

June 11, 2008

Mr. George S. Dunlop
Principal Deputy Assistant Secretary of the Army (Civil Works)
Department of the Army
Office of the Assistant Secretary for Civil Works
108 Army Pentagon
Washington, D.C. 20310-0108

Dear Mr. Dunlop:

I am responding to your April 28, 2008, letter to Mr. Luis A. Reyes, then Executive Director for Operations for the U.S. Nuclear Regulatory Commission (NRC). I am pleased that you agree it is appropriate to revise the Memorandum of Understanding (MOU) between the NRC and U.S. Army Corps of Engineers (Corps) regarding the regulation of nuclear power plants. The current MOU was signed in 1975 before the NRC established the one-step licensing process described in Title 10 of the *Code of Federal Regulations*, Part 52, "Licenses, Certifications, and Approvals for Nuclear Power Plants." Other rule changes, such as the revised limited work authorization rule, have also made revising the MOU an important issue.

As your letter states, the MOU needs to recognize the roles and responsibilities of each agency. Because of the Corps role in regulating the jurisdictional waters of the United States, it is appropriate in certain instances for the Corps to participate as a cooperating agency, with the NRC as the lead agency, on environmental impact statements for proposed new nuclear power plants. For example, the applicant for the combined license (COL) for Calvert Cliffs Nuclear Power Plant, Unit 3, in Lusby, MD, has a COL application before the NRC and a permit request pending before your Baltimore District. The Baltimore District of the Corps requested to participate as a cooperating agency for the Calvert Cliffs COL application, and the NRC is willing to accept the Corps as a cooperating agency for the Calvert Cliffs application. However, we believe the MOU should provide flexibility to handle each application in the most effective manner, and in some cases, this may require different approaches.

The NRC staff has already had discussions with your staff and we will continue to work together to update the MOU.

Sincerely,

/RA/

Michael R. Johnson, Director
Office of New Reactors

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Office of New Reactors

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