

December 30, 2003

The Honorable Lawrence F. Snake, President
Delaware Tribe of Western Oklahoma
Post Office Box 825
Anadardo, OK 73005

SUBJECT: EARLY SITE PERMIT (ESP) REVIEW FOR THE CLINTON ESP SITE

Dear President Snake:

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application for an ESP to set aside a site for the potential future construction of one or more new nuclear power plants. The application was submitted by Exelon Generation Company, LLC (Exelon), on September 25, 2003, pursuant to NRC requirements at Title 10 of the *Code of Federal Regulations* Part 52 (10 CFR Part 52). If built, the new unit(s) would be co-located with the existing Clinton Power Station (CPS) site near the town of Clinton in DeWitt County, Illinois. Exelon has also included a site redress plan in its application in accordance with 10 CFR 52.17(c) and 52.25. If a site redress plan is incorporated in an ESP approved by the NRC, the applicant may carry out certain site preparation and limited construction activities. Exelon would still be required to obtain the appropriate local, State, and other Federal permits required for these activities before starting work.

As part of its review of the application, the NRC staff will prepare an environmental impact statement (EIS) under the provisions of 10 CFR Part 51, the NRC rules that implement the National Environmental Policy Act of 1969 (NEPA). The NRC environmental review process includes an opportunity for public participation in the environmental review. The Clinton ESP site is located on land that may be of interest to the Delaware Tribe of Western Oklahoma. We want to ensure that you are aware of our efforts and, pursuant to our regulations at 10 CFR 51.28(b), the NRC invites the Delaware Tribe of Western Oklahoma to provide input to the scoping process relating to the NRC's environmental review of the application. The following is a description of the application and the environmental review process.

The EIS will document the NRC staff's determination regarding the suitability of the proposed site for the construction and operation of one or more new nuclear plants. In addition, the staff will also consider alternatives to the proposed action, including alternative sites. The EIS will contain the results of the review of the environmental impacts on the area surrounding the Clinton ESP site that are related to terrestrial ecology, aquatic ecology, hydrology, socioeconomic issues, and historic properties (among others), and will contain a recommendation regarding the environmental acceptability of granting an ESP. If approved, the ESP would not authorize the applicant to begin construction of the unit(s).

As part of this review, and in accordance with 36 CFR 800.8, the EIS will include analyses of potential impacts to historic properties. Accordingly, pursuant to 10 CFR 51.28 and 36 CFR 800.2(c)(2), the NRC wishes to ensure that Indian tribes that might have an interest in any potential historic properties in the area of potential effect (APE) are afforded the opportunity to identify their concerns, provide advice on the identification and evaluation of historic properties,

including those of traditional religious and cultural importance, and, if necessary, participate in the resolution of any adverse effects to such properties.

In the context of the National Historic Preservation Act of 1966, as amended, the APE for this ESP review is the area at the power plant site and its immediate environs that may be impacted by land-disturbing activities associated with the construction and operation of the new unit(s), and construction and operation of new transmission lines that may follow parallel with some of the existing transmission line systems now serving CPS. The new lines would run from the Clinton ESP site to an interconnect point at the Brokaw substation near Bloomington, Illinois, about 23 miles north of the site; and from the Clinton ESP site to the Oreana substation, about 8 miles south of the site. The power plant site is located in DeWitt County, Illinois, and the transmission line corridors traverse DeWitt and McLean counties. The application is available through the web-based version of the NRC's Agencywide Documents Access and Management System (ADAMS) which can be found at <http://www.nrc.gov/reading-rm/adams.html>. The application is listed under accession number ML032721596.

In its application, Exelon refers to a comprehensive cultural resource and historic property investigation that was performed prior to the construction of CPS, approximately 30 years ago. Exelon further states that any issues that were raised were resolved through removal of these historic and cultural resources. No historic standing structures have been identified within the Exelon ESP power block footprint, cooling tower footprint, or within the immediate vicinity of CPS. Exelon states that the location of the ESP facility power block footprint appears to have been heavily disturbed by previous construction of CPS. If the power block or cooling tower footprint area was expanded or moved, there is a potential for impact to historic properties. The applicant has committed to perform further evaluation to determine if additional archaeological review is required if additional area within the ESP site will be required for development.

As discussed with Ms. P. Wahahrockahtasi of your staff on December 5, 2003, the NRC conducted a public environmental scoping meeting on December 18, 2003 at the Revere Ware Room in the Vespasian Warner Public Library, 310 N. Quincy Street, Clinton, Illinois. Representatives of your tribe were invited to attend.

Please submit any written comments your tribe may have to offer on the scope of the environmental review by January 9, 2004. Comments should be submitted either by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Mail Stop T-6 D59, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, or by Internet to ClintonEIS@nrc.gov.

The Honorable L. Snake

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At the conclusion of the scoping process, the NRC staff will prepare a summary of the significant issues identified and the conclusions reached, and will send a copy to you. In addition, after it is issued, your office will receive a copy of the draft EIS along with a request for comments. The anticipated publication date for the draft EIS is December 2004. If you have any questions or require additional information, please contact the Environmental Project Manager for the Clinton ESP project, Mr. Thomas Kenyon, at 301-415-1120 or *ClintonEIS@nrc.gov*.

Sincerely,

/RA?

Pao-Tsin Kuo, Program Director

License Renewal and Environmental Impacts

Division of Regulatory Improvement Programs

Office of Nuclear Reactor Regulation

Docket No.: 52-007

cc: See next page

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Pao-Tsin Kuo, Program Director
License Renewal and Environmental Impacts
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

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*See previous concurrence

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Accession No.: **ML033650456**

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OFFICE	LA:RLEP	GS:RLEP	PM:RLEP	SC:RLEP	OGC (NLO)	PD:RLEP
NAME	YEdmonds*	(TKenyon for) JDavis*	TKenyon*	(BZalcman for) JTappert*	DCummings	PTKuo
DATE	12/15/03	12/15/03	12/15/03	12/15/03	12/23/03	12/30/03

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Distribution of Letter to the Honorable L. Snake, Dated: December 30, 2003

DMatthews/FGillespie

PTKuo

TKenyon

JWilson

JDavis

JTappert

NGilles

DPickett

MAshley

JStrasma, RIII

VMitlyng, RIII

AStone, RIII

RLickus, RIII

BDickerson, RIII

RGardner, RIII

DCummings

EHickey (PNNL)

KLeigh (PNNL)

RLEP R/F

Clinton Nuclear Power Station

cc:

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

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

Mr. William Maher
Exelon Generation
200 Exelon Way, KSA2-N
Kennett Square, PA 19348

Mr. Thomas S. O'Neill
Associate General Counsel
Exelon Nuclear
4300 Winfield Road
Warrenville, IL 60555

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

Exelon Nuclear
Correspondence Control Desk
200 Exelon Way, KSA1-N
Kennett Square PA, 19348

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

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

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

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cc:

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

Mr. John Loaniddi
Parsons Energy and Chemicals
2675 Morgantown Road
Reading, PA 19607

Ms. Amy Lientz
CH2M HILL
1020 Landbank Street
Idaho Falls, Idaho 83402

Mr. Steven P. Frantz Esq.
Morgan Lewis and Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004

Mr. Gary Wright, Director
Division of Nuclear Safety
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield, IL 62704

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

Mr. Paul Leventhal
Nuclear Control Institute
1000 Connecticut Avenue, NW
Suite 410
Washington, DC 20036

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

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

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. George Gore
702 West Washington Street
Urbana, IL 61801

Mr. Arthur L. Brighton
RR1, Box 22
Weldon, IL 61882

Mr. Dale Holtzscher
RR 1, Box 72A
Weldon, IL 61882

Mr. John Stolfa
P.O. Box 589
Mansfield, IL 61854-0589

Mr. Ed Wallace, General Manager
Projects
PBMR Pty LTD
P.O. Box 9396
Centurion 0046
Republic of South Africa

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cc:

Ms. Vanessa E. Quinn, Chief
Radiological Emergency Preparedness
Branch
Department of Homeland Security/FEMA
500 C Street, SW
Washington, DC 20472

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. Marvin Fertel
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

Ginger Molitor
U.S. Fish and Wildlife Service
Rock Island Ecological Services Office
4469 48th Avenue Court
Rock Island, IL 61201

Keith Shank, Manager
Division of Resources, Review and
Coordination
Illinois Department of Natural Resources
One Natural Resources Way
Springfield, IL 62702-1787

Ken Runkle
Toxicology Section
525 West Jefferson Street
Springfield, IL 62761

Robert Mosher, #15
1021 North Grand Avenue, East
P.O. Box 19276
Springfield, IL 62794-9274

Mike McCulley
Illinois Department of Natural Resources
Region III Office
1556 State Route 54, East
Clinton, IL 61727