



COMMONWEALTH of VIRGINIA

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November 3, 2005

Mr. Pao-Tsin Kuo, Program Director
Office of Nuclear Reactor Regulation
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

RE: North Anna Early Site Permit Review (TAC No. MC1128)
Louisa County, Virginia
DHR File No. 2000-1210

Dear Mr. Kuo:

We have received your September 27, 2005 letter concerning the action referenced above. According to your letter, the Nuclear Regulatory Commission (NRC) is of the opinion that the consideration given to potential impacts to historical and cultural resources in the draft Environmental Impact Statement (EIS), prepared pursuant to the National Environmental Policy Act (NEPA), is sufficient to satisfy NRC's responsibilities under Section 106 of the National Historic Preservation Act. While 36 CFR 800.8 encourages Federal agencies to coordinate their Section 106 compliance with their NEPA responsibilities, it does not support a lower threshold for the identification of historic properties and assessment of effects. These steps of the process can be satisfied during the preparation of an EIS, but must be completed prior to the approval of the undertaking.

It is our opinion that if NRC does not wish to complete the identification and effect determination steps prior to finalizing the EIS, then the only alternative is to execute a Programmatic Agreement, which puts in place a set of procedures for future consultation and would allow this undertaking to proceed according to its stipulations. Such alternate procedures could apply not only to the Early Site Permit, but also to later permitting actions related to construction and operation and could ease and expedite future consultation. The conditional approval of the EIS by NRC without SHPO approval does not afford the Advisory Council on Historic Preservation (ACHP) an opportunity to comment and may be inconsistent with the Federal regulations.

We urge the NRC to reconsider the appropriateness and benefit of a Programmatic Agreement. Pursuant 36 CFR Part 800.2(b)(2), we have requested guidance from the ACHP on this matter. We will forward to you

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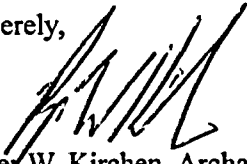
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for consideration any comments received. If you have any questions, please do not hesitate to contact me at (804) 367-2323, ext. 153 or e-mail roger.kirchen@dhr.virginia.gov.

Sincerely,



Roger W. Kirchen, Archaeologist
Office of Review and Compliance

Cc: Mr. Jack Cushing
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