

Nuclear Development, LLC

3 Bethesda Metro Center
Suite 515
Bethesda, MD 20814

August 28, 2019

10 CFR 50.80
10 CFR 50.90

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

Subject: Response to Request for Supplemental Information

References:

1. Application for Order Approving Construction Permit Transfers and Conforming Administrative Construction Permit Amendments, November 13, 2018
2. Letter from W. Gleaves, Nuclear Regulatory Commission, to W.R. McCullum, Nuclear Development, Inc., Supplemental Information Needed for Acceptance of Requested Application for Order Approving Construction Permit Transfers and Conforming Administrative Construction Permit Amendments (EPID No. L-2018-LLM-0004), April 5, 2019
3. Letter from W. Gleaves, Nuclear Regulatory Commission, to W.R. McCullum, Nuclear Development, Inc., Response to Request for Extension of Date For Filing Response to Request for Supplemental Information, June 18, 2019

Bellefonte Nuclear Plant, Units 1 and 2
Construction Permits Nos. CPPR-122 and CPPR-123
NRC Docket Nos. 50 -438 and 50-439

By letter dated April 5, 2019, the U.S. Nuclear Regulatory Commission (“NRC”) requested that Nuclear Development, LLC (“ND”) provide certain supplemental information to enable the staff to make an independent assessment regarding the acceptability of the proposed construction permit transfer application. By letter dated June 6, 2019, NRC extended the due date for responding to NRC’s Request for Supplemental Information to September 6, 2019.

The requested information is provided in the enclosed Response to Request for Supplemental Information, with four attachments. The separately submitted Attachment 3 to this Response contains commercially sensitive financial information that ND has maintained confidential and has not made available to the public. Accordingly, ND requests that these materials be withheld from public disclosure pursuant to 10 CFR 2.390. An affidavit supporting this request is enclosed with this letter.

Please let me know if you require additional information.

I declare under penalty of perjury that the information provided is true and correct. Executed on August 28, 2019.

Sincerely,


William R. McCollum, Jr.
Chief Executive Officer & Chief Nuclear Officer
Nuclear Development, LLC

cc: William (Billy) Gleaves, Senior Project Manager
U.S. Nuclear Regulatory Commission

Regional Administrator, Region II
U.S. Nuclear Regulatory Commission

State Health Officer
Alabama Dept. of Public Health
P.O. Box 303017
Montgomery, AL 36130-3017

Mr. Timothy Rausch
Chief Nuclear Officer
Tennessee Valley Authority
1101 Market Street
Lookout Place 3R
Chattanooga, TN 37402-2801

Encl: Response to Request for Supplemental Information (w/ Attachments)
Attachment 1 – Resume of Mr. Joseph Bourassa
Attachment 2 – Nuclear Development Quality Assurance Plan
Attachment 3 – Nuclear Development Strategic Project Plan (w/ Appendices) (Proprietary)
Attachment 4 – Qualifications of SNC-Lavalin Nuclear

COUNTY OF BUNCOMB
STATE OF NORTH CAROLINA

)
) SS
)

10 CFR 2.390 AFFIDAVIT OF WILLIAM R. MCCOLLUM, JR.

William R. McCollum, Jr., being duly sworn according to law, deposes and says:

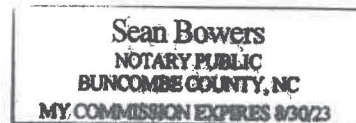
I am Chief Nuclear Officer, Nuclear Development LLC, and do hereby affirm and state:

1. I am authorized to execute this affidavit on behalf of Nuclear Development LLC ("Nuclear Development");
2. Nuclear Development requests that Attachment 3 to Nuclear Development's August 28, 2019 Response to Request for Supplemental Information, labeled "CONFIDENTIAL INFORMATION SUBMITTED UNDER 10 CFR 2.390," be withheld from public disclosure under the provisions of 10 CFR 2.390(a)(4).
3. Attachment 3 contains confidential commercial information, the disclosure of which would adversely affect Nuclear Development.
4. This information has been held in confidence by Nuclear Development. To the extent that Nuclear Development has shared this information with others, it has done so on a confidential basis.
5. Nuclear Development customarily keeps such information in confidence, and there is a rational basis for holding such information in confidence. The information is not available from public sources and could not be gathered readily from other publicly available information.
6. Public disclosure of this information would cause substantial harm to Nuclear Development's business interests because such information has significant commercial value to Nuclear Development and its disclosure could adversely affect Nuclear Development.


William R. McCollum, Jr.

Subscribed and sworn to before me,
a Notary Public this 28th day of August 2019.


My Commission Expires: 8/30/2023



Nuclear Development, Inc.'s
Response to Request for Supplemental Information

This Attachment provides Nuclear Development's ("ND's") responses to the NRC's summary of Supplemental Information Needed, dated April 5, 2019. The language of the NRC's request is set out below in bold italics. ND's response, where requested, follows in plain text.

Part 1 - Quality Assurance (QA) Acceptance Review

The staff has reviewed the application against the applicable regulatory requirements in 10 CFR 50.34, 10 CFR 50.55a, and Appendix B to 10 CFR Part 50. ND has contracted SNC-Lavalin Nuclear (SLN) to provide the QA program for BLN. The QA program provided in Enclosure 5 of the application is based on American Society of Mechanical Engineers (ASME) NQA-1-2017, "Quality Assurance Requirements for Nuclear Facility Applications." The NRC staff found Enclosure 5, "SNC-Lavalin Nuclear Quality Assurance Plan (152918-0000-00000-38QP-0001)" not to be in accordance with NRC regulatory requirements of 10 CFR 50.34, 10 CFR 50.55a, and Appendix B to 10 CFR Part 50.

Specifically, the SLN QA plan is not compliant with the above regulations in the following areas:

- 1. The NRC has not endorsed NQA-1-2017. The NRC has endorsed NQA-1-2015 per Regulatory Guide (RG) 1.28, Revision 5, "Quality Assurance Program Criteria (Design and Construction)," (ADAMS Accession No. ML17207A293) that provides an approved method to meet the regulatory requirements. ND has not reconciled the differences between NQA-1-2017 and NQA-1-2015. This issue could be addressed by providing an analysis of the gaps between NQA-1-2017 and NQA-1-2015.***
- 2. The SLN QA Plan commits to only Part I of NQA-1-2017. RG 1.28, Revision 5 endorses NQA-1-2015, Parts I and II. NQA-1-2015, Part II contains additional quality assurance requirements for the planning and conduct of specific work activities, i.e., for construction, under a QA program developed in accordance with Part I. ND did not describe how the SLN QA plan meets the requirements of NQA-1-2015, Part II.***
- 3. The 2013 Edition of the ASME Boiler and Pressure Vessel Code (BPVC) Section III, subsection NCA, as endorsed by 10 CFR 50.55a, does not incorporate by reference NQA-1-2017. Table NCA-7100-2 incorporates by reference NQA-1-2008/2009 addenda. ND has not reconciled the differences between NQA-1-2017 and NQA-1-2008/2009 addenda. This issue could be addressed by providing a gap analysis between NQA-1-2017 and NQA-1-2008/2009.***

Part 1 Response:

In its application, dated November 13, 2018, (the "Application") ND indicated that it had retained John A. Sablinski to serve as its Quality Assurance ("QA") Manager. ND has replaced Mr. Sablinski with Joseph Bourassa, and Mr. Bourassa's experience and qualifications are provided in his resume in Attachment 1.

ND has developed its own, higher level ND Nuclear Quality Assurance Plan ("ND NQAP") for Bellefonte Nuclear Power Station, Units 1 and 2 ("Bellefonte"). The ND NQAP is based on the existing Tennessee Valley Authority ("TVA") nuclear quality assurance plan ("TVA NQAP") that currently applies to Bellefonte, and it will govern all contractors, including SNC-Lavalin Nuclear (USA) ("SLN"), performing work for ND relating to Bellefonte. This ND NQAP was developed through administrative modification to Revision 20 of the TVA NQAP and was reconciled to the current version submitted on May 8, 2019, to the NRC (ML19129A258) as Revision 37. The changes made to the NRC approved

TVA NQAP primarily involved removing references to the TVA operating fleet, modifying the organization to be consistent with the planned ND organization applicable to Bellefonte, eliminating discussions regarding dry fuel storage under 10 CFR Part 72 and other administrative changes. These changes were assessed against the evaluation criteria provided within 10 CFR § 50.54(a)(3) and were determined not to constitute a reduction in commitments to the previously submitted and accepted quality assurance program applicable to Bellefonte. The ND NQAP developed based upon the approved TVA NQAP is provided as Attachment 2. The ND QA Manager will assume QA responsibility for Bellefonte in deferred plant status upon transfer of the Construction Permits. He will report directly to the ND Chief Nuclear Officer, and he will assure that activities subject to QA requirements are conducted by contractors in accordance with the ND NQAP in accordance with all applicable NRC requirements.

Part 2 — Technical Qualification Acceptance Review

In accordance with 10 CFR 50.80(c), a CP may be transferred if the Commission finds that the proposed transferee is qualified to be the holder of the license. 10 CFR 50.80(b)(1) requires an application for a CP transfer to include as much information as required by 10 CFR 50.33 and 10 CFR 50.34 with respect to identity and the financial and technical qualifications of the proposed transferee as would be required by those sections if the application were for an initial license. 10 CFR 50.34(a)(9) requires an applicant for a CP to include, "[t]he technical qualifications of the applicant to engage in the proposed activities in accordance with the regulations in this chapter," in its preliminary safety analysis report. There is also guidance in NUREG-0800, 'Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,' Section 13.1.1, "Management and Technical Support Organization," Revision 6 (ADAMS Accession No. ML15005A449), related to license transfers and technical qualification.

NRC review guidance document LIC-109, "Acceptance Review Procedures," Revision 2 (ADAMS Accession No. ML16144A521), states, "NRR will consider an RLA [requested licensing action] to be acceptable for review upon the NRC staff's conclusion that the application reasonably appears to contain sufficient technical information, both in scope and depth, for the NRC staff to complete the detailed technical review and render, in an appropriate time frame for the associated action, an independent assessment of the proposed action with regard to applicable regulatory requirements and the protection of public health, safety, and security." Therefore, the focus of the staff's acceptance review for technical qualifications is on whether the application reasonably contains sufficient technical information to complete a detailed review with regard to 10 CFR 50.34(a)(9).

The application includes information about ND's technical qualifications in Attachment 1 and in Enclosure 5 to Attachment 1, which is a QA plan. ND has also provided some information (e.g., resumes for the chief nuclear officer and QA manager), which appear to be of sufficient detail, or depth, about the qualifications of those individuals.

ND stated a limitation on the technical qualifications it currently possesses: "Nuclear Development is technically qualified to carry out its responsibilities as the holder of the Permits in Deferred Plant status." "Deferred plant" is a term defined in the Commission's Policy Statement on Deferred Plants (Volume 52, Number 198, of the Federal Register, pages 38077-38080, dated October 14, 1987), and it means, "a nuclear power plant at which the licensee has ceased construction or reduced activity to a maintenance level, maintains the CP in effect, and has not announced termination of the plant." The application explains that ND plans to keep the units in "deferred plant status" for some interim time following transfer of the CPs to it and prior to it commencing construction. The application also states, "Prior to moving beyond Deferred Plant status and beginning licensed construction activities, Nuclear Development plans to enhance its Owner's oversight organization by engaging experienced professionals and/or an experienced nuclear plant operating company with a track record for

successfully managing important safety-related projects of comparable scale. Prior to reactivating construction, Nuclear Development will submit the information required by Section III.A.6 of the Deferred Plants Policy, including a "description of the management and organization responsible for construction of the plant" as required by Section III.A.6.e. If necessary and/or desirable, the NRC staff could impose a license condition requiring that resumes for the individuals intended to staff the construction organization be submitted with the notice to NRC contemplated by Section III.A.6."

Based on the review of the application, the staff has concluded that ND has not provided sufficient information addressing its technical qualifications to perform the design and construction activities authorized by the CP. Additionally, it is not clear to the staff how the information provided in the application and a license condition could be used together to allow the staff to make the required findings under 10 CFR 50.80 and 10 CFR 50.34 that ND is technically qualified to perform the activities that the CP authorizes. To address this issue, ND may provide additional information, such as an explanation of how a license condition could be used to allow the staff to make a finding that ND is technically qualified, or ND may provide the information listed in NUREG-0800, Section 13.1.1, related to design and construction responsibilities.

Part 2 Response:

ND responds by providing the following information listed in NUREG-0800, Section 13.1.1, related to design and construction responsibilities. ND submits the additional information below regarding the technical qualifications of ND and the two primary project contract partners, SLN and Framatome Inc. ("Framatome"), to perform the design and construction activities authorized under the Construction Permits for Bellefonte. This summary provides the information required under 10 CFR 50.80 and 10 CFR 50.34(a)(9) describing "the technical qualifications of [ND] to engage in the proposed activities in accordance with the regulations of this chapter."

Project Organization:

ND as the owner of Bellefonte will have final authority for the project design and execution. ND will execute the project using three broad organizational elements:

1. The Engineering, Procurement and Construction element, which will be staffed by personnel from SLN and Framatome.
2. The Project Oversight element, which will be staffed with direct ND employees and independent contractors along with seconded personnel from SLN, Framatome, MPR Associates and Highbridge Associates.
3. The Operating element, which will be staffed by personnel from the Operating Contract partner.

The scope of this transfer application is for the Construction Permits, whereas the responsibilities of the Operating Contract partner will be reviewed under a subsequent Operating License application. Thus, this information appropriately describes the scope of activities and programs authorized under the Construction Permits.

ND has established a ND Project Oversight organization sufficient to ensure it meets all of its regulatory obligations as the holder of the Construction Permits for the full scope of activities authorized under those permits. ND has staffed the ND Project Oversight organization consistent with the currently authorized deferred plant status at the time of the transfer of the Construction Permits to ND. This includes a qualified Chief Nuclear Officer ("CNO") and QA Manager. Prior to the initiation of any engineering or design activities beyond those authorized in deferred plant status, ND will enhance this organization with additional personnel in accordance with the requirements of the ND NQAP. All personnel will meet the

required qualifications set forth in the ND NQAP. Consistent with the NRC's Deferred Plant Policy Statement, ND will provide the NRC significant advance notice of its plans and timing for transition from deferred plant status. The ND Project Organization is depicted in detail in Figure 1 of the Strategic Project Plan provided in the separately submitted Attachment 3.

SLN is the primary construction partner for the Bellefonte project, described as the Engineering Procurement and Construction Manager ("EPCM") and as such, SLN will have primary responsibility for carrying out the procurement, engineering and construction effort at Bellefonte. SLN's capability to perform this function is described in greater detail in Attachment 4.

SLN has over 60 years' experience in delivering nuclear engineering solutions into nuclear power plant new build and upgrade projects. SLN has successfully designed, constructed and commissioned commercial reactors in the 22 MW to 728 MW range. SLN has developed and utilized their experience in a variety of projects worldwide, covering all elements of design development, risk management, engineering design, and project management. SLN has a team of over 3,000 employees and can leverage additional resources from their parent company staff of over 50,000 employees.

Attachment 4 includes details regarding SLN's experience in a variety of commercial reactor projects. In particular, the Cernavoda nuclear power plant project in Romania shares many similarities with the Bellefonte project. Both involve completing an existing PWR reactor, upgrading the systems and equipment, and putting it into service. SLN has consistently demonstrated the ability to successfully manage the procurement, engineering, and construction of large nuclear projects around the world.

Framatome is a nuclear steam supply system ("NSSS") designer and supplier, and Framatome was the NSSS designer and supplier for the Bellefonte Babcock and Wilcox ("B&W") 205 (number refers to the number of fuel assemblies in the reactor) pressurized water reactors ("PWRs"). Thus, Framatome will be the lead project partner for NSSS design, engineering and analysis support.

Framatome employs over 2,300 personnel that are experienced in the U.S. and worldwide nuclear industry. Framatome and its predecessor organizations have been serving the nuclear industry in the United States since the 1950s. As a reliable partner with a long history of proven performance, Framatome focuses on servicing and fueling the U.S. operating nuclear fleet as well as supporting new nuclear builds and advancing the future of nuclear energy in the U.S. and abroad. Framatome's first-of-a-kind engineering experience ("FOAKE") demonstrates that it is very familiar with managing FOAKE situations in design, licensing, and manufacturing. Framatome has consistently demonstrated the ability to deliver work products and services that meet the high technical standards required by the NRC.

Over time, Framatome has serviced a wide range of nuclear energy facilities in the United States. Additionally, Framatome is the Architectural Engineer ("AE") and NSSS supplier for the six (6) B&W 177 PWRs which have operated in the United States for the past several decades: Davis Besse, Oconee 1, 2, & 3, Three Mile Island Unit 1, and Arkansas Nuclear One, Unit 1. As the NSSS supplier and AE for the partially completed Bellefonte units located in Scottsboro, Alabama, Framatome will provide expert technical support for not only the design and construction completion, licensing, preoperational testing, and startup testing, but also for plant operation. Support from Framatome will be provided for development of Safety Analysis Reports ("SARs"), material and component specification review and approval, procurement of materials and equipment, Bellefonte staff training, site layout security provisions, and development of plant maintenance programs.

Framatome's areas of expertise include development, design, and licensing for nuclear steam supply systems and associated services; design and manufacture of heavy and mobile components for nuclear islands and remote service systems; design and manufacture of safety instrumentation and control and automation systems for nuclear power plants; development, design, licensing, enrichment, and fabrication

of fuel assemblies and reactor core components for commercial and research nuclear reactors; maintenance and engineering services for nuclear fleets; and supply and management of new nuclear build projects.

Framatome will assume the same role previously identified by the Tennessee Valley Authority in the Construction Permits resurrected in 2009 for the completion of Bellefonte. Framatome will apply its extensive nuclear NSSS and AE experience. In addition to being the lead for NSSS, Framatome will assist, as needed in the design completion, testing, and acceptance of plant and ancillary systems, including fire protection systems. Human Factors Engineering (“HFE”) will be included in Framatome’s scope for the NSSS and critical interfaces with the control room design, design of auxiliary shutdown controls and other key control systems.

Additionally, since Framatome has been a leader in assisting U.S. utilities in applying the risk insights and risk-informed evaluations associated with the implementation of 10 CFR 50.69, Framatome will bring risk-informed, probabilistic assessment expertise to the project. This will assist with appropriately developing risk insights, risk informed evaluations and decision making with regards to the remaining design and construction work, startup, preoperational testing and operation of structures, systems and components within the B&W 205 AE and NSSS scope of work.

Framatome has a 10 CFR Part 50 Appendix B Quality Assurance Program and ASME-code compliant quality assurance program along with the required resources available to immediately support nuclear quality safety related work. This includes a document control program that ensures retention and searchability to assure retrievability of licensing basis information and records of changes and closure of issues. ND will assure that Framatome program is consistent with the ND NQAP.

Attachment 3 provides further detail regarding the plans for completion of Bellefonte construction, including project management, construction completion, and project risk management plans. In particular, the Project Execution Plan provides an Executive Summary and Strategic Project Plan, which details the approach and organization that will be used to ensure successful management, oversight, and control of the total project. This also includes responses to question raised by the U.S. Department of Energy (“DOE”) regarding project execution. Appendix A and Appendix B in Attachment 3 provide Level 1 and Level 2 schedules. Appendix C is the “Bellefonte Completion Project Execution Plan,” which details the approach to completing the required engineering and construction work with quality and on schedule, and Appendix D is the “Bellefonte Completion Project Risk Management Plan,” which provides more detail as to how project risks will be identified, tracked and mitigated.

In addition to the significant resources and experience provided by SLN and Framatome, ND is partnering with other nuclear experts, including MPR Associates and Highbridge Associates, to bring in additional resources to support the project. In particular, these expert resources will provide key staffing and capability to the ND Project Oversight organization, ensuring effective project oversight of cost and schedule progress.

Today, the Bellefonte site exists in a Deferred Plant status under the current Construction Permits held by the Tennessee Valley Authority. A small team of contractors maintains the plant and assures it remains in compliance with NRC regulations. When the Construction Permits are transferred to ND, ND expects that many if not all of these same contractors will continue to maintain the site as its contractors. ND will establish a robust oversight organization as set forth the ND NQAP to support the initial Engineering Phase of the completion work. The site organization will grow, and personnel will be added throughout this time to be ready for the transition from Deferred Plant Status to Active Construction Status. The additional staff will also support NRC execution of inspections required to support NRC confidence in the site’s readiness for Active Construction.

The entire required ND site organization, including both the ND Project Oversight organization and contractor project organizations, will be fully staffed as indicated in the plans included in Attachment 3

and consistent with the ND NQAP, prior to commencement of safety related construction activities. This will allow a smooth transition of the project from initial engineering and completion planning to procurement and active construction. This approach leverages experience from recent nuclear plant construction projects in the U.S., and it ensures that significant construction resources are committed only after engineering plans and completion field work plans are field ready.

This comprehensive approach to completion planning and oversight as well as the engagement of experienced nuclear companies, SLN, Framatome and others, will ensure the project is managed effectively and completed with quality, in accordance with the ND NQAP, the construction permits and NRC requirements.

Part 3 — Financial Qualifications and Related Subjects Acceptance Review

In accordance with 10 CFR 50.80(c), a CP can be transferred if the Commission finds that the proposed transferee is qualified to be the holder of the license. The regulations in 10 CFR 50.80(b)(1) requires an application for a CP transfer to include as much information as required by 10 CFR 50.33 and 10 CFR 50.34 with respect to the identity and financial and technical qualifications of the proposed transferee as would be required by those sections if the application were for an initial license.

10 CFR 50.38, "Ineligibility of certain applicants," states that any person who is a citizen, national or agent of a foreign country, or any corporation, or other entity which the Commission knows or has reason to believe is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, shall be ineligible to apply for and obtain a license.

The staff conducted the acceptance review using guidance in LIC-109, LIC-107, "Procedures for Handling License Transfers," Revision 2, (ADAMS Accession No. ML17031A006), Draft Regulatory Guide DG-9004, "Financial Qualifications for Power Reactors and Non-Power Production or Utilization Facilities," (ADAMS Accession No. ML17278A541), and NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," Revision 2 (ADAMS Accession No. ML052340514). Specifically, the staff reviewed the subject of the applicant's financial qualifications necessary for the transfer of a CP, including information required to evaluate an entity's Foreign Ownership.

LIC-109 states, "NRR will consider an RLA [requested licensing action] to be acceptable for review upon the NRC staff's conclusion that the application reasonably appears to contain sufficient technical information, both in scope and depth, for the NRC staff to complete the detailed technical review and render, in an appropriate time frame for the associated action, an independent assessment of the proposed action with regard to applicable regulatory requirements and the protection of public health, safety, and security."

Financial Qualifications

In its review, the staff considered that ND, as a part of the application, indicated that since Bellefonte would be a non-rate-regulated plant (nonutility) it would "not have the benefit of traditional "cost of service" rate regulation." As such, ND has had "difficulty arranging for financing for construction prior to transfer of the construction permits." Therefore, pursuant to 10 CFR 50.12, ND has requested an exemption from the 10 CFR 50.33 financial qualifications requirements and has provided information to demonstrate it meets an alternative lower financial qualification standard of "appears to be financially qualified" as presented in 10 CFR Part 70, SECY-13-0124, "Policy Options for Merchant (Non-Electric Utility) Plant Financial Qualifications," (ADAMS Accession No. ML13057A006), and SECY-15-0123, "The Staff's Statement in Support of the Uncontested Hearing

for Issuance of Combined Licenses for the South Texas Project [STP], Units 3 and 4," (ADAMS Accession. No. ML15176A532).

Under the "appears to be financially qualified" standard, as presented in 10 CFR Part 70, applicants must submit an Applicant Financial Capacity Plan to demonstrate the applicant's level of understanding of the size and scope of the project, including the level of capital necessary to undertake the project, and the organizational and human resources, experience, skills, and expertise required to ultimately finance the project, when needed. Additionally, applicants must provide a construction cost estimate and propose a license condition(s) to address funding for construction to be satisfied before construction begins should it possess less than 50 percent of funds needed for the licensed activity.

In Attachment 1 to the application, Section 5, "Financial Qualifications," ND provided its Applicant Financial Capacity Plan, a construction cost estimate (Enclosure 4P to the application), and the necessary license condition. ND's Applicant Financial Capacity Plan included a description of the management team for financing and a description of anticipated funding methods and sources of funds. The plan as presented contains an example of the applicant's past experience in negotiating, securing, and managing capital for the large infrastructure Dulles Toll Road project. Based on staff's preliminary review of the application, it appears the applicant made a good faith effort to address the requirements specific to financial qualifications. Upon acceptance of the application, the staff notes that it may request that ND provide additional information regarding the applicant's experience with large infrastructure projects.

As it pertains to this licensing action, decommissioning funding assurance requirements do not apply to ND since this request is for transfer of a CP only.

ND acknowledged the requirements for financial protection in this application. As it pertains to this licensing action, transfer of a CP, insurance and indemnity are not required until such time as the CP holder (licensee) obtains a Part 50 operating license, including a general license under Part 70 license authorizing ownership, possession and storage of special nuclear material.

Foreign Ownership, Control, or Domination (FOCD)

As required by 10 CFR 50.33(d)(3), if the applicant is a corporation, or an unincorporated association, each application shall state: (1) the state where it is incorporated or organized and the principal location where it does business, (2) the names, addresses and citizenship of its directors and its principal officers, and, (3) whether it is owned, controlled, or dominated by an alien, a foreign corporation, or foreign government, and if so, give details. Under 10 CFR 50.38, if the applicant is owned, controlled, or dominated by an alien, a foreign corporation, or a foreign government, it shall be ineligible to apply for and obtain a license.

In its application, ND provided information, including the citizenship of its key management personnel and a statement of whether it is owned, controlled, or dominated by a foreign entity.

Based on staff's preliminary review of the application, it appears the applicant made a good faith effort to address the requirements related to foreign ownership, control, or domination.

Upon acceptance of the application, the staff may request additional information about FOCD to complete its review, for example, the staff may request the addresses of directors and principal officers.

Part 3 Response:

The NRC summary does not appear to indicate additional information is required at this time. ND is prepared to timely respond to any requests for additional information during the staff's review following acceptance.

Part 4— Other Regulatory Requirements Acceptance Review

The NRC staff notes that the CP transfer application was submitted solely by ND and not jointly with the current licensee, TVA. License transfer applications are typically submitted under oath and affirmation jointly by the current licensee and the transferee, or alternatively, by the transferee with a statement from the current licensee that it supports the application. The regulation in 10 CFR 50.80(b)(2), states in part, "The Commission may require any person who submits an application for license pursuant to the provisions of this section to file a written consent from the existing licensee or a certified copy of an order or judgment of a court of competent jurisdiction attesting to the person's right (subject to the licensing requirements of the Act and these regulations) to possession of the facility or site involved." Please provide information regarding ND's right to possess the Bellefonte site. This information should include written consent from the existing licensee (TVA) or a certified copy of an order or judgment of a court of competent jurisdiction attesting to ND's right to possession of the Bellefonte site as described in 10 CFR 50.80(b)(2).

Part 4 Response:

The Seller, TVA, failed to close on the transaction as required by the Purchase and Sale Agreement dated November 14, 2016. On November 30, 2018 (the scheduled closing date), ND initiated legal action in the United States District Court for the Northern District of Alabama (Case no. 5:18-CV-01983-LCB), asserting a claim for breach of contract and requesting the Court to order TVA to close the sales transaction as called for in the Agreement. On May 15, 2019, the Court rejected TVA's motion to dismiss ND's suit, and the parties are proceeding with discovery pursuant to the Court's scheduling order. The matter is ongoing, and the trial date is set for May 2020. ND expects ultimately to prevail on the merits.

ND recognizes that NRC may not grant consent to transfer the Construction Permits to it prior to demonstration of ND's right to possession of the site. However, consistent with NRC precedent, and because it expects ultimately to prevail, ND respectfully requests that the NRC accept the transfer application and proceed with the other portions of its review pending resolution of the case.