May 22, 2009

The Honorable Roger Hill, Chief
Tonawanda Band of Senecas
7027 Meadville Road
Basom, NY 14013

SUBJECT: NOTIFICATION AND REQUEST FOR CONSULTATION AND PARTICIPATION IN THE SCOPING PROCESS FOR THE ENVIRONMENTAL REVIEW OF THE NINE MILE POINT 3 NUCLEAR POWER PLANT COMBINED LICENSE APPLICATION

Dear Honorable Roger Hill:

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application submitted by the Nine Mile Point Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC for a Combined License (COL) for the construction and operation of one new nuclear power plant at its Nine Mile Point Nuclear Power Plant (NMPNPP) site near Oswego, New York. This letter provides information regarding the proposed action and the related NRC environmental review activities, and invites the Tonawanda Band of Senecas to provide input to the NRC's environmental review.

As part of the review of this COL application, the NRC is preparing an Environmental Impact Statement (EIS) as required by Title 10 of the *Code of Federal Regulations* (10 CFR) Part 51, the NRC's regulations that implement the National Environmental Policy Act of 1969 (NEPA), as amended. The NRC staff is currently seeking information from consulting parties and other individuals and organizations likely to have knowledge of, or concerns with, historic properties in the area, to identify issues relating to the proposed undertaking's potential effects on historic properties. The area of potential effect for this COL review is the area at the NMPNPP site and its immediate environs, which may be impacted by land-disturbing activities associated with the construction and operation of the new unit.

Nine Mile Point Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC, submitted its application for a COL on September 30, 2008, pursuant to NRC requirements of 10 CFR Part 52. The NRC staff accepted the application for docketing on December 12, 2008. It is available through the web-based version of the NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible at http://www.nrc.gov/reading-rm/adams.html. The environmental portion of the application is listed under the accession number ML09097046. The Nine Mile Point 3 Nuclear Power Plant (NMP3NPP) COL application is also available on the Internet at http://www.nrc.gov/reactors/new-reactors/col/nine-mile-point.html.

The NMP3NPP site is located on approximately 921 acres in Oswego County, New York, approximately five miles north-northeast of Oswego, New York. The Nine Mile Point Nuclear Power Plant site currently has two operating boiling water reactors, Units 1 and 2, that have the capacity to generate 1,685 megawatts (MW) of electricity combined. Adjacent to NMPNPP site is the James A. Fitzpatrick Nuclear Power Plant boiling water reactor which has the capacity to

generate 813 MW of electricity. Nine Mile Point Nuclear Project, LLC and Unistar Nuclear Operating Services, LLC, plan to construct one new nuclear unit adjacent to the existing site.

The EIS will document the NRC staff's evaluation of the impacts of construction and operation of one new nuclear plant at the NMP3NPP site. The applicant has also identified three alternative sites that will be evaluated in the EIS. The staff's review will consider alternatives including evaluation of alternative sites. The EIS will contain the results of the review of the environmental impacts on the area surrounding the NMP3NPP site that are related to terrestrial ecology, aquatic ecology, hydrology, socioeconomic issues, and historic properties (among others), and will contain a recommendation on whether the requested COL should be granted or denied. If granted, the COL would authorize the applicant to construct and operate the new proposed unit.

The NRC environmental review process includes an opportunity for public and inter-governmental participation in the environmental review. The NMP3NPP site is in close proximity to lands that may be of interest to the Tonawanda Band of Senecas. The NRC staff wants to ensure that you are aware of our efforts and pursuant to 10 CFR 51.28(a), the NRC invites the Tonawanda Band of Senecas to provide input to the scoping process relating to the NRC's environmental review of the COL application.

The NRC plans to coordinate compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), through the requirements of NEPA. In accordance with 36 CFR 800.8(c), the NRC staff is using the process required by NEPA for the preparation of the EIS to comply with Section 106 of the NHPA in lieu of the procedures set forth in 36 CFR 800.3 through 800.6. Accordingly, the NRC staff is identifying parties who may wish to consult with the staff on the proposed action and is inviting them to consult with the NRC staff on this matter. Consultation will include participation in the scoping process; identification of historic properties on the NMP3NPP site; assessment of the effects of the proposed action on any historic properties identified; and development of alternatives and proposed measures that might avoid, minimize, or mitigate any adverse effects of the proposed action on historic properties. To complete consultation under 36 CFR 800.8(c), the NRC will forward the draft EIS to you for your review and comment and will address your comments in the final EIS. You will receive a copy of the draft EIS along with a request for comments after it is issued. This draft EIS will include identification of historic properties, assessment of impacts, and our preliminary determination. The anticipated publication date for the draft EIS is August 2010.

Pursuant to 10 CFR 51.28 and 36 CFR 800.2(c), the NRC wishes to ensure that Indian Tribes that might have an interest in any potential historic properties in the area of potential effect are afforded the opportunity to identify their concerns, provide advice on the identification and evaluation of historic properties, including those of traditional religious and cultural importance, and, if necessary, participate in the resolution of any adverse effects to such properties.

The NRC staff plans to hold two public NEPA scoping meetings on June 10, 2009, at SUNY Oswego's Sheldon Hall, 7060 Route 104, Oswego, New York 13126. The first meeting will convene at 1:00 p.m. and will continue until approximately 4:00 p.m. The second meeting will convene at 6:00 p.m. and will continue until approximately 9:00 p.m. The 6:00 p.m. to 9:00 p.m. meeting will be conducted using an open-house format where members of the public may meet and talk with NRC staff on an informal basis.

Please submit any written comments your tribe may have to offer on the scope of the environmental review by July 20, 2009. Comments should be submitted either by mail to the Chief; Rulemaking, Directives, and Editing Branch; Division of Administrative Services; Office of Administration; Mailstop TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 or by e-mail to NMP3.COLEIS@nrc.gov.

If you have any questions concerning the NRC staff's environmental review of this COL application, please contact Mr. Paul Michalak, Environmental Project Manager at 301-415-7612 or by e-mail at Paul.Michalak@nrc.gov.

Sincerely,

/RA/

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

Docket No.: 52-038

cc: See next page

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Sincerely,

/RA/

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

Docket No.: 52-038

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