

January 9, 2003

Mr. Daniel R. Griffith
State Historic Preservation Officer
Division of Historical and Cultural Affairs
15 The Green
Dover, Delaware 19901-3611

Dear Mr. Griffith:

This letter responds to your correspondence of September 9, 2002, in which you disagreed with the NRC staff position that the Delaware portion of the Peach Bottom-to-Keeney transmission line corridor is outside the Area of Potential Effects (APE) for the proposed renewal of the operating licenses for the Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3.

The NRC staff has considered your views and has determined that the Delaware portion of the Peach Bottom-to-Keeney transmission corridor is outside of the APE. Notwithstanding any representations made by NRC applicants, the Agency official (the Director, Office of Nuclear Reactor Regulation) has determined that the APE for a license renewal action is the area at the power plant site and its immediate environs which may be impacted by post-license renewal land disturbing operation or projected refurbishment activities associated with the proposed action. The APE may extend beyond the immediate environs in those instances where post-license renewal land disturbing operations or projected refurbishment activities specifically related to license renewal of the nuclear power plant potentially have an effect on known or proposed historic sites. This determination is made irrespective of ownership or control of the lands of interest.

For the proposed PBAPS license renewal, the licensee has stated, and our review has shown, that there will be no major structural modifications, that maintenance activities will be confined to previously disturbed areas, and that there will be no additional land disturbance. Further, the NRC staff has determined that the decision to approve or deny the requested license renewals would not affect maintenance practices or land disturbances beyond the substations at the PBAPS site where the generating units are connected to the distribution system. Therefore, the APE for the proposed PBAPS license renewal is the plant site, which is wholly within the Commonwealth of Pennsylvania. The PBAPS APE does not extend into Maryland or Delaware. In its letter of December 14, 2000, the Pennsylvania Historical and Museum Commission, Bureau for Historic Preservation (the State Historic Preservation Office), determined that National Register-listed, eligible, historic, and archeological resources are present in the general vicinity of the PBAPS site, and stated an opinion that the proposed license renewal will not affect any of those resources. The NRC staff agreed with this determination and opinion. Therefore, consultation was not required.

In response to your interest in the degraded portion of the feeder canal, where it crosses the transmission line corridor in Delaware, the NRC staff included this site in its review of environmental resources of interest as the staff prepared its environmental impact statement (EIS) to comply with the National Environmental Policy Act (NEPA). The NRC staff review included a visit to the canal during the staff's PBAPS site audit in November 2001. The staff

D. Griffith

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disclosed its NEPA findings in its Draft Supplemental Environmental Impact Statement (SEIS) issued for public comment on July 5, 2002.

The NRC staff has determined that, even if the APE were to be extended through Maryland to the Delaware portion of the Keeney transmission line corridor, the proposed renewal of the PBAPS operating licenses would have no effect on the feeder canal where it crosses the Peach Bottom-to-Keeney transmission line corridor. In light of your expressed interest in this matter, we are providing, by separate correspondence, a copy of your September 9, 2002, letter, along with a copy of this reply, to the owner/operator of the Delaware portion of the Keeney transmission line corridor (who is not an NRC licensee) to ensure it is aware of your concerns (Conectiv Power Delivery, Newark, DE).

Additional information regarding the NRC staff review of your interest is enclosed. The staff will include a discussion of this matter in the Final SEIS scheduled for publication in February 2003. No further action is considered necessary. If there are any questions regarding this correspondence, please contact me at (301) 415-1444.

Sincerely,

/RA/

Louis L. Wheeler, Senior Project Manager

Environmental Section

License Renewal and Environmental Impacts Program

Division of Regulatory Improvement Programs

Office of Nuclear Reactor Regulation

Enclosure: Additional Responses to DE SHPO Correspondence

cc w/encl: See next page

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Sincerely,

/RA/

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Division of Regulatory Improvement Programs
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Enclosure: Additional Responses to DE SHPO Correspondence

cc w/encl: See next page

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OFFICIAL RECORD COPY

As the Agency official, I agree.

/RA/

Samuel J. Collins, Director
NRR

Responses to comments in correspondence received from the Delaware State Historical Preservation Office (DE SHPO) regarding the feeder canal:

Comment: The Atomic Energy Commission might not have met National Historic Preservation Act Section 106 responsibilities when it made its early 1970s decisions to grant operating licenses for Units 2 and 3 at Peach Bottom.

Response: The NRC staff carefully reviewed the records and found that the Atomic Energy Commission (AEC) met the compliance standard for historic preservation consideration when the AEC made its decisions to issue the initial operating licenses for Peach Bottom Atomic Power Station, Units 2 and 3 (PBAPS).

The original regulations, implementing Section 106 of the Act (36 CFR 800), were promulgated in 1979, five years after the NRC granted the original licenses for operation of Units 2 and 3 at Peach Bottom Atomic Power Station. The Advisory Council on Historic Preservation had no prescribed regulatory process for Federal agencies to demonstrate compliance with National Historic Preservation Act Section 106 responsibilities until 1979.

As required by Section 106, in 1972 the AEC provided information on the proposed action for PBAPS, including information on historic and archeological resources and determinations, to the Advisory Council on Historic Preservation with a request for comment. There is no record to indicate that the Advisory Council on Historic Preservation objected to the AEC's determinations.

The feeder canal, now identified as a historic property by the DE SHPO, was documented in September 1974, after the AEC issued the operating licenses. The Nuclear Regulatory Commission (NRC) was not aware of the feeder canal until informed by the DE SHPO's office in 2001.

Comment: The proposed license renewal is a Federal undertaking with the potential to affect historic properties.

Response: The NRC staff agrees.

Comment: The feeder canal is a historic resource that meets standards for listing on the National Register of Historic Places.

Response: Without taking a position in agreement or disagreement with the DE SHPO, the NRC staff considered the canal as though it were a historic resource potentially eligible for listing on the National Register for the limited purpose of addressing the DE SHPO's interests.

Comment: Operation of the PBAPS under the current license has caused adverse effects on the feeder canal at the transmission line crossing.

Response: Operation and maintenance of the Peach Bottom-to-Keeney transmission line was not the cause of past adverse effects on the feeder canal at the transmission line crossing. The utility corridor at the intersection with the feeder canal is approximately 400-feet wide; it is the same width as it was in 1968, well before the Peach Bottom line was added to the corridor.

Three other overhead transmission line easements, and at least one underground utility easement share the corridor at the crossing. An NRC decision to either approve or deny the license renewal applications for PBAPS would not alter maintenance practices along the Delaware portion of the Peach Bottom-to-Keeney transmission line; maintenance would continue the same with or without the use of an easement on the corridor for the Peach Bottom-to-Keeney transmission line. The licensee does not own the land at the corridor crossing of the feeder canal nor does it have maintenance responsibility for the corridor at the crossing. The corridor is clear of trees, but is grass and brush covered, and has been in a similar condition since before the Peach Bottom-to-Keeney transmission line was constructed. A gravel-surfaced utility road meanders through the corridor and crosses the remnant trench for the feeder canal underneath the Peach Bottom line, but is not exclusively for maintenance of the Peach Bottom-to-Keeney transmission line. The access road that crosses the feeder canal replaced previous fords in the area of the corridor dating back to as early as 1937.

The old feeder canal alignment remains a visible and well-defined feature along much of its original route through present-day woodlands. It displays less definition and more in-filling as it passes under the transmission corridor. The changes under the transmission corridor are cumulative effects from a range of human and natural activities that extend back in time to a period well before the addition of the Peach Bottom-to-Keeney transmission line to the utility corridor.

NRC team review of aerial photographs indicates the feeder canal remained relatively intact until after 1968. At that time, and before 1977, small noticeable changes began to occur and continue today. First, a utility road crossed the feeder canal at a new place in the transmission corridor and below the present-day Peach Bottom-to-Keeney transmission line. Second, a series of cumulative changes began then, and continue to the present. These include gradual loss of vegetation along the alignment of the canal and a progressive loss of sharpness in the features of the canal as viewed from the air.

Comment: The NRC staff should consider three specific actions to take into account the effects of the undertaking to grant the license renewals for PBAPS.

Response: The DE SHPO requests fall into two categories: (1) an action suggested with the intent to correct the perceived negative result of past operations, and (2) specific actions to prevent future deterioration of the feeder canal. The NRC staff forwarded the recommendations to the applicant in correspondence dated November 26, 2001, even though the recommended actions have no direct bearing on the undertaking.

For the license renewal period, the applicant indicated that it plans (1) no major structural modifications, (2) to limit maintenance activities to previously disturbed areas, and (3) no additional land disturbance. Consistent with the NRC's "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (NUREG-1437), under such conditions, the NRC staff believes continued operation of PBAPS would have no effect on any known or on potential unknown or undiscovered historic or archaeological resources located in areas of potential effect.

As part of its consideration of the DE SHPO correspondence, the NRC staff completed a supplementary analysis based on a scenario which postulated the inclusion of the Delaware

portion of the Peach Bottom-to-Keeney transmission line corridor in the National Historic Preservation Act Area of Potential Effect. In that supplemental analysis, the NRC staff applied the criteria of adverse effect pursuant to 36 CFR § 800.5(a)(1) and found that the proposed undertaking to extend the PBAPS licenses would not alter the characteristics of the potentially historic property known as the Chesapeake and Delaware feeder canal. This conclusion followed consideration of DE SHPO views concerning such effects and incorporated analyses of past, present, and potential future conditions.

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Units 2 and 3

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Units 2 and 3

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Peach Bottom Atomic Power Station,
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