Renewal Proceeding*

*Signed (electronically) by:*

Diane Curran

Harmon, Curran, Spielberg & Eisenberg, L.L.P.

1726 M Street N.W. Suite 600

Washington, D.C. 20036

202-328-3500

E-mail: [dcurran@harmoncurran.com](mailto:dcurran@harmoncurran.com)

*Counsel to San Luis Obispo Mothers for Peace in Diablo Canyon Units 1 & 2 License Renewal Proceeding, Counsel to Southern Alliance for Clean Energy in Watts Bar Unit 2 Operating License Proceeding, and Counsel to Nuclear Information and Resource Service and Ecology Party of Florida in Levy County Units 1 & 2 COL Proceeding*

*Signed (electronically) by:*

Robert V. Eye

Robert V. Eye Law Office, L.L.C.

123 SE 6th Ave., Suite 200

Topeka, KS 66603

785-234-4040

E-mail: [bob@kauffmaneye.com](mailto:bob@kauffmaneye.com)

*Counsel to SEED Coalition in Comanche Peak Units 3 & 4 COL Proceeding, South Texas Units 3 & 4 COL Proceeding, and South Texas Units 1 & 2 License Renewal Proceeding*

*Signed (electronically) by:*

Mindy Goldstein

Turner Environmental Law Clinic

Emory Law School

1301 Clifton Road

Atlanta, GA 30322

404-727-3432

Email: [magolds@emory.edu](mailto:magolds@emory.edu)

*Counsel to National Parks Conservation Association and the Southern Alliance for Clean Energy in Turkey Point Units 6 & 7 COL Proceeding.*

*Signed (electronically) by:*

Terry J. Lodge  
316 North Michigan St., Suite 520  
Toledo, OH 43604-5627  
419-255-7552  
E-mail: [tjlodge50@yahoo.com](mailto:tjlodge50@yahoo.com)

*Counsel to Beyond Nuclear, Citizens Environment Alliance of Southwestern Ontario, Don't Waste Michigan, and the Green Party of Ohio in Davis-Besse Nuclear Power Station Unit 1 License Renewal Proceeding; Counsel to Beyond Nuclear, Citizens Environment Alliance of Southwestern Ontario, and Don't Waste Michigan in Fermi Unit 2 License Renewal Proceeding; Counsel to Beyond Nuclear, Citizens Environment Alliance of Southwestern Ontario, Citizens for Alternatives to Chemical Contamination, Don't Waste Michigan, and the Sierra Club Michigan Chapter in Fermi Unit 3 COL Proceeding*

*Signed (electronically) by:*

Henry B. Robertson  
Great Rivers Environmental Law Center  
319 N. Fourth Street, Suite 800  
St. Louis, MO 63102  
314-231-4181  
E-mail: [hrobertson@greatriverslaw.org](mailto:hrobertson@greatriverslaw.org)

*Counsel to Missouri Coalition for the Environment in Callaway Unit 1 License Renewal Proceeding*

*Signed (electronically) by:*

John D. Runkle  
2121 Damascus Church Road  
Chapel Hill, NC 27516  
919-942-0600  
E-mail: [junkle@pricecreek.com](mailto:junkle@pricecreek.com)

*Counsel to Blue Ridge Environmental Defense League in Bellefonte Units 3 & 4 COL Proceeding, North Anna 3 COL Proceeding, Sequoyah License Renewal Proceeding, and William States Lee COL Proceeding*

*Signed (electronically) by:*

Raymond Shadis  
Friends of the Coast/New England Coalition  
Post Office Box 98  
Edgecomb, Maine 04556  
207-882-7801  
E-mail: [shadis@prexar.com](mailto:shadis@prexar.com)

*Duly authorized representative of Friends of the Coast and New England Coalition in Seabrook License Renewal Proceeding*

November 7, 2014