

June 11, 2008

Ms. Margaret E. Gaffney-Smith  
Chief, Regulatory Branch  
Department of the Army  
Baltimore District  
U.S. Army Corps of Engineers  
P.O. Box 1715  
Baltimore, MD 21203-1715

SUBJECT: REQUEST TO COOPERATE WITH NUCLEAR REGULATORY COMMISSION  
ON ENVIRONMENTAL IMPACT STATEMENT FOR CALVERT CLIFFS  
NUCLEAR POWER PLANT, UNIT 3

Dear Ms. Gaffney-Smith:

This letter responds to your letter to Mr. Michael Lesar, Chief of the Rules and Directives Branch for the U.S. Nuclear Regulatory Commission (NRC) dated April 11, 2008. Your letter requested that the U.S. Army Corps of Engineers (Corps) be designated as a cooperating agency for the Environmental Impact Statement (EIS) related to the application for a Combined License for Calvert Cliffs Nuclear Power Plant, Unit 3. Because of your regulatory role regarding the jurisdictional waters of the United States and the pendency of the permit request before your agency at the same time as the combined license application before the NRC, we agree to include the Corps to as a cooperating agency on this project with the NRC as the lead agency if the Corps wishes to proceed on the same schedule as the NRC application review schedule. We note, however, that UniStar Nuclear Energy, LLC (UniStar), the applicant for the Calvert Cliffs Unit 3 Combined License, by letter dated May 30, 2008, requested the Corps to conduct its own NEPA review of the preconstruction activities (not licensed by the NRC) for which UniStar seeks a Corps permit.

On November 8, 2007, changes to the NRC's regulations became final that redefined the term *construction* for nuclear power plants. Under these rule changes, an NRC license is necessary only for those construction activities that are under the purview of our legislative authority. The new definition of *construction* is explained in 10 CFR 51.4; that regulation also defines activities that are not *construction*. Many of the activities that may require a permit from the Corps are no longer part of the definition of *construction*, such as dredging, site grading, excavation, and installation of transmission line towers in jurisdictional wetlands. Therefore, these activities would not require authorization by NRC and, accordingly, they would not be addressed as direct impacts of the proposed action in the NRC's EIS. The NRC would only evaluate the environmental impact of these activities, now referred to as preconstruction in 10 CFR 51.45(c), as cumulative impacts associated with the environmental impacts of the construction activities. However, due to the needs of the Corps for its permitting process and the participation by the Corps as a cooperating agency, we understand that the environmental impact of some of these preconstruction activities may have to be addressed in more detail.

If the Corps decides to participate as a cooperating agency, we anticipate that the Corps will give this effort the necessary level of resources and priority to ensure that the EIS can be published on the schedule that the NRC has established.

The NRC's environmental project manager for the Calvert Cliffs application is Mr. Thomas Fredrichs (301-415-5971Thomas.Fredrichs@nrc.gov); he will be the principal NRC point of contact for interactions with the Corps on this project. Ms. Kathy Anderson of your staff attended the environmental site audit conducted by the NRC review team during the week of March 17 and has been in contact with Mr. Fredrichs since the audit.

Sincerely,

**/RA/**

Nilesh Chokshi, Acting Division Director  
Division of Site and Environmental Review  
Office of New Reactors

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