

January 2, 2004

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
BEFORE THE SECRETARY

In the Matter of

Docket No. 52-008

Dominion Nuclear North Anna, LLC

(Early Site Permit for North Anna ESP Site)

**HEARING REQUEST AND PETITION TO INTERVENE BY
BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE,
NUCLEAR INFORMATION AND RESOURCE SERVICE,
AND PUBLIC CITIZEN**

Pursuant to 10 C.F.R. § 2.714 and a notice published by the Nuclear Regulatory Commission (“NRC” or “Commission”) at 68 Fed. Reg. 67,489 (December 2, 2003), Petitioners Blue Ridge Environmental Defense League (“BREDL”), Nuclear Information and Resource Service (“NIRS”) and Public Citizen, hereby request a hearing and petitions to intervene in the above-captioned proceeding. As demonstrated below, Petitioners have representational standing, through their members, to make this hearing request.¹

Description of Proceeding

This proceeding concerns an application by Dominion Nuclear North Anna, L.L.C. (“Dominion”) for an Early Site Permit for construction of two new nuclear power plants on the site of the North Anna nuclear power plant. Dominion filed its application with the NRC on September 23, 2003. The NRC published a notice of opportunity to request a hearing on December 2, 2003, at 68 Fed Reg. 67,489. If granted, the Early Site

¹ Petitioners have agreed that if they are admitted to the proceeding as intervenors, BREDL will serve as the lead intervenor.

Permit would permit Dominion to bank or reserve the North Anna site as a potential location for one or two new nuclear reactors.

Description of Petitioners

BREDL is a regional, community-based non-profit environmental organization whose founding principles are earth stewardship, environmental democracy, social justice, and community empowerment. BREDL encourages government agencies and citizens to take responsibility for conserving and protecting our natural resources. BREDL advocates grassroots involvement to empower whole communities in environmental issues. BREDL also functions as a “watchdog” of the environment, monitoring issues and holding government officials accountable for their actions.

NIRS is a non-profit corporation with over 6000 members, many of whom live in the Southeastern part of the United States. NIRS has a mission to promote a non-nuclear energy policy, and a concern for the health and safety of the people and ecosphere that includes the Virginia Piedmont and the surrounding region.

Public Citizen is a national, nonprofit consumer advocacy organization with 126,537 members nationwide, including 3,082 members in Virginia. Public Citizen’s mission is to protect openness and democratic accountability in government and the health, safety, and financial interests of consumers. Public Citizen advocates for policies that will lead to safe, affordable and environmentally sustainable energy.

Standing

As required by the NRC’s Federal Register notice and 10 C.F.R. § 2.714, a hearing request must:

set forth with particularity the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, including the reasons

why the petitioner should be permitted to intervene with particular reference to the factors set forth in 10 CFR 2.714(d)(1), and the specific aspect or aspects of the subject matter of the proceeding as to which the petitioner wishes to intervene.

In addition, the hearing request must address 1) the nature of the petitioner's right under the Atomic Energy Act to be made a party to the proceeding, 2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding, and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest. *Id.*

Other standing requirements are found in NRC case law. As summarized by the Atomic Safety and Licensing Board ("ASLB") in a recent decision, these standing requirements are as follows:

In determining whether a petitioner has sufficient interest to intervene in a proceeding, the Commission has traditionally applied judicial concepts of standing. *See Metropolitan Edison Co.* (Three Mile Island Nuclear station, Unit 1), CLI-83-25, 18 NRC 327, 332 (1983) (citing *Portland General Electric Co.* (Pebble Springs Nuclear Plant, Units 1 and 2), CLI-76-27, 4 NRC 610 (1976)). Contemporaneous judicial standards for standing require a petitioner to demonstrate that (1) it has suffered or will suffer a distinct and palpable harm that constitutes injury-in-fact within the zone of interests arguably protected by the governing statutes (e.g., the Atomic Energy Act of 1954 (AEA), the National Environmental Policy Act of 1969 (NEPA)); (2) the injury can be fairly traced to the challenged action; and (3) the injury is likely to be redressed by a favorable decision. *See Carolina Power & Light Co.* (Shearon Harris Nuclear Power Plants), LBP-99-25, 50 NRC 25, 29 (1999). An organization that wishes to intervene in a proceeding may do so either in its own right by demonstrating harm to its organizational interests, or in a representational capacity by demonstrating harm to its members. *See Hydro Resources, Inc.* (2929 Coors Road, Suite 101, Albuquerque, NM 87120), LBP-98-9, 47 NRC 261, 271 (1998). To intervene in a representational capacity, an organization must show not only that at least one of its members would fulfill the standing requirements, but also that he or she has authorized the organization to represent his or her interests. *See Private Fuel Storage, L.L.C.* (Independent Fuel Storage Installation), LBP-98-7, 47 NRC 142, 168, *aff'd on other grounds*, CLI-98-13, 48 NRC 26 (1998).

Pacific Gas & Electric Co. (Diablo Canyon Power Plant Independent Spent Fuel Storage Installation), LBP-02-23, 56 NRC 413, 426 (2002) (hereinafter "*Diablo Canyon*").

Petitioners' standing to participate in this proceeding is demonstrated by the declarations of the following members of Petitioner organizations, who have authorized Petitioners to represent their interests in this proceeding.

Kathryn Margaret Adamson, NIRS member (Attachment 1);
Paxus Calta, NIRS member (Attachment 2);
Marione M. Cobb, BREDL member (Attachment 3);
Jason Cuzzepe, NIRS member (Attachment 4);
Donal Day, Public Citizen member (Attachment 5);
John Steven Fawley, NIRS member (Attachment 6);
Samuel Shore Forrest, BREDL member (Attachment 7);
Benjamin James Grondhal, NIRS member (Attachment 8);
Marcello Aurelio Lanfranchi, BREDL and NIRS member (Attachment 9);
Amy Martin, NIRS member (Attachment 10);
Nikolena Moysich, NIRS member (Attachment 11);
Chris Prime, NIRS member (Attachment 12);
Jerry S. Rosenthal, BREDL member (Attachment 13);
Shana Smulyan, NIRS member (Attachment 14);
Kelly Tassinari, NIRS member (Attachment 15);
Thomas Wasmund, Public Citizen member (Attachment 16)
Hillary Anne Tinapple, NIRS member (Attachment 17).

As demonstrated by the attached declarations, Petitioners' members live near the proposed site, i.e., within 50 miles. Thus, they have presumptive standing by virtue of their proximity to the two new nuclear plants that may be constructed on the site. *Diablo Canyon, supra*, 56 NRC at 426-427, citing *Florida Power & Light Co.* (Turkey Point Nuclear Generating Plant, Units 3 and 4), LBP-01-6, 53 NRC 138, 146, *aff'd*, CLI-01-17, 54 NRC 3 (2001) (hereinafter "*Florida Power & Light*").²

Petitioners' members seek to protect their lives and health by opposing the issuance of an Early Site Permit to Dominion. The issuance of an Early Site Permit to

² In *Diablo Canyon*, the Licensing Board noted that petitioners who live within 50 miles of a proposed nuclear power plant are presumed to have standing in reactor construction permit and operating license cases, because there is an "obvious potential for offsite consequences" within that distance. *Id.* Here, the granting of an Early Site Permit to Dominion would facilitate the granting of a construction permit and operating license for one or two new reactors on the North Anna site. Thus, the same standing concepts apply.

Dominion could have an adverse effect on these individuals' interests in protecting their health and safety, by paving the way for an unsafe nuclear operation. Petitioners seek to ensure that no Early Site Permit is issued by the U.S. Nuclear Regulatory Commission ("NRC" or "Commission") unless Dominion demonstrates full compliance with the Atomic Energy Act and the National Environmental Policy Act ("NEPA").

Specific Aspects of the Subject Matter As To Which Petitioners Seek to Intervene

As required by the Federal Register notice, Petitioners set forth below the specific aspects of the subject matter of this proceeding as to which they wish to intervene:

1. Whether enough information is available regarding reactor designs for the proposed site to permit sound judgments about environmental impacts of the proposed construction and operation of new reactors on the site. *See* Final Rule: Early Site Permits; Standard Design Certification; and Combined Licenses for Nuclear Power Reactors, 54 Fed. Reg. 15,372, Section II.2 (April 18, 1989).
2. Whether there is a reasonable basis for information provided by the applicant regarding projected emissions, site impacts, safety factors, and exact operational parameters. *Id.*
3. Whether the applicant's Environmental Report contains a sufficient discussion of the purpose and need for the proposed action; the proposed action's environmental impacts; and the relative costs and benefits of a reasonable range of alternatives for avoiding or mitigating those impacts, including obviously superior alternatives sites.

4. Whether the applicant's Environmental Report contains a sufficient discussion of cumulative impacts, including the combined impacts of the operation of the two new proposed reactors and the existing North Anna nuclear reactors.

5. Whether the applicant's Environmental Report contains an adequate site redress plan.

6. Whether, considering the final balance of conflicting factors regarding the environmental impacts of the proposed action, as well as reasonable alternatives, the appropriate action would be to deny the Early Site Permit;

7. Whether issuance of an Early Site Permit would be inimical to the common defense and security or the health and safety of the public.

8. Whether, taking into consideration the site criteria contained in 10 C.F.R. Part 100, a reactor, or reactors, having characteristics that fall within the parameters for the site, can be constructed and operated without posing undue risk to the health and safety of the public.

Petitioners' concerns under paragraphs 7 and 8 include, but are not limited to, the adequacy of descriptive information supplied by Dominion pursuant to 10 C.F.R. § 52.17, the adequacy of security for the site, the adequacy of emergency planning measures, and whether the application correctly addresses the NRC's siting criteria in 10 C.F.R. Part 100.

Conclusion

For the foregoing reasons, Petitioners have demonstrated their standing to request a hearing on the propose issuance of an Early Site Permit to Dominion. Pending

submission of at least one admissible contention, Petitioners should be admitted as intervenors.

Respectfully submitted,

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