

March 6, 2009

MEMORANDUM TO: William F. Burton, Branch Chief
Rulemaking and Guidance Development Branch
Division of New Reactor Licensing
Office of New Reactors

FROM: Eric R. Oesterle, Senior Policy Analyst */RA/*
Rulemaking and Guidance Development Branch
Division of New Reactor Licensing
Office of New Reactors

SUBJECT: SUMMARY OF FEBRUARY 24, 2009, PUBLIC MEETING WITH
INDUSTRY'S NEW PLANT WORKING GROUP ON COMBINED
LICENSE APPLICATIONS

On February 24, 2009, the U.S. Nuclear Regulatory Commission (NRC) staff held a public meeting at the Nuclear Energy Institute (NEI) Office in Washington, D.C., with the industry's New Plant Working Group (NPWG) on Combined License Applications (COLAs). The purpose of the meeting was to discuss issues confronting the industry and the NRC regarding the licensing of new reactors. The associated meeting notice is available through the NRC's Agencywide Documents Access and Management System (ADAMS) at Accession Number ML090400447. The following provides a brief summary of the meeting.

Summary

Mr. David B. Matthews, Director of the Division of New Reactor Licensing (DNRL), provided introductory comments for the meeting and noted that the NRC was prepared to address the following topics and respond to industry questions and concerns raised during these discussions and any additional industry topics that may have been raised during internal industry discussions of the NPWG:

1. Current status and schedules for new reactor application reviews
2. Transition from 6-phase to 4-phase reviews for combined licenses (COLs)
3. Status/progress from the Office of New Reactors (NRO) Directors Issue Resolution Process
4. Aircraft Impact Rule status and next steps
5. Risk Metrics
6. Security Plan reviews
7. Federal Emergency Management Agency (FEMA) review status and progress update

CONTACT: Eric R. Oesterle, NRO/DNRL
301-415-1365

Discussion Topics:

Current status and schedules for new reactor application reviews (D. Matthews)

Mr. David B. Matthews, Director of DNRL, announced the recent issuance of updated NRC review schedules for the South Texas Project (STP), Units 3 and 4, COLA (Docket Nos. 52-012 and 52-013) and the GE-Hitachi Nuclear Energy (GEH) Economic Simplified Boiling Water Reactor (ESBWR) design certification (DC) application (Docket No. 52-010). The schedule for STP Units 3 and 4 was updated to include resumption of NRC review in full of the STP COLA which had been partially suspended in 2008 pending resolution of STP vendor support issues. The updated STP review schedule may be found at ADAMS accession number ML083650198. The updated ESBWR review schedule was based on the current schedule for remaining GEH deliverables and the number and scope of remaining open items. The updated ESBWR review schedule may be found at ADAMS accession number ML090420291.

Mr. Matthews provided an update on budget issues currently facing the NRC. He indicated that NRC is concurrently executing the fiscal year (FY) 2009 budget, which has been held to the FY 2008 ceiling due to the Continuing Resolution, defending the FY 2010 budget request to Congress, and developing the FY 2011 budget. Mr. Matthews indicated that the NRC recently issued Regulatory Issues Summary (RIS) 2009-03 which requests that applicants and potential applicants voluntarily submit information to the NRC on their future plans for submittal of new reactor licensing applications or permits, amendments, topical reports, application revisions, construction activities, operator training, and pre-construction activities including construction plans and schedules for fabrication of modules and large components submittals. The information submitted in response to RIS 2009-03 will assist the NRC in assessing staffing and resource allocations for FY 2011 budget development purposes. Additional information on RIS 2009-03 may be found at ADAMS accession number ML083260416. Mr. Matthews reiterated his assertion from the previous NPWG meeting held on December 2, 2008 (see ADAMS accession number ML083450673) that if the budget is not passed by the end of March 2009 that there will be an impact on new reactor application efforts. Mr. Matthews added that looking forward to 2012, 2013, and 2014 that the NRC will be challenged to provide funding for new reactor licensing activities and construction and vendor inspection activities. Mr. Glenn M. Tracy, Director of the Division of Construction Inspection and Operational Programs (DCIP), added that schedule and training facility issues for operator training on new reactors also impacts NRC examiners for new reactor operations staff and, in addition, to operations staff on existing operating plants.

Transition from 6-phase to 4-phase COL reviews (S. Coffin)

Ms. Stephanie M. Coffin, Acting Deputy Director for Licensing Operations in DNRL, summarized the NRC plan for transitioning to a 4-phase COL review from the original 6-phase review. This transition will be limited to the COLs accepted for review by the NRC subsequent to the reference COLs that provide the initial reference to certified designs or designs undergoing certification review. The 4-phase review combines the first two phases of the 6-phase review and streamlines Advisory Committee on Reactor Safeguards (ACRS) review of the NRC staff safety evaluation report (SER) by eliminating ACRS review of the SER with open items.

Ms. Coffin indicated that the staff is currently working to revise application review schedules to the 4-phase review plan and prompted applicants that they should be prepared to support limited ACRS review activities at the mid-point of the COLA review. In response to a question from NEI, Mr. Matthews indicated that the main goal for the transition was to realize staff resource efficiencies and added that the NRC is anticipating potential longer term schedule efficiencies in going to the 4-phase review.

Aircraft impact rule status and next steps (D. Matthews)

The final rule on consideration of aircraft impacts for new nuclear power reactors was transmitted to the Commission for affirmation in SECY-08-0152. The Commission voted to affirm the aircraft impact assessment rule with comments and issued their Staff Requirements Memo (SRM) (SRM-SECY-08-0152) on February 17, 2009. Mr. Matthews summarized the applicability of this new rule indicating the no COLs would be issued until necessary changes to comply with the new rule have been addressed in the COLAs and reviewed by the NRC. Mr. Matthews also indicated that the Commission specified in the SRM that the staff expedite the processing of the new rulemaking to provide it to the Commission by June 2, 2009.

NRO Directors issue resolution process (NDIRP) status and progress (T. Bergman)

Mr. Matthews indicated that the issue resolution process was initially discussed at the NPWG meeting held on December 2, 2008 (see ADAMS accession number ML083450673), and the logistics for implementation were coordinated by Mr. Russell J. Bell (NEI) and Mr. Thomas A. Bergman, Deputy Director for Licensing Operations in DNRL. As such, the points of communication of industry issues and their resolution through this process are Mr. Bell and the Deputy Director for Licensing Operations in DNRL. Mr. Matthews pointed out that future issues should be communicated to Ms. Coffin who is the Acting Deputy Director for Licensing Operations in DNRL since Mr. Bergman is now the Director for the Division of Engineering.

Mr. Bergman provided an update on the status and progress of issues dispositioned through this process. Three issues have been worked and resolved through this process to date: applicability of General Design Criteria (GDCs) 2, 4, and 5 to offsite electrical power systems; seismic Category II design requirements for the ESBWR radwaste building, and; seismic Category II design requirements for the turbine building, service building, and ancillary diesel building for the ESBWR design. Mr. Bergman offered his assessment that the use of this process for the latter two issues was probably premature and that these issues should have been allowed to run their full course of normal interaction through the technical branch. In response to NPWG questions about the process for communicating and documenting issue resolutions, Mr. Bergman responded that resolutions for the latter two seismic issues will be included in future interim staff guidance or standard review plan updates. Mr. Bergman also indicated that an email response was provided to industry regarding resolution of the GDC applicability issue. The NPWG requested that the NRC consider providing more formalized responses to document and communicate issue resolution through the NDIRP process. Email responses were considered by both Mr. Bergman and Mr. Matthews to be the preferable method to ensure efficiency for this process and confirmed that these emails are entered into ADAMS and are official agency records; however, they indicated that the NRC will consider more formal

mechanisms to communicate and document issue resolutions. The NPWG also asked whether or not an appeals process existed in the event that industry did not agree with the issue resolution provided by the Office of New Reactors (NRO) through this process. Mr. Matthews stated there is no appeals process and that the NRO resolution is the NRC position.

Risk metrics (C. Ader)

Mr. Charles E. Ader, Director of the Division of Safety System & Risk Assessment, provided a brief summary of the "White Paper on Options for Risk Metrics for New Reactors" that was prepared by the NRC staff and provided to the Commission (see ADAMS accession number ML090160008). A public meeting was held on February 18, 2009, to discuss the white paper on risk metrics with the public and industry stakeholders (see ADAMS accession number ML090570356 for a summary of this meeting). Mr. Ader indicated that the public meeting was an opportunity for early interaction and dialogue with stakeholders on a range of issues associated with this proposal and noted that to help facilitate discussions the staff, at this time, had not recommended any of the options presented in the paper. Mr. Ader mentioned that one topic of discussion was whether or not to apply a risk-informed amendment process for combined licensees (or specific COLs). An ACRS information briefing on the white paper is scheduled for April 2009. Mr. Ader suggested that NEI may want to provide comments on the paper or offer an alternative white paper. NEI members offered the following two comments at this meeting: (1) although there is a workable definition for large release frequency with respect to certified designs there is not one for the operation of these new reactors, and (2) the white paper did not discuss the risk-informed vs. risk-based decision making process. In addition, NEI indicated that they would be generating their own white paper on risk metrics for consideration.

Security plan reviews (D. Huyck)

Mr. Doug G. Huyck, Chief of the Reactor Security Rulemaking and Licensing Branch, provided an update on the status of security reviews for COLAs and the on-going work on guidance documents, SER templates for security reviews, and specific work on guidance for security hardware inspection, test, analysis, and acceptance criteria (ITAAC). Mr. Huyck indicated that staff is currently reviewing about 4 or 5 security plans for COLs and performing security reviews for DC applications. He mentioned that the new Part 73 security rule had recently been determined by the Office of Management and Budget to be a "major rule" which allows the potential for Congressional review and thus an additional 30-days for comment. Mr. Huyck shared that the NRC is not anticipating additional review of the new rule and recommended that, although the guidance for implementing the new rule (i.e., NEI-03-12) cannot be finalized until the rule is effective, the COL applicants should begin using this guidance now for updating/developing their security plans since there is alignment on this proposed industry guidance. Mr. Huyck added that staff review of the proposed guidance for cyber security (i.e., NEI-08-09) has just begun. Mr. Huyck concluded his remarks by commending the work of the staff and industry on the New Plant Security Task Force and characterized it as a success, good work, and progress.

In response to a question about the firmness of the April 1, 2009, schedule for COL applicant submittal of their security plans, Mr. Huyck responded that this was not a firm date and was only

an estimate that was developed in 2008 for when security personnel would become available to review these plans after prioritizing their efforts on completing the new §73.55 rule. Mr. Huyck continued by recommending that COL applicants begin using NEI-03-12 now and to arrange face-to-face meetings to coordinate with the applicable project managers in DNRL, along with the security reviewers, and develop COL application-specific schedules for security reviews. Mr. Huyck clarified that the *Federal Register* notice for the new rule was expected to be issued no later than March 31, 2009. In addition, he noted that a meeting will be scheduled for March 2009 to discuss proposed guidance (DG-5014) on physical security plan implementation for receipt of new fuel on site. In response to a question on security hardware ITAAC and the associated NEI letter on security hardware ITAAC (see ADAMS accession number ML090070545), Mr. Huyck responded that the NRC plans to respond to that NEI letter by the end of March 2009. Also, in response to a question regarding the interactions with Federal Energy Regulatory Commission on NRC oversight for implementation of cyber security at nuclear electric generation facilities, Mr. Huyck agreed to take an action to respond as a follow-up to this meeting.

FEMA review status and progress update (C. Miller)

Mr. Chris G. Miller, Deputy Director for Emergency Preparedness, provided an update on the status and progress of FEMA reviews of offsite emergency preparedness plans. Mr. Miller indicated that many improvements have been made at FEMA and that FEMA issuance of their "Standard Operating Procedure and Guidelines for the New Reactor Combined License Application" represented significant progress. Mr. Miller assured the meeting that NRC continues to work closely with FEMA, that a meeting with FEMA was scheduled for the following day, and that there would be a public meeting with FEMA in March 2009. Mr. Miller addressed questions regarding the reasonable assurance findings provided by FEMA for issuance of a COL and for fuel load. Mr. Miller stated that FEMA provides an interim reasonable assurance finding on the emergency plans provided with the COLA for issuance of the license and, following issuance of the license, FEMA provides reasonable assurance findings based on the plans and exercises performed. Discussions focused on a license condition limiting power to 5% unless satisfactory performance of offsite emergency exercises has been demonstrated and witnessed by FEMA and whether or not this could be removed from the acceptance criteria of ITAAC and just made a license condition. In addition, there was focus on the 2-year timeframe prior to fuel load during which offsite exercises could be performed and whether a delay in fuel load could cause the licensee to reperform offsite exercises. Mr. Miller, along with Mr. Matthews and Mr. Tracy, indicated that regardless of the fact that the licensees do not perform the offsite emergency exercises they are nevertheless bound to and have a vested interest in their successful completion and that removing this acceptance criteria from ITAAC to a license condition is ill-advised.

Industry identified issues

Members of the NPWG inquired about the latest NRC thinking on the construction assessment process for new reactors and whether it will be similar to the current reactor oversight process. Mr. Tracy indicated that the DCIP staff is refining their approach/thoughts on this process and that he had not yet been briefed; however, he expected issues on this proposed process to be

W. Burton

-6-

thoroughly discussed at the next public meeting and that a conceptual Commission paper would be developed by the end of April 2009 in which the industry could insert their opinions and comments. Mr. Tracy expected this paper to be sent to the Commission by August 2009.

Lastly, Mr. Matthews reminded everyone of the New Reactors sessions at the upcoming NRC Regulatory Information Conference being held from March 10 - 12, 2009, and highlighted a session on DC renewals. Mr. Matthews indicated that the NRC has received public expressions of interest for updating/renewing the ABWR DC from two separate parties.

Enclosure:
As stated

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OFFICE	PA:NRO/DNRL/NRGA	LA:NRO/DNRL/NRGA	BC:NRO/DNRL/NRGA
NAME	EOesterle	RRobinson	WBurton
DATE	03/04/2009	03/04/2009	03/-06-/2009

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**PUBLIC MEETING WITH INDUSTRY'S NEW PLANT WORKING
GROUP ON COMBINED LICENSE APPLICATIONS**

February 24, 2009

Attendance List

Name	Organization
Doug Huyck	NRC
Mark McBurnett	STPNOC
Steve Byrne	SCANA
Joe Turnage	UniStar
Kenneth Hughey	Entergy
Patricia Campbell	GE-Hitachi
Ken Ainger	Exelon
Bryan Dolan	Duke
David Lewis	PSEG
Bill McConaghy	Toshiba/TANE
Robert Schrauder	Toshiba/TANE
Jean-Pierre Berger	EDF
William "Butch" Burton	NRC
David Solorio	NRC
Anne Cottingham	NEI
Doug Walters	NEI
Russell Bell	NEI
Charles Pierce	SNC
Steve Frantz	Morgan Lewis
Ron May	DTE Energy
Stephanie Coffin	NRC
Dave Harwood	DTE Energy
James Fisicaro	NEI
Tony Pietrangelo	NEI
Frank Gillespie	Mitsubishi (MNES)
Glenn Tracy	NRC
David B. Matthews	NRC
Tom Bergman	NRC
Chris Miller	NRC
Charles Ader	NRC
Eric Oesterle	NRC
Marilyn Kray	Exelon
Jack Heyer	IBEW
Jack Bailey	TVA
Ed Cummins	Westinghouse
Ed Hubner	Shaw Group
Tom Mulford	EPRI
Tony Llorens	SCE
Brian McIntyre	AREVA

Deann Raleigh	Curtiss-Wright
Marv Smith	Dominion
Jeannie Rinckel	NEI
Jenny Weil	Platts
Rebecca Cooper	Nuclear New Build Monitor
Biff Bradley	NEI
Rich Laura	NRC
Tim Beville	DOE
Tim Durkin	Energetics Inc.
Deborah Jackson	NRC
Tom Miller	DOE-NE
Kimberly A. Keithline	NEI

DCWG - Combined (All)

(Revised 02/24/2009)

cc:

Mr. Glenn H. Archinoff
AECL Technologies
481 North Frederick Avenue
Suite 405
Gaithersburg, MD 20877

Director
Division of Compliance & Inspection
Bureau of Radiation Control
Texas Department of State Health Services
1100 West 49th Street
Austin, TX 78756-3189

Mr. Ray Aycock
Field Supervisor
U.S. Fish and Wildlife Service
Mississippi Ecological Services Office
6578 Dogwood View Parkway
Jackson, MS 39213

Mr. Eugene S. Grecheck
Vice President
Nuclear Support Services
Dominion Energy, Inc.
5000 Dominion Blvd.
Glen Allen, VA 23060

Mr. Richard L. Baker
Bechtel Power Corporation
5275 Westview Drive
Frederick, MD 21703-8306

Mr. Jay M. Gutierrez
Morgan, Lewis & Bockius, LLP
111 Pennsylvania Avenue, NW
Washington, DC 20004

Scott Bond
Callaway Plant
P.O. Box 620
Fulton, MO 65251

Ms. Sophie Gutner
P.O. Box 4646
Glen Allen, VA 23058

Ms. Michele Boyd
Legislative Director
Energy Program
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Brian Hastings
Public Utility Commission
William B. Travis Building
P.O. Box 13326
1701 Noth Congress Avenue
Austin, TX 78701-3326

Ms. Cindy Brizes
U.S. Department of Energy
P.O. Box A
Aiken, SC 29802

Mr. Tim E. Herrmann
Vice President, Nuclear Engineering
AmerenUE
P.O. Box 620
Fulton, MO 65251

Mr. Barton Z. Cowan, Esquire
Eckert Seamans Cherin & Mellott, LLC
600 Grant Street, 44th Floor
Pittsburgh, PA 15219

Mr. Ronald Kinney
South Carolina DHEC
2600 Bull Street
Columbia, SC 29201

DCWG - Combined (All)

Dr. Regis A. Matzie
Senior Vice President and
Chief Technology Officer
Westinghouse Electric Company
20 International Drive
Windsor, CT 06095

Mr. Norris McDonald
President
AAEA
9903 Caltor Lane
Ft. Washington, MD 20744

Dr. Masanori Onozuka
Mitsubishi Nuclear Energy Systems, Inc.
2300 Wilson Blvd.
Suite 300
Arlington, VA 22201-5426

Dr. C. Keith Paulson
Mitsubishi Nuclear Energy Systems, Inc.
300 Oxford Drive, Suite 301
Monroeville, PA 15146

PBMR Pty. Limited
Lake Buena Vista Building
1267 Gordon Hood Avenue
PO Box 9396
Centurion 0046
Republic of South Africa

Charles Peterson
Pillsbury, Winthrop, Shaw & Pittman, LLP
2300 "N" Street, NW
Washington, DC 20037

Mr. Ernest Reed
Living Education Center
for Ecology and the Arts
P.O. Box 2612
Charlottesville, VA 22902

Mr. Tom Sliva
7207 IBM Drive
Charlotte, NC 28262

Mr. David W. Sutherland
Chesapeake Bay Field Office
U.S. Fish and Wildlife Service
177 Admiral Cochrane Drive
Annapolis, MD 21401

Mr. Robert E. Sweeney
IBEX ESI
4641 Montgomery Avenue
Suite 350
Bethesda, MD 20814

Mr. Ed Wallace
General Manager - Projects
PBMR Pty LTD
P. O. Box 9396
Centurion 0046
Republic of South Africa

Mr. Gary Wright, Director
Division of Nuclear Facility Safety
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

DCWG - Combined (All)

Email

alsterdis@tva.gov (Andrea Sterdis)
amonroe@scana.com (Amy Monroe)
APAGLIA@Scana.com (Al Paglia)
APH@NEI.org (Adrian Heymer)
awc@nei.org (Anne W. Cottingham)
barbara.lee-murphy@constellation.com (Barbara Lee-Murphy)
barbara.perdue@unistarnuclear.com (Barbara Perdue)
bevans@enercon.com (Bob Evans)
Bill.Moore@luminant.com (Bill Moore)
bob.brown@ge.com (Robert E. Brown)
BrinkmCB@westinghouse.com (Charles Brinkman)
brock.degeyter@energyfutureholdings.com (Brock Degeyter)
Carellmd@westinghouse.com (Mario D. Carelli)
carey.fleming@constellation.com (Carey Fleming)
chris.maslak@ge.com (Chris Maslak)
ck_paulson@mnes-us.com (Keith Paulson)
ckpaulson@aol.com (C.K. Paulson)
CumminWE@Westinghouse.com (Edward W. Cummins)
cwaltman@roe.com (C. Waltman)
dan1.williamson@ge.com (Dan Williamson)
david.hinds@ge.com (David Hinds)
david.lewis@pillsburylaw.com (David Lewis)
DeLaBarreR@state.gov (R. DeLaBarre)
DJW@NEI.org (Doug Walters)
dlochbaum@UCSUSA.org (David Lochbaum)
don.lewis@ge.com (Don Lewis)
dwoodla1@luminant.com (Donald Woodlan)
ecullington@earthlink.net (E. Cullington)
eddie.grant@excelservices.com (Eddie Grant)
erg-xl@cox.net (Eddie R. Grant)
frank_quinn@comcast.net (Frank Quinn)
Fred.Madden@luminant.com (Fred Madden)
garry.miller@pgnmail.com (Garry D. Miller)
gcesare@enercon.com (Guy Cesare)
gedgar@morganlewis.com (George Edgar)
george.honma@ge.com (George Honma)
george.wadkins@ge.com (George Wadkins)
GovePA@BV.com (Patrick Gove)
greshaja@westinghouse.com (James Gresham)
gwcurtis2@tva.gov (G. W. Curtis)
gzinke@entergy.com (George Alan Zinke)
hickste@earthlink.net (Thomas Hicks)
ian.c.rickard@us.westinghouse.com (Ian C. Richard)
james.beard@gene.ge.com (James Beard)

DCWG - Combined (All)

JCaldwell@luminant.com (Jan Caldwell)
Jean.Amundson@luminant.com (Jean Amundson)
jeff.simmons@energyfutureholdings.com (Jeff Simmons)
jgutierrez@morganlewis.com (Jay M. Gutierrez)
jim.riccio@wdc.greenpeace.org (James Riccio)
jim@ncwarn.org (Jim Warren)
jin_chung@mnes-us.com
JJNesrsta@cpsenergy.com (James J. Nesrsta)
joel.Friday@ge.com (Joel Friday)
John.Conly@luminant.com (John Conly)
John.O'Neill@pillsburylaw.com (John O'Neill)
john.sorensen@ge.com (John Sorensen)
Joseph_Hegner@dom.com (Joseph Hegner)
joseph_tapia@mnes-us.com (Joseph Tapia)
junichi_uchiyama@mnes-us.com (Junichi Uchiyama)
karen@seedcoalition.org (Karen Hadden)
kcrogers@aol.com (K. C. Rogers)
KSutton@morganlewis.com (Kathryn M. Sutton)
kwaugh@impact-net.org (Kenneth O. Waugh)
lchandler@morganlewis.com (Lawrence J. Chandler)
lois@ieer.org (Lois Chalmers)
lou.lanese@ge.com (Lou Lanese)
Marc.Brooks@dhs.gov (Marc Brooks)
maria.webb@pillsburylaw.com (Maria Webb)
marilyn.kray@exeloncorp.com
mark.beaumont@wsms.com (Mark Beaumont)
Marvin.Smith@dom.com (Marvin L. Smith)
masanori_onozuka@mnes-us.com (Masanori Onozuka)
masayuki_kambara@mhi.co.jp (Masayuki Kambara)
matias.travieso-diaz@pillsburylaw.com (Matias Travieso-Diaz)
maurerbf@westinghouse.com (Brad Maurer)
mbowling@numarkassoc.com (Marty Bowling)
media@nei.org (Scott Peterson)
mgiles@entergy.com (M. Giles)
mike.blevins@luminant.com (Mike Blevins)
mike_moran@fpl.com (Mike Moran)
mlucas3@luminant.com (Mitch Lucas)
MSF@nei.org (Marvin Fertel)
mwetterhahn@winston.com (M. Wetterhahn)
nirsnet@nirs.org (Michael Mariotte)
pareez.golub@ge.com (Pareez Golub)
patriciaL.campbell@ge.com (Patricia L. Campbell)
paul.gaukler@pillsburylaw.com (Paul Gaukler)
Paul@beyondnuclear.org (Paul Gunter)
peter.jordan@ge.com (Peter Jordan)

DCWG - Combined (All)

pshastings@duke-energy.com (Peter Hastings)
rbird1@luminant.com (Bobby Bird)
rclary@scana.com (Ronald Clary)
REB@NEI.org (Biff Bradley)
Rebecca.Smith-Kevern@nuclear.energy.gov (Rebecca Smith-Kevern)
RJB@NEI.org (Russell Bell)
RKTemple@cpsenergy.com (R.K. Temple)
robert.kitchen@pgnmail.com (Robert H. Kitchen)
sandra.sloan@areva.com (Sandra Sloan)
SauerB@BV.com (Robert C. Sauer)
sfrantz@morganlewis.com (Stephen P. Frantz)
shinji_kawanago@mnes-us.com (Shinji Kawanago)
sid.kere@dom.com (Sid Kere)
steven.hucik@ge.com (Steven Hucik)
tgilder1@luminant.com (Tim Gilder)
tkkibler@scana.com (Tria Kibler)
tom.miller@nuclear.energy.gov (Thomas P. Miller)
tomccall@southernco.com (Tom McCallum)
trsmith@winston.com (Tyson Smith)
Vanessa.quinn@dhs.gov (Vanessa Quinn)
VictorB@bv.com (Bill Victor)
vijukrp@westinghouse.com (Ronald P. Vijuk)
Wanda.K.Marshall@dom.com (Wanda K. Marshall)
wayne.marquino@ge.com (Wayne Marquino)
whorin@winston.com (W. Horin)