

**NRC STAFF AND APPLICANT'S JOINT RESPONSE TO REQUEST FOR INFORMATION ON
ACTIVITIES PERMITTED BY THE EARLY SITE PERMIT (ESP)**

In its Order dated October 23, 2006, the Licensing Board requested the parties to:

1. Describe, in an exhibit to be presented to the Board at commencement of the hearing and to be discussed preceding the close thereof, in a concise manner, the scope of activities that the Applicant would be enabled to undertake, and the tasks and information the Applicant would not be required to undertake or produce at a later date, as a result of the grant of the subject ESP (with all constraints imposed by Permit Conditions, COL Action items and those items indicated in the record as deferred for later action).

This exhibit responds to the Board's request.

**Scope of Activities that an ESP Holder or Future Combined License (COL) Applicant
Would Be Enabled to Undertake Pursuant to the ESP**

The ESP is for a facility that would be co-located at the site of the existing Clinton Power Station (CPS). Separate and apart from the ESP, the owner of CPS (AmerGen) may undertake activities authorized by the CPS license, including changes to CPS as permitted by 10 CFR § 50.59.

Additionally, separate and apart from the ESP, a Combined License (COL) Applicant would be allowed to undertake the activities allowed by 10 CFR § 50.10(c), including:

- (1) Changes desirable for the temporary use of the land for public recreational uses, necessary borings to determine foundation conditions or other preconstruction monitoring to establish background information related to the suitability of the site or to the protection of environmental values;
- (2) Procurement or manufacture of components of the facility; and
- (3) The construction of buildings which will be used for activities other than operation of a facility and which may also be used to house a facility.

As provided in 10 CFR § 52.25(a), the Clinton ESP would permit the ESP Holder or future COL Applicant to conduct the activities allowed by 10 CFR § 50.10(e)(1). As discussed in the Environmental Impact Statement for the ESP (EIS), pages 4-2 to -3, these activities could include:

DOCKETED
USNRC

November 21, 2006 (9:35am)

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

U.S. NUCLEAR REGULATORY COMMISSION

In the Matter of Exelon Generation Co., LLC (Clinton ESP)

Docket No. 052-007-ESP Official Exhibit No. 1

OFFERED by Applicant/Licensee Intervenor _____

NRC Staff Other Joint 1

IDENTIFIED on 11/7/06 Witness/Panel Safety/Env't

Action Taken: ADMITTED REJECTED WITHDRAWN

Reporter/Clerk [Signature]

- preparation for construction, including clearing, grading, and construction of temporary access roads;
- installation of temporary construction support facilities;
- excavation for facility structures;
- construction of service facilities;
- drilling sample/monitoring wells or other borings;
- construction of non safety-related cooling towers, plant intake structures, and fire protection equipment;
- expansion of the existing switchyard and transmission system;
- modification of the existing discharge flume; and
- construction of other non safety-related structures, systems, and components.

As discussed in the EIS, page 4-46, prerequisites that must be fulfilled before performing such activities include:

- Documentation of existing site conditions within the ESP site by way of photographs, surveys, listings of existing facilities and structures, or other documentation. This record would serve as the baseline for redressing the site in the event ESP site-preparation activities were terminated as a result of project cancellation or expiration of the ESP.
- Coordination of the movement of the existing CPS protected area boundary, as required.
- Movement, demolition, or ownership transfer of existing CPS buildings and structures within the ESP site.
- Obtaining the necessary permits to perform preconstruction activities, such as local building permits, Illinois Environmental Protection Agency (IEPA) National Pollution Discharge Elimination System (NPDES) permit, IEPA Clean Water Act (CWA) permit, and the IEPA General Storm Water Permit.

Tasks and Information an ESP Holder or Future COL Applicant Would Not Be Required to Undertake or Produce at a Later Date Pursuant to the ESP

Under 10 CFR § 52.39(a), matters resolved in the ESP proceeding are considered to be

resolved in a COL proceeding that references the ESP unless new and significant information is identified with respect to them. Therefore, as provided by 10 CFR § 52.79, the COL Applicant would not need to provide information or analyses to the Commission for those issues resolved during the ESP review. In very general terms, such information falls into the following categories:

- Siting information in the Site Safety Analysis Report (SSAR);
- Environmental information in the Environmental Report (ER) and EIS;
- Information regarding the NRC-approved major features of the emergency plan (EP); and
- the Site Redress Plan.

There are exceptions to the general terms listed above. In summary, a COL Application referencing a Clinton ESP would need to provide the following types of information within the scope of the SSAR, ER/EIS, EP, and Site Redress Plan:

- Information to address the terms and conditions of the ESP. The proposed conditions are identified in Appendix A to the final safety evaluation report (FSER) and in EIS Section 4.3.1. The Staff identified a total of six permit conditions to control various safety matters. Two permit conditions were identified related to exclusion area authority and controls. Three permit conditions were identified related to hydrology, generally necessitating that the hydraulic gradient always point inward into the radwaste holding and storage facility, requiring that the radwaste facility for a future reactor be designed with features to preclude accidental liquid releases, and requiring that a groundwater monitoring program be implemented and kept in place for the life of the ESP facility including its decommissioning. One permit condition was identified for geology, seismology, and geotechnical engineering that would require the ESP holder or future COL applicant to either remove or replace or improve the soils above 60 ft below the ground surface to reduce any liquefaction potential. The Staff also identified one permit condition with respect to environmental issues; the permit condition would involve obtaining a Section 401 certification in accordance with the Federal Water Pollution Control Act. Meeting these conditions would be a requirement for ESP compliance. A COL application referencing a Clinton ESP would still need to meet the requirements of 10 CFR Part 52, Subpart C.
- Information to address matters that were addressed but not fully resolved in the ESP proceeding, or matters that could not be addressed because they relate to design issues. In general, these matters are delineated as unresolved issues in the EIS in

chapters 4 through 8 and may also be the subject of COL action items identified in Appendix A to the FSER. The COL applicant will also review the ESP Application, EIS, and FSER to identify other information that will need to be included in the COL Application. COL Action Items identify certain matters that shall be addressed in the site-specific portion of the final safety analysis report (FSAR) by a COL applicant referencing a Clinton ESP. These items constitute information requirements but are not the only acceptable set of information in the FSAR. An applicant may depart from or omit these items, provided that the departure or omission is identified and justified in the FSAR. After issuance of a COL, these items are not requirements for the licensee. A COL application referencing a Clinton ESP would still need to meet the requirements of 10 CFR Part 52, Subpart C.

- Information to address significant environmental issues that were not addressed in the ER/EIS. (10 CFR § 52.79(a)(1)). For the Clinton ESP, these matters primarily relate to 1) need for power; 2) design alternatives, including severe accident mitigation design alternatives (SAMDA); and 3) cost-benefit analysis.
- Information sufficient to demonstrate that the design of the facility falls within the parameters specified in the ESP. (10 CFR § 52.79(a)(1)). These parameters are identified in Table 1.4-1 of the SSAR.
- Any significant new information related to environmental issues resolved in the ESP proceeding. (10 CFR § 51.92(a)).
- Complete and integrated emergency plans. (10 CFR § 52.79(d)). As provided in 10 CFR § 52.79(d)(1), the emergency plans may incorporate by reference the EP major features that are approved in the ESP.

NRC Rulemaking Activities

The discussion provided above is based upon the NRC rules as they exist in 2006. The NRC is currently engaged in rulemaking that could affect the applicable rules. These rulemakings are as follows:

- 71 Fed. Reg. 12782 (March 13, 2006), which includes proposed revisions to 10 CFR §§ 52.39 and 52.79.
- 71 Fed. Reg. 61330 (October 17, 2006), which includes proposed revisions to 10 CFR §§ 50.10 and 52.25.