



United States Department of the Interior

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FISH AND WILDLIFE SERVICE

3817 Luker Road
Cortland, NY 13045



(ER-09/0156)

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Chief, Rules and Directives Branch
Division of Administrative Services
Office of Administration
Mailstop TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Re: Federal Register/Volume 74/No. 19/January 30, 2009, ER-09/156
Docket Number 52-038; NRC-2008-0581

Dear Chief:

The U.S. Fish and Wildlife Service (Service), New York Field Office, has reviewed the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) and Conduct Scoping Process for the Nine Mile Point 3 Nuclear Power Plant Project. The Nine Mile Point 3 Nuclear Power Plant Project, LLC, and UniStar Nuclear Operating Services, LLC, have submitted an application for a combined license to build Unit 3 at its Nine Mile Point Nuclear Power Plant (NMPNPP) site, located on approximately 921 acres of land adjacent to Lake Ontario, Oswego County, New York.

The Nuclear Regulatory Commission (NRC) has requested comments on the NOI to prepare an EIS and conduct scoping process. This report of the Service is submitted for project planning purposes under the National Environmental Policy Act, Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*), and the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 *et seq.*).

The Service attended a pre-application meeting with representatives from UniStar and the U.S. Army Corps of Engineers (Corps), Buffalo District, on August 12, 2008. The Service provided technical assistance to the applicant and the Corps regarding fish and wildlife resources in the vicinity of the project. Additional comments may be provided in the future pursuant to, and in accordance with, the above provisions, as well as other legislation.

Fish and Wildlife Comments

The NRC proposes to locate the Nine Mile Point 3 plant adjacent to and west of three existing plants; Nine Mile Point 1, Nine Mile Point 2 and the James A. Fitzpatrick Nuclear Power Plant. The Service has stated in the past that we are concerned over fish entrainment and impingement caused by water cooling intake structures and the cumulative impacts to aquatic species in Lake Ontario. We are also concerned that the project, as proposed at the August 12, 2008,

SOVSI Review Complete
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Add = P. Brandt (PNB1)
J. Muir (JMM7)

meeting, will permanently impact approximately 60 acres of inland coastal wetlands including forested, scrub shrub, and emergent wetlands. These wetlands provide functions and services including filtering pollutants and nutrients which maintain water quality, absorb and store floodwater, and provide excellent wildlife habitat. As much as 42 percent of the water supply for the lake may be groundwater entering by direct and indirect pathways, which has implications for impacts of human activities on the quantity and quality of lake water. Please address potential hydrologic implications to wetlands, the interaction of groundwater and surface water and the potential loss to Lake Ontario. We look forward to reviewing the site alternatives analysis in the EIS.

Lake Ontario provides habitat for all life stages of fish species and other aquatic species including benthic macro-invertebrates. Fish species include yellow perch (*Perca flavescens*), lake trout (*Salvelinus namaycush*), rainbow trout (*Oncorhynchus mykiss*), landlocked salmon (*Salmo salar*), chinook salmon (*Oncorhynchus tshawytscha*), coho salmon (*Oncorhynchus kisutch*), brown trout (*Salmo trutta*), northern pike (*Esox lucius*), chain pickerel (*Esox niger*), walleye (*Sander vitreus* v.), largemouth bass (*Micropterus salmoides*), and smallmouth bass (*Micropterus dolomieu*). Panfish include crappies (*Pomoxis* spp.), bluegill (*Lepomis macrochirus*), pumpkinseed (*Lepomis gibbosus*), and bullheads (*Ameiurus* spp.). The main forage base is alewife (*Alosa pseudoharengus*), smelt (*Osmerus mordax*), and yellow perch.

The Service has strong concerns over entrainment and impingement of fish and other aquatic species from the proposed Nine Mile 3 Project and the resulting cumulative impacts from the three existing plants (Nine Mile 1, Nine Mile 2 and the James A. Fitzpatrick Nuclear Power plants) located immediately adjacent to proposed project. In addition, the U.S. Environmental Protection Agency (EPA) published a final rule in 2004 addressing cooling water intake structures at existing power plants whose flow levels exceed a minimum threshold of 50 million gallons per day (Phase II of EPA 316(b) regulations). The applicant should include in the EIS and scoping document how the Nine Mile Point 3 will comply with the EPA guidelines and how they propose to minimize and mitigate for entrainment and impingement of fish and other aquatic species.

There is the potential for heated return water to adversely affect biota at the site of discharge. Heat shock surveys from 1969 – 1974 demonstrated that no aspect of the biotic community was impacted by the heated discharge of Nine Mile Point 1. However, due to the increase in heated discharge associated with two additional plants (and the potential for a third power plant), as well as the changes in the biotic community over the past 35 years, we recommend that additional studies be performed in the vicinity of the discharge to assess potential impacts to fish and other aquatic species due to heat shock.

Endangered Species Comments

The most recent compilation of Federally-listed and proposed endangered and threatened species in Oswego County, New York, is available on our website* for your information. Until the proposed project is complete, we recommend that you check our website every 90 days from the date of this letter to ensure that listed species presence/absence information for the proposed project is current.*

The Service appreciates the opportunity to comment on the NOI to prepare and EIS and scoping documents. We hope these comments are useful during your project review. Please contact Sandra L. Doran at 607-753-9334 if there are any questions regarding this letter.

Sincerely,

A handwritten signature in black ink that reads "David A. Stilwell". The signature is written in a cursive style with a large, stylized "S" at the end.

David A. Stilwell
Field Supervisor

*Additional information referred to above may be found on our website at:
<http://www.fws.gov/northeast/nyfo/es/section7.htm>

cc: NYSDEC, Syracuse, NY
OEPC, Washington, DC
BCPA (ERT), Washington, DC
USFWS, Regional Office, Hadley, MA
USEPA, Water Programs Division, New York, NY