

June 30, 2006

Mr. Bruce Yurdin  
Watershed Management  
Bureau of Water  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276

SUBJECT: SUMMARY OF DISCUSSIONS REGARDING COMPLIANCE WITH  
SECTION 401 OF THE FEDERAL WATER POLLUTION CONTROL ACT  
CONCERNING EXELON GENERATION COMPANY, LLC'S APPLICATION  
FOR AN EARLY SITE PERMIT (ESP) AT THE EXELON ESP SITE

Dear Mr. Yurdin:

As discussed during the May 30 and June 9 and 27, 2006 telephone conferences, the U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application submitted by Exelon Generation Company, LLC (Exelon) on September 25, 2003 for an early site permit (ESP) for the potential future construction of one or more new nuclear power plants at the Exelon ESP site near Clinton, Illinois. An ESP is a Commission approval of a site or sites for one or more nuclear power facilities. The filing of an application for an ESP is a process that is separate from the filing of an application for a construction permit (CP) or combined construction and operating license (combined license or COL) for such a facility. The ESP application and review process makes it possible to evaluate and resolve safety and environmental issues related to siting before the applicant makes large commitments of resources. If the ESP is approved, then the applicant can "bank" the site for up to 20 years for future reactor siting. An ESP does not authorize construction and operation of a nuclear power plant. To construct and operate a nuclear power plant, an ESP holder must obtain a CP and operating license or a COL, which is a separate Federal action. However, if an ESP includes a site redress plan, the ESP holder could conduct specific site-preparation activities pursuant to the Commission's regulations in 10 CFR §§ 52.25(a) and 50.10(e)(1).

As part of its ESP application, Exelon submitted a site redress plan and requested that, should the ESP be issued, certain site preparation and limited construction activities be authorized by the NRC in accordance with the Commission's regulations. In Exelon's Environmental Report (ER) submitted with the ESP application, the applicant states that because the purpose of the ER is only to establish the feasibility of the proposed location, any applicable permits will not be applied for until the COL phase. The limited site preparation activities may require, among other approvals, a Section 401 certification from the Illinois Environmental Protection Agency (IEPA). This approval may be required before the COL phase, depending on the nature and timing of commencement of these limited site preparation activities. Section 401 of the Federal Water Pollution Control Act (FWPCA) states that "No license or permit shall be granted until the certification required by this section has been obtained or has been waived ...."

As a result of discussions with you and Exelon, Exelon has proposed that an ESP for the Exelon ESP site, should it be issued, be conditioned to meet the intent of the FWPCA and ensure compliance with that statute. It is the NRC staff's understanding that Exelon's proposed approach is acceptable to IEPA. The proposed permit condition would read as follows:

The Permit Holder is prohibited from conducting any activity authorized by this Permit without first submitting to the NRC:

- (a) a copy of a 401 certification (which constitutes the certification required under FWPCA § 401), issued by the Illinois Environmental Protection Agency (IEPA) under 35 Illinois Administrative Code Part 395, or
- (b) its determination that no 401 certification is required.

The Permit Holder shall submit to the IEPA annually (with a copy to the NRC) or some other mutually agreed upon periodicity, an advisory letter regarding any activities it expects to conduct under this Permit for the following period (e.g., 1 year), including a determination of whether such activities require a 401 certification. For those site preparation or limited construction activities, which the Permit Holder has determined do not require a 401 certification, the Permit Holder is prohibited from conducting those activities for 30 days of the date of the advisory letter unless it receives a formal written response from the IEPA. No such notification is required if no work is expected to be performed under this Permit for the designated period.

As discussed on June 27, 2006, we understand that you plan to respond regarding the acceptability of this permitting approach by July 7, 2006. If you have any questions concerning this matter, please contact the Environmental Project Manager, Thomas J. Kenyon, at (301) 415-1120.

Sincerely,

*/RA/*

M. Christopher Nolan, Branch Chief  
New Reactors Environmental Projects Branch  
Division of New Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 52-007

cc: See next page

As a result of discussions with you and Exelon, Exelon has proposed that an ESP for the Exelon ESP site, should it be issued, be conditioned to meet the intent of the FWPCA and ensure compliance with that statute. It is the NRC staff's understanding that Exelon's proposed approach is acceptable to IEPA. The proposed permit condition would read as follows:

The Permit Holder is prohibited from conducting any activity authorized by this Permit without first submitting to the NRC:

- (a) a copy of a 401 certification (which constitutes the certification required under FWPCA § 401), issued by the Illinois Environmental Protection Agency (IEPA) under 35 Illinois Administrative Code Part 395, or
- (b) its determination that no 401 certification is required.

The Permit Holder shall submit to the IEPA annually (with a copy to the NRC) or some other mutually agreed upon periodicity, an advisory letter regarding any activities it expects to conduct under this Permit for the following period (e.g., 1 year), including a determination of whether such activities require a 401 certification. For those site preparation or limited construction activities, which the Permit Holder has determined do not require a 401 certification, the Permit Holder is prohibited from conducting those activities for 30 days of the date of the advisory letter unless it receives a formal written response from the IEPA. No such notification is required if no work is expected to be performed under this Permit for the designated period.

As discussed on June 27, 2006, we understand that you plan to respond regarding the acceptability of this permitting approach by July 7, 2006. If you have any questions concerning this matter, please contact the Environmental Project Manager, Thomas J. Kenyon, at (301) 415-1120.

Sincerely,

*/RA/*

M. Christopher Nolan, Branch Chief  
New Reactors Environmental Projects Branch  
Division of New Reactor Licensing  
Office of Nuclear Reactor Regulation

Docket No. 52-007

cc: See next page

DOCUMENT NAME: E:\Filenet\ML061790097.wpd \*See previous concurrence

OFFICE	PM:NEPB	LA*	OGC (NLO)	BC:NEPB
NAME	TKenyon	PMagnanelli	MLemoncelli	MCNolan
DATE	06/30/06	06/28/06	06/30/06	06/30/06

OFFICIAL RECORD COPY

Distribution for Letter from B. Yurdin dated June 30, 2006

Hard Copy

NEPB Rdg.

TKenyon

AKugler

CNolan

JCushing

BZalcman

JStarefos

E-Mail:

DMatthews/WBeckner

AKugler

BZalcman

KJabbour

EHickey (PNNL)

JCushing

CNolan

TKenyon

JStarefos

OGC

KLeigh (PNNL)

Exelon Early Site Permit

cc:

Ms. Marilyn Kray  
Vice President, Project Development  
Exelon Generation  
200 Exelon Way, KSA3-EN  
Kennett Square, PA 19348

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-EN  
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-EN  
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 16<sup>th</sup> 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

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  
151 North Ridge Avenue  
Suite 150  
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. Glenn Archinoff  
AECL Technologies  
481 North Frederick Avenue  
Suite 405  
Gaithersburg, MD 20877

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

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  
Director, Global Energy Capital Markets  
Nomura Securities International, Inc.  
2 World Financial Center  
Building B, 21st Floor  
New York, NY 10281-1198

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

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

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

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

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

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

Mr. Donald Dieker  
56 Holiday Drive  
Clinton, IL 61727

Exelon Early Site Permit

- 4 -

cc:

Mr. Tom Rudasill  
The Vespasian Warner Public Library  
District  
310 N. Quincy Street  
Clinton, IL 61727

Pacific Northwest National Laboratory  
Attn: Ms. Eva Eckert Hickey  
MSIN K3-66  
P.O. Box 999  
Richland, WA 99352

Mr. Maynard Crossland, Director  
Illinois Historic Preservation Agency  
Preservation Services Division  
One Old State Capitol Plaza  
Springfield, IL 62701

Department of Natural Resources  
Clinton Lake State Recreational Area  
RR 1  
DeWitt, IL 61735

U. S. Environmental Protection Agency  
Region 5  
Attn: K. Westlake  
Mail Code B-19J  
77 W. Jackson Blvd.  
Chicago, IL 60604