

Blue Ridge Environmental Defense League

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July 13, 2012

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RE: Letter to the Atomic Safety and Licensing Board Panel regarding Dominion-Virginia Power North Anna Unit 3, Docket No. 52-017-COL

Dear Judges of the Atomic Safety and Licensing Board:

I write regarding the Blue Ridge Environmental Defense League's contention submitted September 22, 2011¹ and currently subject to the Board's order holding it in abeyance.² As you know, our concurrence was based on the need for a thorough analysis of the August 23, 2011 Mineral Virginia earthquake.

Presently, counsel for Dominion Virginia Power has asked that the Board continue to hold our September 22 contention in abeyance pending the ongoing review of the earthquake, not expected to be complete before May 2013. Also, Dominion proposes that BREDL be granted 30 days following Dominion's notice of its completion of the Seismic Closure Plan to amend our earthquake contention and request reopening of the record. We have a different view and propose an alternative.

The nature of the investigations now underway are detailed and complex. Evidence the new EPRI seismic source characterization model for the central and eastern United States (NUREG-2115), the recent Mitsubishi Heavy Industries Final Closure Plan for the US-APWR Seismic and Structural Analyses, and Dominion's expected revision of the FSAR on vibratory ground motion.³ Pursuant to 10 CFR §52.47, the modified North Anna license application for Unit 3 must contain a final safety analysis report that presents an analysis of the structures, systems, and

¹ Request to Admit Intervenor's New Contention (22 September 2011)

² ASLBP Order Granting Consent Motion to Hold BREDL's New Contention in Abeyance (20 October 2011)

³ Letter from David Lewis, Counsel for Dominion to Administrative Judges of the ASLB (19 June 2012)

components and of the facility as a whole. This includes an assessment of site itself. Therefore, a longer period than 30 days is requested for BREDL to amend its contention. We suggest 60 days.

Further, the North Anna Unit 3 license proceeding continues to evolve. The change in reactor design basis was a change initiated by the applicant. The earthquakes of 2011 were of course not initiated by the applicant, but nevertheless introduced unique characteristics in this license proceeding not clearly addressed in the regulations or in the jurisprudence. There is an outstanding request before the Board regarding the waste confidence rule precipitated by a recent order by US Circuit Court of Appeals. Although it is a separate matter, it may obviate discussion of reopening the record. Nevertheless, we believe the Board was correct in its assessment to keep the record open and, although reversed, that events have borne out the wisdom in this view. Of course, we continue to oppose the closure of the record here because reopening is viewed by the Commission as an extraordinary action and therefore places a heavy burden on the intervener. In our view, BREDL's proposed September 22 contention has been unfairly whipsawed by the countermanding order of the Commission.⁴

Further, we suggest that a new supplement to the environmental impact statement should be required by the Board in this matter. According to the Council on Environmental Quality, "If an agency has made a substantial change in a proposed action that is relevant to environmental concerns, or if there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts, a supplemental EIS must be prepared for an old EIS so that the agency has the best possible information to make any necessary substantive changes in its decisions regarding the proposal. Section 1502.9(c)." Indeed, if substantial changes actually result from the ongoing reviews and modifications as outlined by Dominion on June 19th, an SEIS would seem to be a minimum requirement.

Finally, the lessons of Fukushima are still coming to light. The most trenchant of these come from the chairman of Japan's Nuclear Accident Independent Investigation Commission.⁵ According to the commission's review, misguided self-interest was the principal cause of the catastrophe:

This conceit was reinforced by the collective mindset of Japanese bureaucracy, by which the first duty of any individual bureaucrat is to defend the interests of his organization. Carried to an extreme, this led bureaucrats to put organizational interests ahead of their paramount duty to protect public safety.

Only by grasping this mindset can one understand how Japan's nuclear industry managed to avoid absorbing the critical lessons learned from Three Mile Island and Chernobyl; and how it became accepted practice to resist regulatory pressure and cover

⁴ CLI-12-14 (7 June 2012)

⁵ The National Diet of Japan Fukushima Nuclear Accident Independent Investigation Commission, Kiyoshi Kurokawa, Chairman (9 June 2012) Executive Summary

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up small-scale accidents. It was this mindset that led to the disaster at the Fukushima Daiichi Nuclear Plant.

The fundamental problems of building nuclear reactors in the Central Virginia Seismic Zone are such that additional reviews and probability calculations cannot merely reestablish the status quo ante. The lesson of Fukushima is there is an inherent danger in protecting a regulatory agencyô circling the wagonsô instead of acting upon the critical lessons provided by past disasters.

Although triggered by these cataclysmic events, the subsequent accident at the Fukushima Daiichi Nuclear Power Plant cannot be regarded as a natural disaster. It was a profoundly manmade disaster ó that could and should have been foreseen and prevented. And its effects could have been mitigated by a more effective human response. How could such an accident occur in Japan, a nation that takes such great pride in its global reputation for excellence in engineering and technology? This Commission believes the Japanese people ó and the global community ó deserve a full, honest and transparent answer to this question.

The people of Virginia and indeed the nation deserve no less.

Respectfully,

A handwritten signature in black ink that reads "Louis A. Zeller". The signature is written in a cursive style and is followed by a horizontal line.

Louis A. Zeller
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