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October 30, 1984

FILE NO. V-8-50-20-55-1

DIRECT DIAL NO. 804 788- 8372

Sheldon J. Wolfe, Chairman
Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

In the Matter of
Virginia Electric and Power Company
(North Anna Power Station, Units 1 and 2)
Docket Nos. 50-338 OLA-1, 50-339 OLA-1

Dear Judge Wolfe:

This letter is the parties' response to paragraph 3 of the Board's Order dated October 15, 1984, which was served on the parties on October 16, 1984.

1. Counsel for the parties have conferred by telephone on several occasions since October 16, 1984, with respect to schedules for discovery and for the possible filing of Motions for Summary Disposition.

2. The Board, in its Order of October 25, 1983, required that discovery be completed "within 60 days after a Board order admits any contentions which had not been agreed upon previously by counsel." The parties shall therefore proceed on the assumption that discovery with respect to CCLC's Consolidated Contention 1 should be completed by December 15, 1984, subject to the conditions set out in the Board's October 25 Order with respect to extensions of time.

3. Contention 4, of course, has not yet been ruled on. The Board has issued a Protective Order, and Mr. Dougherty has now submitted to the Board an Affidavit of Nondisclosure. The Applicant will make the physical protection system available for Mr. Dougherty's review in Bethesda on November 2. CCLC will advise the Board by mail on November 5, 1984, whether it wishes to withdraw its Contention 4 or pursue the matter further. If CCLC wishes to pursue the matter further, counsel

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will confer in an effort to establish a schedule for dealing with Contention 4 and report to the Board on the results of our efforts.

4. Counsel for the parties believe that the question of the applicability of Table S-4 should not be deferred any longer than necessary. If we postpone the resolution of that issue until after discovery, we may find that a good deal of the discovery (involving, for example, the risks and consequences of accidents), as well as preparation for hearing, may have been wasted. Applicant, moreover, believes there are no material issues of fact that need be resolved before the applicability of Table S-4 can be resolved. CCLC, however, remains concerned about the possibility that Applicant may ship fuel from Surry that has a burnup in excess of 33,000 MWD/MTU. Counsel for the Applicant and for CCLC will attempt to resolve CCLC's concerns on this score as quickly as possible. If that can be done, then the parties would be in a position to (a) join in a Motion for Summary Disposition on the issue of the applicability of Table S-4 and (b) agree that the Motion poses no genuine issue of material fact. If agreement can be reached on the burnup issue, we believe such a Motion could be filed no later than November 21, 1984, and possibly a good deal sooner. Unless the Board would prefer rebriefing on the applicability of Table S-4 and advises the parties to that effect, the parties would plan to submit the issue on the basis of the briefs already submitted.

5. No party can determine at this time whether it will wish to file a Motion for Summary Disposition on any other issue posed by Consolidated Contention 1. That decision must await the completion of discovery. Accordingly the parties recommend that the Board establish January 5, 1985, as the date for filing any further Motions for Summary Disposition with respect to issues posed by Consolidated Contention 1.

Very truly yours,

Michael W. Maupin

Michael W. Maupin

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cc: Dr. Jerry Kline
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Atomic Safety and Licensing Appeal Board
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