

March 4, 2009

Ms. Bridget E. Brown
Team Leader, Auburn Field Office
U.S. Army Corps of Engineers, Buffalo District
Regulatory Branch
7413 County House Road
Auburn, NY 13021

SUBJECT: REQUEST FOR THE U.S. ARMY CORPS OF ENGINEERS TO BE A
COOPERATING AGENCY ON THE NINE MILE POINT 3 ENVIRONMENTAL
REVIEW

Dear Ms. Brown:

On September 30, 2008, the U.S. Nuclear Regulatory Commission (NRC) received a combined license (COL) application from Nine Mile Point Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC to construct and operate the Nine Mile Point 3 Nuclear Power Plant (NMP3NPP). On December 12, 2008, NRC staff docketed the applicant's application, thereby accepting the application for full technical review. As part of this review and in compliance with the National Environmental Policy Act (NEPA), the NRC will develop an Environmental Impact Statement (EIS) for the NMP3NPP COL project.

The NRC has identified the U.S. Army Corps of Engineers, Buffalo District, as an agency that has interest in the NMP3NPP project because of the likelihood that the applicant will submit a permit application to the Corps for discharge of dredge or fill material within waters of the US, including wetlands, under Section 404 of the Clean Water Act. The NRC understands that the applicant has been in contact with the Buffalo District regarding this permit and other Corps permits for the NMP3NPP project. Therefore, with this letter, the NRC invites the Corps to be a cooperating agency in the development of the EIS for the NMP3NPP COL project.

On September 12, 2008, the NRC and Corps signed a Memorandum of Understanding (MOU) on Environmental Reviews Related to the Issuance of Authorizations to Construct and Operate Nuclear Power Plants. The purpose of this MOU is to establish a framework for early coordination and participation among our two agencies to ensure the timely review of proposed nuclear power plant applications. Cooperation between the NRC and Corps on the NMP3NPP project will ensure that each agency's review responsibilities under NEPA and other related statutes are met in connection with their respective authorizations required to construct and operate the NMP3NPP facility licensed by the NRC. Thus, the Corps' participation as a cooperating agency for the NMP3NPP EIS could facilitate its future NEPA requirements for its Section 404 permitting process. The general roles and responsibilities of the NRC (as lead agency) and Corps (as cooperating agency) in developing an EIS for the NMP3NPP project are provided in the above-referenced MOU.

B. Brown

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If you have any questions or would like to discuss in more detail the project or our agencies' respective roles and responsibilities during the preparation of the NMP3NPP EIS, please contact Philip Brandt, Environmental Project Manager for NMP3NPP, at 301-415-3550 or Richard Emch, the NRC's point-of-contact for the Corps/NRC MOU, at 301-415-1590.

Please respond to me at the above address in writing, by March 19, 2009, with an acceptance or denial of this invitation to be a cooperating agency. Thank you for your cooperation and interest in this project.

Sincerely,

/RA/

Robert G. Schaaf, Branch Chief
Environmental Projects Branch 3
Division of Site and Environmental Reviews
Office of New Reactors

Docket No. 52-038

Enclosure: Memorandum of Understanding

B. Brown

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Division of Site and Environmental Reviews
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Enclosure: Memorandum of Understanding

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ADAMS ACCESSION NUMBER: Pkg: ML090230532 Ltr: ML090230560 MOU: ML082540354

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(Revised 11/12/2008)

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