



1101 Market Street, Chattanooga, Tennessee 37402

CNL-21-077

August 31, 2021

10 CFR 50.55(b)

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

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

Subject: **Bellefonte Nuclear Plant, Units 1 and 2 - Status Update and Request for Extension of Unit 1 and Unit 2 Construction Permits (CPPR-122 and CPPR-123)**

- References:
1. Letter from NRC to TVA, "Bellefonte Nuclear Plant, Units 1 and 2 - Extension of Construction Permit Expiration Dates (CAC/EPID Nos. 000976/05000438/L-2020-LLA-0214 and 000976/05000439/L-2020-LLA-0214)," dated January 22, 2021 (ML20335A393)
 2. Letter from TVA to NRC, CNL-14-071, "Bellefonte Nuclear Plant (BLN) Unit 2 – Request for Extension of Construction Permit CPPR-123," dated June 10, 2014 (ML14168A489)
 3. Letter from TVA to NRC, CNL-17-051, "Bellefonte Nuclear Plant (BLN) Unit 2 – Status Update Regarding Construction Permit CPPR-123," dated March 31, 2017 (ML17090A388)
 4. Letter from TVA to NRC, CNL-20-072, "Bellefonte Nuclear Plant (BLN), Units 1 and 2 - Status Update and Request for Extension of Unit 1 Construction Permit CPPR-122," dated August 28, 2020 (ML20244A305)

In Reference 1, the U.S. Nuclear Regulatory Commission (NRC) extended the latest completion date for Construction Permit CPPR-122, Bellefonte Nuclear Plant (BLN), Unit 1 and Construction Permit CPPR-123, BLN Unit 2 to October 1, 2021 in response to

Tennessee Valley Authority (TVA) requests submitted in References 2, 3, and 4. The Bellefonte sale described in Reference 3 did not close in November 2018. The Purchase and Sales Agreement (“PSA”) prohibited the transaction from closing if there were “in effect at the Closing any law, statute, rule, regulation, permit certificate or binding order, decree or decision of any Governmental Authority (as defined [in the PSA]) restraining, enjoining or otherwise prohibiting, or making illegal the consummation of the transactions contemplated by this Agreement.” On November 30, 2018, the purchaser filed a breach of contract lawsuit against TVA in the Northern District of Alabama, *Nuclear Development, LLC v. Tenn. Valley Auth.*, Case No. 5:18-CV-01983-LCB (N.D. Ala.). On December 26, 2018, the parties entered into a stipulation pursuant to which TVA agreed among other things to satisfy the quality assurance and other requirements in accordance with the construction permits unless and until the construction permits are amended or terminated, and to provide advance written notice to the Court and to Nuclear Development, LLC (Nuclear Development) if TVA elected to request termination of the construction permits. On December 27, 2018, the Court adopted the terms of the parties’ stipulation, and entered it as an order.

The lawsuit between Nuclear Development and TVA was tried in Huntsville, Alabama from May 16 through May 19, 2021, before United States District Judge Burke sitting without a jury. Closing arguments were held in Huntsville on July 1, 2021. On August 26, 2021, the Court issued its decision and entered final judgment, concluding that TVA did not breach its obligations to Nuclear Development under the PSA, and therefore, Nuclear Development is not entitled to specific performance or to damages. The Court also denied Nuclear Development’s request for a preliminary injunction.

The plants remain in deferred status and there is no construction activity. TVA continues to preserve and maintain BLN Units 1 and 2. Because the Court’s decision and final judgment does not specifically address the December 26, 2018 stipulation and corresponding Order, the continuing effect of the stipulation, if any, is not clear and is unlikely to be resolved before the deadline to seek extension for the Unit 1 and 2 completion dates. Accordingly, TVA requests the NRC extend the latest completion date for CPPR-122 (BLN Unit 1) and CPPR-123 (BLN Unit 2) until October 1, 2022. The extension for BLN Units 1 and 2 is needed to allow additional time for TVA to obtain clarification regarding the continued effectiveness of the December 26, 2018 stipulation. As required by NRC regulations, TVA will continue to comply with the terms and conditions of Construction Permits CPPR-122 and CPPR-123 to ensure that public health and safety is protected.

For the foregoing reasons, TVA submits in accordance with 10 CFR 50.55(b) that good cause exists for the extension of Construction Permits CPPR-122 and CPPR-123 and that the extension is for a reasonable period of time.

There are no new regulatory commitments associated with this submittal. Please address any questions regarding this request to James Chardos, Site Manager, Bellefonte Project, at 256-574-8228.

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I declare under penalty of perjury that the foregoing is true and correct. Executed on the 31st day of August 2021.

Respectfully,

A handwritten signature in black ink, appearing to read "James Barstow". The signature is written in a cursive style with a prominent initial "J".

James Barstow
Vice President, Nuclear Regulatory Affair & Support Services

cc:

NRR Director - NRC Headquarters
NRC Project Manager - Bellefonte Project Manager
NRC Regional Administrator - Region II
Nuclear Development, LLC