

April 1, 2003

Dr. Ronald L. Simard
Nuclear Energy Institute (NEI)
1776 I Street, NW, Suite 400
Washington, DC 20006-3708

SUBJECT: RESOLUTION OF EARLY SITE PERMIT TOPIC 10 (ESP-10), USE OF LICENSE RENEWAL GENERIC ENVIRONMENTAL IMPACT STATEMENT (NUREG-1437) FOR EARLY SITE PERMITS

Dear Dr. Simard:

This letter confirms our understandings and expectations regarding the use of information contained in NUREG-1437, "Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants," for the purpose of preparing early site permits (ESP) issued under Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, Subpart A. This topic, which is identified as ESP-10 on the list of Nuclear Energy Institute (NEI) generic ESP issues, was discussed during public meetings on January 10, July 16 and September 25, 2002 (Meeting Summary - ADAMS Accession Nos. ML020390320, ML021830280, and ML022900341 respectively). Subsequently, NEI documented its position on this topic in a letter dated February 6, 2003.

The Nuclear Regulatory Commission (NRC) has assessed the environmental impacts associated with granting a renewed operating license for a nuclear power plant to a licensee that holds either an operating license or construction permit as of June 1995. The GEIS is not directly applicable to any licensing action other than license renewal, but may be used just as any other technical resource, such as those that may be considered under ESP-20, "Practical use of existing site/facility information".

The GEIS identified 92 environmental issues and reached generic conclusions related to environmental impacts during the renewal term for 69 of these issues (known as Category 1 issues) that apply to all light-water-reactor (LWR) plants or to LWR plants with specific design or site characteristics. As discussed during the public meetings on this issue, the staff emphasized that there is a different technical basis and regulatory structure necessary for the evaluation of environmental impacts for ESP purposes. Therefore, all of the relevant environmental issues addressed in the GEIS will require detailed review as described in the Draft ESP Review Standard, which references NUREG-1555, "Environmental Standard Review Plan."

The NRC staff offers the following observations and clarifications to NEI's February 6, 2003, letter.

1. The NRC staff agrees with Item 1 of the subject NEI letter.
2. The NRC staff agrees with the text of the first sentence of Item 2 of the subject NEI letter in that "NRC regulations and the National Environmental Policy Act (NEPA) focus on significant issues and direct the NRC to determine the significance of impacts to public health and safety and the environment..."

However, the process suggested in Items 2, 3 and 4, and the concluding remarks of your letter implies that the ESP applicant can adopt the conclusions of the GEIS in its application without detailed knowledge of the design and operational characteristics of a facility that may be built on the proposed site. The GEIS documents the staff's evaluation of the environmental impacts of LWR reactors of known design, locations, and operating experiences. The analysis results documented in the GEIS may not be representative of the environmental impacts of a facility that could be built on the site proposed in an ESP application. Therefore, although the environmental impacts of the construction and operation of a nuclear facility located on the proposed site may be similar to those identified in the GEIS, it is incumbent on the ESP applicant to justify its conclusions regarding these impacts.

The NRC staff does believe that there may be useful insights in the GEIS that an ESP applicant can consider for its purposes in developing its environmental report, but, as stated above, the burden for justifying relevance and demonstrating completeness rests entirely with the applicant. In addition, the NRC retains the prerogative to utilize well-established NEPA techniques, such as tiering, cooperation and adoption, where the NRC believes that it is appropriate.

Please contact Ronaldo Jenkins, the ESP Senior Project Manager, at 301-415-2985 if you have any questions on this matter.

Sincerely,

/RA/

James E. Lyons, Director
New Reactor Licensing Project Office
Office of Nuclear Reactor Regulation

Project No. 689

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*See previous concurrence

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