

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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Distribution:

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NRLPO Rd. RJenkins MGamberoni JLyons

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*See previous concurrence

OFC	PM:NRLPO*	DD:NRLPO*	RLEP:SC*	OGC/NLO	D:NRLPO	
NAME	RJenkins	MGamberoni	JTappert	AFernandez	JLyons	
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cc:

Mr. David Lochbaum
Union of Concerned Scientists
1707 H Street, NW
Suite 600
Washington, DC 20006-3919

Mr. Paul Gunter
Director of the Reactor Watchdog Project
Nuclear Information & Resource Service
1424 16th Street, NW, Suite 404
Washington, DC 20036

Mr. Ron Simard
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Mr. Russell Bell
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Mr. Thomas P. Miller
U.S. Department of Energy
Headquarters - Germantown
19901 Germantown Road
Germantown, MD 20874-1290

Mr. James Riccio
Greenpeace
702 H Street, NW, Suite 300
Washington, DC 20001

Rod Krich
Vice President, Licensing Projects
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

Patricia Campbell
Winston & Strawn
1400 L Street, NW
Washington, DC 20005

Mr. Eddie Grant
Exelon Generation
200 Exelon Way, KSA3-E
Kennett Square, PA 19348

Mr. James F. Mallay, Director
Regulatory Affairs
FRAMATOME, ANP
3315 Old Forest Road
Lynchburg, VA 24501

Mr. Ernie H. Kennedy
Vice President New Plants
Nuclear Plant Projects
Westinghouse Electric Company
2000 Day Hill Road
Windsor, CT 06095-0500

Dr. Regis A. Matzie
Senior Vice President and
Chief Technology Officer
Westinghouse Electric Company
2000 Day Hill Road
Windsor, CT 06095-0500

Mr. Gary Wright, Manager
Office of Nuclear Facility Safety
Illinois Department of Nuclear Safety
1035 Outer Park Drive
Springfield, IL 62704

Mr. Vince Langman
Licensing Manager
Atomic Energy of Canada Limited
2251 Speakman Drive
Mississauga, Ontario
Canada L5K 1B2

Mr. David Ritter
Research Associate on Nuclear Energy
Public Citizens Critical Mass Energy
and Environmental Program
215 Pennsylvania Avenue, SE
Washington, DC 20003

Mr. Tom Clements
6703 Guide Avenue
Takoma Park, MD 20912

Mr. Edwin Lyman
Nuclear Control Institute
1000 Connecticut Avenue, NW
Suite 410
Washington, DC 20036

Mr. Jack W. Roe
SCIENTECH, INC.
910 Clopper Road
Gaithersburg, MD 20878

Dr. Gail H. Marcus
U.S. Department of Energy
Room 5A-143
1000 Independence Ave., SW
Washington, DC 20585

Ms. Marilyn Kray
Vice President, Special Projects
Exelon Generation
200 Exelon Way, KSA3-E
Kennett Square, PA 19348

Mr. Joseph D. Hegner
Lead Engineer - Licensing
Dominion Generation
Early Site Permitting Project
5000 Dominion Boulevard
Glen Allen, VA 23060

Mr. George Alan Zinke
Project Manager
Nuclear Business Development
Entergy Nuclear
M-ECH-683
1340 Echelon Parkway
Jackson, MS 39213

Mr. Charles Brinkman
Westinghouse Electric Co.
Washington Operations
12300 Twinbrook Pkwy., Suite 330
Rockville, MD 20852

Mr. Ralph Beedle
Senior Vice President
and Chief Nuclear Officer
Nuclear Energy Institute
Suite 400
1776 I Street, NW
Washington, DC 20006-3708

Dr. Glenn R. George
PA Consulting Group
130 Potter Street
Haddonfield, NJ 08033

Arthur R. Woods
Enercon Services, Inc.
500 TownPark Lane
Kennesaw, GA 30144

Mr. Thomas Mundy
Director, Project Development
Exelon Generation
200 Exelon Way, KSA3-E
Kennett Square, PA 19348