February 18, 2015

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE COMMISSION

In the Matters of DTE ELECTRIC CO. (Fermi Nuclear Power Plant, Unit 3)	)	Docket No. 52-033-COL
DUKE ENERGY CAROLINAS, LLC (William States Lee III Nuclear Station, Units 1 and 2)	)	Docket Nos. 52-018-COL, 52-019-COL
LUMINANT GENERATION CO. LLC (Comanche Peak Nuclear Power Plant, Units 3 and 4)	)	Docket Nos. 52-034-COL, 52-035-COL
NUCLEAR INNOVATION NORTH AMERICA LLC (South Texas Project Units 3 and 4)	)	Docket Nos. 52-012-COL, 52-013-COL
PROGRESS ENERGY FLORIDA, INC. (Levy County Nuclear Power Plant, Units 1 and 2)	)	Docket Nos. 52-029-COL, 52-030-COL
SOUTH TEXAS PROJECT NUCLEAR OPERATING CO. (South Texas Project Units 1 and 2)	)	Docket Nos. 50-498-LR, 50-499-LR
TENNESSEE VALLEY AUTHORITY (Watts Bar Nuclear Plant, Unit 2)	)	Docket No. 50-391-OL
VIRGINIA ELECTRIC AND POWER CO. d/b/a DOMINION VIRGINIA POWER and OLD DOMINION ELECTRIC COOPERATIVE (North Anna Power Station, Unit 3)	)	Docket No. 52-017-COL

PETITIONERS' REPLY TO OPPOSITIONS TO PETITION TO SUPPLEMENT REACTOR-SPECIFIC ENVIRONMENTAL IMPACT STATEMENTS TO INCORPORATE BY REFERENCE THE GENERIC ENVIRONMENTAL IMPACT STATEMENT FOR CONTINUED SPENT FUEL STORAGE

TABLE OF CONTENTS

TABLE OF AUTHORITIES

JUDICIAL DECISIONS

NRC DECISIONS

STATUTES

REGULATIONS

FEDERAL REGISTER NOTICES

I. INTRODUCTION.

On January 28, 2015, Beyond Nuclear, Blue Ridge Environmental Defense League, Nuclear Information and Resource Service, Southern Alliance for Clean Energy, and SEED Coalition petitioned the U.S. Nuclear Regulatory Commission ("NRC" or "Commission") to comply with the National Environmental Policy Act ("NEPA") and NRC implementing regulations by ordering the NRC Staff to supplement the Final Environmental Impact Statement ("FEIS")[1] in each of the above-captioned proceedings to incorporate by reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage (NUREG-2157, noticed at 79 Fed. Reg. 56,263, Sept. 2014) ("Continued Spent Fuel Storage GEIS" or "GEIS"). Petition to Supplement Site-Specific Environmental Impact Statements to Incorporate by Reference the Continued Storage Generic Environmental Impact Statement ("Petition to Supplement"). On February 12, 2015, the applicants in these proceedings and the Nuclear Energy Institute ("NEI") (collectively referred to as "Respondents") submitted oppositions to the Petition to Supplement.[2] Pursuant to the Commission's Order of January 29, 2015, Petitioners

---

[1] Petitioners use the terms "FEIS" broadly to include final EISs in combined license and operating license proceedings and final supplements to the License Renewal GEIS in license renewal proceedings.

[2] NRC Staff Opposition to the "Petition to Supplement Reactor-Specific Environmental Impact Statements to Incorporate by Reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage" ("NRC Staff Response"); Answer of Dominion Virginia Power Opposing Petition to Supplement North Anna Final Environmental Impact Statement ("Dominion Response"); Answer of Duke Energy Carolinas, LLC Opposing Petition to Supplement W.S. Lee Final Environmental Impact Statement ("Duke Response"); Answer of Progress Energy Florida, Inc. Opposing Petition to Supplement Levy County Final Environmental Impact Statement ("Progress

hereby file their Reply. As discussed below, Respondents grossly misconstrue NEPA and the NRC's implementing regulations. Contrary to their arguments, NEPA imposes a clear and non-discretionary obligation on the NRC to ensure the accuracy and completeness of each reactor-specific FEIS by supplementing the FEIS to incorporate and summarize the Continued Spent Fuel Storage GEIS.

II. NRC'S NEPA IMPLEMENTING REGULATIONS IMPOSE A NON-DISCRETIONARY DUTY ON NRC TO SUPPLEMENT REACTOR-SPECIFIC FEISs TO INCORPORATE THE CONTINUED SPENT FUEL STORAGE GEIS BY REFERENCE.

A. The NRC Has a Non-Discretionary Duty to Comply with the Requirements of 10 C.F.R. Part 51, Appendix A for Incorporation by Reference.

Petitioners seek compliance by the NRC with its own NEPA implementing regulation, 10 C.F.R. Part 51, Appendix A, § 1(b). The regulation provides that:

> The techniques of tiering and incorporation by reference described respectively in 40 CFR 1502.20 and 1508.28 and 40 CFR 1502.21 of CEQ's NEPA regulations may be used as appropriate to aid in the presentation of issues, eliminate repetition or reduce the size of an environmental impact statement.[1]

_____

Energy Response"); Applicant's Opposition to Petition to Supplement Fermi 3 Final Environmental Impact Statement to Reference Continued Storage Generic Environmental Impact Statement ("DTE Electric Response"); Luminant Response Opposing Petition to Supplement Environmental Impact Statements ("Luminant Response"); Nuclear Innovation North America LLC Response Opposing Petition to Supplement Environmental Impact Statements ("NINA Response"); STP Nuclear Operating Company Response Opposing Petition to Supplement Environmental Impact Statements ("STP Response"); and Tennessee Valley Authority's Answer Opposing Petition to Reactor-Specific Environmental Impact Statements to Incorporate by Reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage ("TVA Response"); *Amicus Curiae* Brief of the Nuclear Energy Institute, Inc. in Response to Petitions to Supplement Site-Specific Environmental Impact Statements to Incorporate by Reference the Continued Storage Generic Environmental Impact Statement ("NEI Brief").

[1] *Tiering* –40 CFR 1502.20, 40 CFR 1508.28; *Incorporation by reference*—40 CFR 1502.21.[3]

The regulation also quotes 10 C.F.R. § 1502.21 in its entirety:

> Agencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action. The incorporated material shall be cited in the statement and its content briefly described. No material may be incorporated by reference unless it is reasonably available for inspection by potentially interested persons within the time allowed for comment. Material based on proprietary data which is itself not available for review and comment shall not be incorporated by reference.

Id., Discussion footnotes.

Respondents make two meritless arguments to the effect that the NRC has the discretion to ignore this regulatory requirement.

1. The language of 10 C.F.R. Part 51 does not give the NRC discretion to avoid accuracy and completeness in FEISs.

First, some Respondents argue that the phrase "may be used as appropriate" allows the NRC the option to avoid identifying or summarizing, in an FEIS, information that is incorporated by reference. *See, e.g.,* NRC Staff Response at 7-8, NEI Brief at 10, Duke Energy Carolinas Response at 6. But the phrase "may be used as appropriate" does not give the NRC open-ended discretion to completely avoid mentioning or summarizing one EIS that is incorporated into another EIS. Rather, it refers to the choice NRC may make

---

[3] *See also Louisiana Energy Services, L.P.* (National Enrichment Facility), CLI-05-28, 62 NRC 721, 730-31 (2005) (noting with approval the practice of incorporation by reference). In *Louisiana Energy Services,* the NRC Staff incorporated a U.S. Department of Energy EIS by reference into its own EIS for a proposed uranium enrichment facility. As the Commission observed, "[e]nvironmental impact statements typically incorporate by reference other analyses and data *by citing the material and describing its content." Id.* at 730 (citing 40 C.F.R. § 1502.21) (emphasis added)).

between (a) incorporating an *entire* EIS into an appendix to the EIS that relies on it or (b) citing an EIS and summarizing its analysis in the EIS that relies on it. In this case, the NRC's choice was between including the Continued Spent Fuel Storage GEIS as an appendix to every reactor-specific FEIS or citing it and incorporating it by reference in those FEISs. The NRC has discretion to decide only which of these two options is more appropriate.

This choice is made clear in the Council on Environmental Quality's ("CEQ's") Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations ("Forty Most Asked Questions"):

> 25b. How does an **appendix** differ from **incorporation by reference?**
>
> A. First, if at all possible, the appendix accompanies the EIS, whereas the material which is incorporated by reference does not accompany the EIS. Thus the appendix should contain information that reviewers will be likely to want to examine. The appendix should include material that pertains to preparation of a particular EIS. Research papers directly relevant to the proposal, lists of affected species, discussion of the methodology of models used in the analysis of impacts, extremely detailed responses to comments, or other information, would be placed in the appendix.
>
> The appendix must be complete and available at the time the EIS is filed. Five copies of the appendix must be sent to EPA with five copies of the EIS for filing. If the appendix is too bulky to be circulated, it instead must be placed in conveniently accessible locations or furnished directly to commentors upon request. If it is not circulated with the EIS, the Notice of Availability published by EPA must so state, giving a telephone number to enable potential commentors to locate or request copies of the appendix promptly.
>
> *Material that is not directly related to preparation of the EIS should be incorporated by reference. This would include other EISs,* research papers in the general literature, technical background papers or other material that someone with technical training could use to evaluate the analysis of the proposal. These must be made available, either by citing the literature, furnishing copies to central locations, or sending copies directly to commenters upon request.

46 Fed. Reg. 18,026 (Mar. 23, 1981) (emphasis added).[4]

Moreover, 10 C.F.R. Part 51 Appendix A implements NEPA's requirement for accuracy and completeness in an EIS, which is fundamental and non-discretionary. *Hughes River Watershed Conservancy v. Glickman,* 81 F.3d 437, 447 (4th Cir. 1996) (exercising "narrowly focused review" to reject EIS for providing misleading summary of economic study). While Respondents are correct that the NRC has the discretion to choose or fashion its own procedures for implementation of NEPA (*see, e.g.,* Duke Energy Carolinas Response at 4-5), it may not disregard those procedures once they are adopted; and it may not disregard those procedures to the extent they implement NEPA's basic and non-discretionary requirement for accuracy and completeness of EISs.

2. NRC is not excused from supplementing FEISs by the fact that its conclusions about the significance of impacts have not changed.

Second, some Respondents argue that supplementation of reactor-specific FEISs is not required because the NRC has not changed its ultimate conclusion, reported in these reactor-specific FEISs, that environmental impacts of spent fuel storage are insignificant. *See, e.g.,* NRC Staff Response at 9, NEI Brief at 8. But a NEPA analysis may not be reduced to its conclusions. As the CEQ has recognized, "the EIS is not the Record of Decision, but instead constitutes *the information and analysis on which to base a decision*. . . . " Forty Most Asked Questions, Response to Question 14b (emphasis

---

[4] Respondents' argument that the CEQ regulations are not binding on the NRC (*see, e.g.,* Dominion Virginia Power Response at 7) does not apply here, where NRC has explicitly adopted CEQ regulations for incorporation by reference. *Limerick Ecology Action v. NRC,* 869 F.2d 719, 743 (3rd Cir. 1989) (holding that NRC could not be bound by CEQ regulations it had not adopted).

added). Providing accurate and complete information to other federal agencies, state and local officials, and members of the public not only ensures that they can participate effectively in the decision itself, but assists them in "the implementation of that decision." *Robertson v. Methow Valley Citizens Council,* 490 U.S. 332, 349 (1989). In order to fulfill those purposes, an EIS "must stand on its own as an analytical document which fully informs decisionmakers and the public of the environmental effects of the proposal and those of the reasonable alternatives." Forty Most Asked Questions, 55 Fed. Reg. at 18,032 .[5]

B. 10 C.F.R. § 51.92 Does Not Apply in These Circumstances.

Respondents argue that once the NRC has finalized a reactor-specific FEIS, 10 C.F.R. § 51.92 provides that the NRC need not supplement the FEIS unless it identifies "new and significant information" or "changed circumstances" that would change the outcome of the FEIS. *See, e.g.,* NEI Brief at 8-9 (citing 10 C.F.R. § 51.92), NRC Staff Response at 8-9.[6] This argument fails in two respects. First, 10 C.F.R. Part 51

---

[5] *See also Louisiana Energy Services, L.P.* (Claiborne Enrichment Center), LBP-99-23, 44 NRC 331, 341 (1996) (observing that an EIS "serves as an environmental full disclosures law providing agency decisionmakers, as well as the President, the Congress, the CEQ and the public the environmental cost-benefit information that Congress thought they should have about each qualifying federal action") (*affirmed,* CLI-98-3, 47 NRC 77 (1998)) (citing *Minnesota PIRG v. Butz,* 541 F.2d 1292, 1299 (8th Cir. 1976); *Trout Unlimited v. Morton,* 509 F.2d 1276, 1282 (9th Cir. 1974); *Silva v. Lynn,* 482 F.2d 1282, 1285 (1st Cir. 1973); *NRDC v. Morton,* 458 F.2d 827, 833 (D.C. Cir. 1972); *Alabama ex rel. Baxley v. Corps of Engineers,* 411 F.Supp. 1261, 1267 (N.D. Ala. 1976); *Robertson,* 490 U.S. at 349).

[6] Respondents also cite numerous NRC and judicial decisions interpreting NEPA's requirement to consider new and significant information and changed circumstances, *i.e., Marsh v. Oregon Natural Resources Council,* 490 U.S. 360, 379 (1989); *Hodges v. Abraham,* 300 F.3d 432, 446 (4th Cir. 2002); *Idaho Sporting Cong. Inc. v. Alexander,* 222 F.3d 562, 566 (9th Cir. 2000); *Luminant Generation Co.*, *L.L.C.* (Comanche Peak

Appendix A (on which the Petition to Supplement relies) and 10 C.F.R. § 51.92 are independent regulations, with completely different purposes, and applicable in completely different circumstances. 10 C.F.R. Part 51 Appendix A applies to circumstances where the NRC has decided to rely on a separate document for its environmental analysis in an EIS. Its purpose is to ensure that the text of an EIS accurately and completely reports on the information and analysis that the NRC relied on. As discussed above, this administrative requirement for accuracy and completeness in an EIS is fundamental and non-discretionary. 10 C.F.R. § 51.92, in contrast, requires an exercise of discretion by the NRC to determine whether to consider new substantive information, not considered in the existing FEIS. There is no comparison between those circumstances. Section 51.92 simply is inapplicable here.

Second, Respondents' interpretation of the regulations would effectively eliminate the provision in 10 C.F.R. Part 51 Appendix A governing incorporation by reference. Such an interpretation would violate the well-established principle that one provision of a statute or regulation should not be read in a way that robs another provision of meaning or effect. *See Nat'l Ass'n of Home Builders v. Defenders of Wildlife*, 551 U.S. 644, 668-69 (2007).

C. Assuming for Purposes of Argument That 10 C.F.R. § 51.92 Applies, It is Satisfied Here for Purposes of Requiring Supplementation.

As discussed above, 10 C.F.R. § 51.92 is fundamentally inapplicable to these circumstances. But even assuming for purposes of argument that it does apply here,

---

Nuclear Power Plant, Units 3 and 4), CLI-12-07, 75 NRC 379, 388-89 (2012); *Natl'l Comm. for the New River, Inc. v. FERC,* 373 F.3d 1323, 1330 (D.C. Cir. 2004). None of those cases are applicable to these circumstances.

"new and significant information" and "changed circumstances" did indeed arise in 2012, when the U.S. Court of Appeals vacated the NRC's previous analyses of the environmental impacts of continued spent fuel storage, including the impacts of indefinite spent fuel storage, pool fires, and pool leaks. *See New York v. NRC,* 681 F.3d 471 (D.C. Cir. 2012). As a result, for all intents and purposes, the NRC's previous analyses of these impacts and conclusions about the insignificance of the impacts, as summarized in individual reactor FEISs, *no longer exist.* In order for the FEISs to provide a complete and accurate picture of the environmental impacts of reactor licensing and re-licensing, these summaries of the NRC's analyses must be replaced with new information. Thus, 10 C.F.R. § 51.92 is fully satisfied in these circumstances.

III. RESPONDENTS' PROCEDURAL ARGUMENTS ARE WITHOUT MERIT.

A. The Filing of a Contention Was Not Necessary or Appropriate.

The NRC Staff argues that the Petition to Supplement is improper under NRC procedural rules, which allow Petitioners to seek relief only through the filing of a contention. NRC Staff Response at 4-5. But nothing in the regulations imposes such a limitation. Moreover, Petitioners respectfully submit that a contention would not be appropriate in this case because the relief Petitioners seek is purely ministerial: the correction of FEISs issued before the Continued Spent Fuel Storage GEIS to accurately reflect their reliance on the GEIS.[7] STP agrees with Petitioners on this point: "The

[7] The NRC Staff mischaracterizes the Petition by claiming that it seeks re-circulation of individual FEISs for public comment after the FEIS has been supplemented to incorporate the Continued Spent Fuel Storage GEIS by reference. NRC Staff Response

relief requested by the Petition is the administrative act of incorporating the GEIS by reference." STP Response at 9.[8] The Petition is also ill-suited to contentions because it is generic in nature: each FEIS would be supplemented to say virtually the same thing. Thus, it was not necessary or appropriate for Petitioners to have filed a contention at this juncture.

Once the FEISs are corrected, Petitioners intend to file place-holder contentions in each proceeding, challenging each reactor-specific FEIS for its reliance on the Continued Spent Fuel Storage GEIS. *See* Petition to Supplement at 10. But Respondents argue that place-holder contentions are not permitted in NRC proceedings. *See, e.g.,* NRC Staff Response at 6 (citing *Dominion Nuclear Connecticut, Inc.* (Millstone Nuclear Power Station, Unit 3), CLI-09-05, 69 NRC 115, 120 (2009)); NEI Brief at 22 (citing *Exelon Generation Co., LLC* (Byron Nuclear Station, Units 1 & 2); Braidwood Nuclear Station, Units 1 & 2), CLI-14-06, 80 NRC 445 (2014)). But *Millstone* and *Byron* are not applicable here. In *Millstone*, the NRC held that a petitioner could not file general, vague, or unsupported claims in a "placeholder" contention, *with the intent to elaborate*

---

at 8 (GEIS is intended to "obviate the need to repeatedly determine [spent fuel storage] impacts in each reactor licensing proceeding"). Petitioners seek no such thing. Petitioners seek only to ensure that the FEIS for each reactor licensing and re-licensing decision is corrected to ensure that it is an accurate and complete document, as required by NEPA.

[8] *See also* Luminant Response at 9. By the same token, it was neither necessary nor appropriate for Petitioners to file a motion to reopen the record of any of the proceedings, as argued by many of the Respondents. *See, e.g.,* DTE Electric Response at 6. There is no need to reopen the record for the purpose of taking ministerial action. Nor could a request for such administrative action have satisfied the NRC's standard for reopening the record: as once again pointed out by STP, "a motion related to the Petition would not address a significant safety or environmental issue." STP Response at 9.

on those claims at some later time before the NRC. 69 NRC at 120 and note 21. Similarly, in *Bryon,* the petitioner requested a protective stay of a licensing proceeding while it sought a change to NRC rules that would allow the petitioner to file a contention. 80 NRC at 448. In contrast, Petitioners' place-holder contentions challenging the NRC's reliance, in individual reactor licensing proceedings, on the legally deficient Continued Spent Fuel Storage Rule and Continued Spent Fuel Storage GEIS will require no further elaboration before the NRC in order to achieve their sole purpose: to ensure that any court decision resulting from Petitioners' appeal of the generic Continued Spent Fuel Storage Rule and GEIS will also be applied to the individual reactor licensing proceedings of concern to Petitioners. Missouri Coalition for the Environment filed such a contention in the license renewal proceeding for Callaway Unit 1, after the NRC issued a FEIS that incorporated the Continued Spent Fuel Storage FEIS by reference. *See* Missouri Coalition for the Environment's Hearing Request and Petition to Intervene in License Renewal Proceeding for Callaway Nuclear Power Plant (Dec. 8, 2014).

B. A Waiver Petition Was Not Necessary or Appropriate.

Some Respondents argues that the Petition to Supplement challenges 10 C.F.R. § 51.23, and therefore Petitioners were required to submit a waiver petition in order to obtain the relief they seek. *See, e.g.,* NRC Staff Response at 8-9, STP Response at 12-13, NEI Brief at 7. But 10 C.F.R. § 51.23 does not rule out or supersede compliance with 10 C.F.R. Part 51, Appendix A. Instead, § 51.23(b) merely states that "the impact determinations in [the Continued Spent Fuel Storage GEIS] shall be deemed incorporated into the environmental impact statements described in §§ 51.75, 51.80(b), 51.95, and

51.97(a)." This statement is consistent with the first sentence of 40 C.F.R. § 1502.21, which states that "[a]gencies shall incorporate material into an environmental impact statement by reference when the effect will be to cut down on bulk without impeding agency and public review of the action." *In addition,* the second sentence of 40 C.F.R. § 1502.21 requires that "the incorporated material shall be cited in the statement and its content briefly described." It would not be consistent with standard principles of statutory and regulatory interpretation to interpret § 51.23 to negate this requirement where it has not been explicitly revoked. *Nat'l Ass'n of Home Builders*, 551 U.S. at 668-69.[9]

Thus, Petitioners do not challenge the NRC's assertion in the Rule that the Continued Spent Fuel Storage GEIS is "deemed incorporated" into individual FEISs. What Petitioners challenge is the NRC's failure to *also* correct the text of individual FEISs to reflect the NRC's new reliance on the Continued Spent Fuel Storage GEIS, as required by 10 C.F.R. Part 51, Appendix A.

Moreover, contrary to NEI's assertion (NEI Brief at 2), supplementing the FEISs to provide accurate information about spent fuel storage impacts would not amount to an "unnecessary and academic exercise." Nor is the relief requested by Petitioners "trivial." *Id.* at 10 n.38. As the Supreme Court recognized in *Robertson,* government officials who

---

[9] The precedents cited in NEI's Brief at 6-7 do not hold otherwise. *See Gozlon-Peretz v. U.S.,* 498 U.S. 395, 407 (1991); *ConArt, Inc. Hellmuth, Obata & Kassabaum, Inc.,* 504 F.3d 1208, 1210 (11th Cir. 2007); *Thompson v. Calderon,* 151 F.3d 918, 929 (9th Cir. 1998). Rather, these cases concern situations where two statutes cannot be reconciled without interpreting the more specific statute as an exception to the statute of more general application. Here, the two regulations can easily be reconciled, and Petitioners' interpretation does not require the NRC to negate any regulatory provision.

are responsible for implementing the environmental decisions involved in reactor licensing will rely on those FEISs in the future. 389 U.S. at 349. In addition, Petitioners respectfully submit that state and local officials and members of the public who must respond to the environmental and public health consequences of NRC's decisions in the future will also rely on the completeness and accuracy of reactor-specific FEISs to understand the agency's reasoning in allowing those consequences to occur.[10]

C. The Petition is Timely.

Some Respondents argue that the Petition is not timely because it was not filed soon after the NRC's issuance of the Continued Spent Fuel Storage GEIS. They argue, variously, that Petitioners should have filed their Petition within ten or thirty days of the issuance of the GEIS (depending on whether it is treated as a motion or a contention). *See, e.g.,* NRC Staff Response at 11, NEI Brief at 6, DTE Electric Response at 6, STP Response at 8.

Their argument is without merit. At the time the NRC issued the GEIS, Petitioners had no reason to doubt that the NRC would, at some reasonable time after issuance of the GEIS and Continued Spent Fuel Storage Rule, comply with 10 C.F.R. Part 51 Appendix A and corresponding CEQ regulations by supplementing individual reactor FEISs to incorporate the Continued Spent Fuel Storage GEIS by reference.

---

[10] For those officials relying on the FEISs years into the future, NEI's claim that "the public and decision-makers have both easy access to the GEIS and official notice that NRC incorporated it into site-specific EISs" (NEI Brief at 11) would provide cold comfort. It is also inconsistent with the Supreme Court's admonition that an agency must "do more than to scatter its evaluation of environmental damage among various public documents." *Baltimore Gas & Elec. Co. v. NRDC,* 462 U.S. 87, 100 n.12 (1983) (quoting *NRDC v. NRC,* 685 F.2d 459, 484 (D.C. Cir. 1982) (rev'd on other grounds, *Balt. Gas & Elec. Co.*).

Petitioners were entitled to rely on the well-established presumption that public officials will perform their official duties "in a proper manner." *Ga. Inst. of Tech.* (Georgia Tech Research Reactor, Atlanta, Georgia), LBP-97-7, 45 NRC 265, 271 (1997). And the NRC gave Petitioners reason to think that the agency *would* comply with 10 C.F.R. Part 51 Appendix A when it issued the FEIS for Callaway Unit 1, incorporating the Continued Spent Fuel GEIS by reference into the FEIS. *See* discussion above at page 10. When (a) three months had passed since the NRC issued the Continued Spent Fuel Storage Rule and GEIS, and (b) it became clear that the NRC was poised to issue or renew at least one reactor operating license (*i.e.,* the combined license for the Fermi 3 reactor) without supplementing the FEIS, Petitioners concluded that they should not wait any longer for the NRC to come into compliance with the law and therefore filed their Petition.

IV. CONCLUSION.

For the foregoing reasons, the Commission should grant Petitioners' request to supplement the FEISs for the above-captioned licensing and re-licensing proceedings to incorporate by reference the Continued Spent Fuel Storage GEIS.

Respectfully submitted,

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
Counsel for Southern Alliance for Clean Energy in Watts Bar Unit 2 Operating License Proceeding, counsel for Nuclear Information and Resource Service 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
Counsel for 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:
Terry J. Lodge
316 North Michigan St., Suite 520
Toledo, OH 43604-5627
419-255-7552
E-mail: tjlodge50@yahoo.com
Attorney for Beyond Nuclear in the Fermi Unit 3 COL proceeding

Signed (electronically) by:
Louis A. Zeller
Blue Ridge Environmental Defense League
PO Box 88
Glendale Springs, NC 28629
(336) 982-2691 (336) 977-0852
BREDL@skybest.com
Representative of Blue Ridge Environmental Defense League in North Anna 3 COL proceeding and in William S. Lee COL proceeding

February 18, 2015

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2015 a copy of "Petitions Reply to Oppositions to Petition to Supplement Reactor-Specific Environmental Impact Statements" was served by the Electronic Information Exchange.

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
Counsel for 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