

December 30, 2003

The Honorable Carol Anske, Chair
Kickapoo of Kansas Tribal Council
Route 1, Box 157
Horton, KS 66439

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

Dear Chairwoman Anske:

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 Kickapoo of Kansas Tribal Council. 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 Kickapoo of Kansas Tribal Council 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 communicated to Mr. Curtis Simon of your staff by voice mail on December 10, 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.

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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

The Honorable C. Anske

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Docket No.: 52-007

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*See previous concurrence

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Distribution of Letter to the Honorable C. Anske, Dated: December 30, 2003

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