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DOCKETED
USNRC

November 3, 2004

November 3, 2004 (3:40pm)

Chairman Nils J. Diaz
Commissioner Edward McGaffigan, Jr.
Commissioner Jeffrey S. Merrifield
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

Docket No. 52-008-ESP

Re: Request for postponement of the release of the DEIS for North Anna ESP

Dear Commissioners:

On behalf of Public Citizen, the Nuclear Information and Resource Service (NIRS), and the Blue Ridge Environmental Defense League (BREDL), I am writing to request that you exercise your supervisory authority over the Staff of the U.S. Nuclear Regulatory Commission ("NRC") to order the suspension of the release of the Draft Environmental Impact Statement (DEIS) for the proposed Early Site Permit for the site of the North Anna nuclear power plant, until 30 days after the ADAMS system is restored for public access. The Draft EIS is now scheduled for release on November 12, 2004.

As you know, the NRC has closed its ADAMS document system to the public for an indefinite period. The closing of ADAMS makes it virtually impossible for anyone to obtain a copy of the North Anna Early Site Permit DEIS or to comment on this document. Moreover, supporting documents and other documents that may be relevant to the DEIS are not available either.

As you may be aware, Public Citizen, NIRS, and BREDL have been admitted as intervenors in the ESP case for the North Anna site. The Atomic Safety and Licensing Board ("ASLB") has admitted two of their environmental contentions. While one of the contentions is the subject of settlement negotiations, the parties are in discovery on the other contention.

The process of commenting on the DEIS is one of the principal ways that our clients seek to ensure that the NRC Staff's ESP review for the North Anna site fully complies with all of the requirements of the National Environmental Policy Act ("NEPA") for protection of the environment. Our clients also seek to ensure that their individual constituents and other members of the public who seek to advocate environmental protection of the North Anna site through the commenting process receive a meaningful opportunity to do so. Releasing the DEIS

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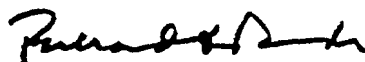
with a limited public comment period, during a time when the relevant documents are not available to the public, would make a mockery of the entire concept of public participation.

Therefore, we request that you order that the release of the North Anna Early Site Permit DEIS be postponed until 30 days following publication of a notice in the Federal Register that the North Anna Early Site Permit DEIS and all other documents related to the Early Site Permit are again available for public access. A thirty-day period will allow our clients and other members of the public some time to review relevant documents posted on ADAMS before formulating their comments. In the alternative, should the NRC Staff feel compelled to release the DEIS on or about November 12, 2004 as planned, we request that the public comment period be extended until 90 days after ADAMS is restored.

Finally, we should inform you that we are also filing a motion with the Atomic Safety and Licensing Board requesting the suspension of the ESP proceeding for North Anna until 30 days after ADAMS is restored.

Thank you for your consideration of our request.

Sincerely,



Richard A. Parrish
Southern Environmental Law Center



Diane Curran
Harmon, Curran, Spielberg & Eisenberg, L.L.P.

Counsel to Public Citizen, NIRS, and BREDL