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Editor:

Your Sept. 25 article, "Nuclear Utilities Redefine One Word to Bulldoze for New Plants," contained information on the Nuclear Regulatory Commission's Limited Work Authorization (LWA) Rule (10 CFR 50.10) that is somewhat misleading and, in some respects, inaccurate. As the primary NRC attorney responsible for the LWA Rule, I am writing to provide you with accurate information.

Your article stated that I "warned that agency objectivity might be vulnerable to a court challenge should the NRC consider an application after a site was partially developed," and goes on to quote my discussion of this potential objection at a Nov. 1, 2006, public meeting on the proposed LWA Rule. What the article failed to mention is that both the proposed and final rule contained three provisions explicitly intended to minimize this potential objection.

First, the LWA Rule states and makes clear that LWA activity is undertaken at the sole risk of the applicant, that the issuance of the LWA has no bearing on the NRC's decision whether the NRC will issue a license authorizing full construction, and that the NRC's environmental impact statement for the license application will not consider the "sunk costs" already expended by the applicant under the LWA.

Second, the rule requires the LWA applicant to submit as part of its application a plan for redressing any environmental impacts associated with LWA activities if the NRC does not ultimately issue the license authorizing full construction.

Finally, the rule requires the applicant to carry out the redress plan if the NRC denies the license application. Thus, contrary to the implication left by your article, I did not believe then--and do not believe now--that a valid legal objection could be raised with respect to the NRC's proposed redefinition of construction.

Most importantly, NRC conducted the rulemaking consistent with applicable legal requirements, and undertook extra effort to ensure that the rulemaking was conducted in an open manner with outreach to all stakeholders. In addition to publishing the proposed rule for public comment in the *Federal Register* and on the NRC's Web site, the NRC also sent e-mail notices to external stakeholders for the publication of the proposed rule. The Union of Concerned Scientists, Public Citizen, Greenpeace, and Nuclear Information and Research Service were among the organizations notified by e-mail.

Furthermore, as acknowledged in the article, the NRC staff conducted a public meeting on the proposed LWA rule to assist external stakeholders in understanding the proposed rule, and to answer questions. Notice of this meeting was placed on the NRC Web site, and mailed to the groups identified above. Michele Boyd, Public Citizen, who was quoted in your article, attended this public meeting and asked several questions to which I responded. Comments on the proposed LWA rule were received from, among others, NIRS and Public Citizen. The NRC also held a public meeting on the draft final LWA Rule before it ultimately adopted the final LWA Rule. In light of these rulemaking activities, the article's implication that the NRC tried to sneak this rule past public stakeholders likely to oppose the LWA rule has no basis in fact.

The use of nuclear power for energy production has been, and will likely continue to be a subject of honest debate among the citizenry. However, informed consideration of nuclear power will occur only if there is accurate information. Your article did nothing to foster that informed consideration and debate.

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