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10 CFR 50.4
10 CFR 52.79

October 26, 2009

UN#09-432

ATTN: Document Control Desk
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Subject: UniStar Nuclear Energy, NRC Docket No. 52-016
Calvert Cliffs Nuclear Power Plant, Unit 3
Follow-up Responses to Environmental Report
Requests for Additional Information
RAI No. 1006, Cultural/Historical Resources
RAI No. 1013, Status of permits, licenses, and approvals

- References:
- 1) Thomas L. Fredrichs (NRC) to Greg Gibson (UniStar Nuclear Energy), "Request for Additional Information Related to the Environmental Review for the Calvert Cliffs Combined License Application," dated February 3, 2009.
 - 2) Laura Quinn (NRC) to Greg Gibson (UniStar Nuclear Energy), "Request for Additional Information Related to the Environmental Report for the Calvert Cliffs Combined License Application – Design Basis Accident Source Terms and Nuclear Waste Policy Act Status," dated April 22, 2009.
 - 3) Greg Gibson (UniStar Nuclear Energy) to NRC Document Control Desk, letter UN#09-140, "Environmental RAIs No. 1001 through 1011," dated March 5, 2009.
 - 4) Greg Gibson (UniStar Nuclear Energy) to NRC Document Control Desk, letter UN#09-220, "RAI No. 1012, Design Basis Accidents, RAI No. 1013, Nuclear Waste Policy Act Status," dated May 19, 2009.

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NRC

The purpose of this letter is to provide follow-up responses to requests for additional information (RAIs) 1006 and 1013 identified in References 1 and 2. These follow-up responses supplement previous UniStar Nuclear Energy (UNE) responses sent in References 3 and 4.

The enclosure provides the UNE responses to RAI Nos. 1006 and 1013, and includes revised Combined License Application (COLA) content associated with the RAI No. 1013 response. A Licensing Basis Document Change Request has been initiated to incorporate the changes into a future revision to the COLA. This response does not include any new regulatory commitments and does not contain any sensitive or proprietary information.

If there are any questions regarding this transmittal, please contact me at (410) 470-4205, or Mr. Dimitri Lutchenkov at (410) 470-5524.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on October 26, 2009



Greg Gibson

Enclosure: Follow-up Responses to NRC Requests for Additional Information, RAI Nos. 1006 and 1013, Calvert Cliffs Nuclear Power Plant Unit 3

cc: Surinder Arora, NRC Project Manager, U.S. EPR Projects Branch
Laura Quinn, NRC Environmental Project Manager, U.S. EPR COL Application
Getachew Tesfaye, NRC Project Manager, U.S. EPR DC Application (w/o enclosure)
Loren Plisco, Deputy Regional Administrator, NRC Region II (w/o enclosure)
Silas Kennedy, U.S. NRC Resident Inspector, CCNPP, Units 1 and 2
U.S. NRC Region I Office

UN#09-432

Enclosure
Follow-up Responses to NRC Requests for Additional Information
RAI Nos. 1006 and 1013
Calvert Cliffs Nuclear Power Plant Unit 3

RAI No. 1006

Cultural/Historical Resources

Provide a plan that ensures Unistar will not intentionally significantly adversely affect a historic property prior to issuance of the combined license for Calvert Cliffs Unit 3, or explain how other plans, such as the preservation plan and unanticipated discovery plan for historical and cultural resources, provide such assurance.

Follow-up Response

The response to the this RAI was provided to the NRC in UniStar letter UN#09-140, dated March 5, 2009. In a September 15, 2009, teleconference, the NRC inquired about the status of the Maryland Historic Trust (MHT) Memorandum of Agreement (MOA). The status is:

The MHT provided a draft MOA for review and comment to the U.S. Army Corps of Engineers and UniStar on September 10, 2009. UniStar reviewed the agreement and comments have been provided to the MHT in UniStar letter UN#09-426, dated October 9, 2009. The NRC has been copied on this letter. A final draft MOA is anticipated by October 30, 2009.

COLA Impact

The COLA will not be revised as a result of this response.

RAI No 1013

Background: 10 CFR 51.45(d) states that the environmental report will contain a status of compliance for all federal permits, licenses, approvals and other entitlements which must be obtained in connection with the proposed action and shall also describe the status of compliance with the requirements.

The Nuclear Waste Policy Act (NWPA) states that the Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 [42 U.S.C. 2133, 2134J] unless-

- (i) such person has entered into a contract with the Secretary of Energy for the nuclear waste fund; or
- (ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary of Energy for a contract.

Neither Section 1.3 nor Table 1.3-1 in the ER provides a status on the NWPA requirements.

Provide documentation that the requirements in the NWPA have been met or provide a status for meeting the requirements set forth in the NWPA.

Response

The response to the NWPA focused question was provided to the NRC in UniStar letter UN#09-220, dated May 19, 2009. In a September 15, 2009, teleconference, the NRC inquired if UNE had an updated listing of Federal, State and Local Authorizations available. The following supplements the response to RAI No. 1013 provided previously:

UNE has updated ER Table 1.3-1, "Federal, State and Local Authorizations" to reflect the current listing of permits as identified in the COLA Impact section below.

For those entries in Table 1.3-1 having entries on the "License/Permit No." column, there are no known enforcement or non-compliance issues. Moreover, there are no activities currently being taken under those licenses/permits; therefore, no opportunity for violation or non-compliance. At the time of this submittal, the U.S Fish and Wildlife activities (Eagle Scientific Collecting Permit) and the Maryland Department of Natural Resources permit pertaining to eagles are in progress and there have been no non-compliance matters cited.

COLA Impact

ER Sections 1.3.2, 1.4, and ER Table 1.3-1 of the CCNPP Unit 3 COLA will be revised as follows in a future COLA revision:

1.3.2 STATE AGENCIES

The Maryland Public Service Commission (PSC) has jurisdiction over construction of electric generating stations and transmission lines under the Maryland Public Utilities Code Sections 7-207 and 7-208. Regulations are at Code of Maryland Regulations (COMAR) 20.79 (COMAR, 2007a). UniStar ~~will require~~has received a Certificate of Public Convenience and Necessity (CPCN) to construct CCNPP Unit 3 (MPSC, 2009).

1.4 REFERENCES

MPSC, 2009. Maryland Public Service Commission Order No. 82741, Certificate of Public Convenience and Necessity to Construct a Nuclear Power Plant at Calvert Cliffs in Calvert County, Maryland, June 26, 2009.

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
U.S. Nuclear Regulatory Commission (USNRC)	10 Code of Federal Regulations (CFR) 40	Source Material License	--(a)	--(a)	Possession, use and transfer of source material	<u>Submitted in March 2008</u>
USNRC	Atomic Energy Act of 1954 (AEA), 10 CFR 51; 10 CFR 52.89	Environmental Impact Statement (EIS)	--(a)	--(a)	Site approval for construction and operation of a nuclear power station as part of an application for a combined license (COL)	<u>Submitted in July 2007</u>
USNRC	10 CFR 52, Subpart C	COL	--(a)	--(a)	Combined license for a nuclear power station	<u>Submitted in March 2008</u>
USNRC	10 CFR 70	Special Nuclear Material License	--(a)	--(a)	Possession, delivery, receipt, use, transfer of fuel	<u>Submitted in March 2008</u>
USNRC	10 CFR 30	By-Product Material License	--(a)	--(a)	Production, transfer, receipt, acquisition, ownership, possession of nuclear byproduct materials	<u>Submitted in March 2008</u>
USNRC	10 CFR 52.80, 10 CFR 50.10	Limited Work Authorization (LWA) ^(b)	--(a)	--(a)	Safety-related construction prior to issuance of COL conditionally authorized by NRC	<u>March 2008</u> <u>UNE is in the process of evaluating whether or not to proceed with an LWA</u>
Federal Aviation Administration (FAA)	49 United States Code (USC) 44718, 14 CFR 77.13	Construction Notice	--(a) 2009-AEA-2114-OE 2009-AEA-2115-OE 2009-AEA-2116-OE 2009-AEA-2117-OE	--(a)	Construction of structures (>200 feet) affecting air navigation	<u>April 2009</u> <u>Issued August 2009</u>
US Army Corps of Engineers (USACE)	Federal Water Pollution Act, Sec. 404; 33 CFR 322-323; Rivers and Harbors Act, 33 USC 403, Section 10; 33 USC 1344	Individual Permit	--(a)	--(a)	Excavation, dredging, and/or disposal of dredged material in navigable waters; filling of waters of U.S. Needed for construction/modification of the discharge structure, barge slip upgrade, and any filling of waters of U.S.	<u>Submitted in May 2008</u>

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
Maryland Department of the Environment (MDE)	Coastal Zone Management Act (CZMA), 16 USC 1451 et seq, 15 CFR 930.57	CZMA Consistency Certification and Approval	--(a)	--(a)	Any activity that could affect the state's coastal zone resources.	<u>Incorporated as part of the USACE/MDE Joint Permit Application for wetlands Submitted May 2008</u>
U.S. Fish and Wildlife Services (USFWS)	Endangered Species Act (ESA), Section 7 (16 USC 1531 et seq); 50 CFR 402	Consultation regarding potential to adversely impact protected species (non-marine species) and critical habitats	--(a)	--(a)	Identification of protected species and critical habitats onsite and in the vicinity, assessment of project construction and/or operation impacts, and concurrence on appropriate mitigation.	<u>Informal consultation process initiated in January 2009 Ongoing</u>
National Marine Fisheries Service (NMFS)	ESA, Section 7 (16 USC 703 et seq); 50 CFR 402	Consultation regarding potential to adversely impact protected species (marine species) and critical habitats	--(a)	--(a)	Identification of protected species and critical habitats onsite and in the vicinity, assessment of project construction and/or operation impacts, and concurrence on appropriate mitigation.	<u>Incorporated as part of the USACE/MDE Joint Permit Application for wetlands Submitted May 2008 Ongoing</u>
NMFS	Magnuson-Stevens Fishery Conservation Management Act, Section 305(b) (2)-(4); 16 USC 1801 et seq	Consultation regarding potential impacts to Essential Fish Habitat (EFH)	--(a)	--(a)	Identification of EFH in the site vicinity, assessment of project operations impacts, and concurrence on appropriate mitigation.	<u>Incorporated as part of the USACE/MDE Joint Permit Application for wetlands Submitted May 2008 Ongoing</u>
USFWS	Bald & Golden Eagle Protection Act, 16 USC 668(a); Migratory Bird Permits, 50 CFR 21; Eagle Permits, 50 CFR 22	Eagle Scientific Collecting Permit	MB207511-0	March 31, 2012	Eagle management activities.	Issued March 26, 2009

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
State Historic Preservation Office (SHPO)/ Maryland Historic Trust	National Historic Preservation Act (NHPA); 16 USC 470 et seq; 36 CFR 800	Cultural Resources Review and Consultation	--(a)	--(a)	Identification, description, and evaluation of cultural resources on and in the site vicinity with the potential to be impacted by plant construction and/or operations. Concurrence on appropriate mitigation.	<u>Phase I and II completed 2007 and 2008, respectively</u> Ongoing
Maryland Public Service Commission (PSC)	Annotated Code of MD 7-207 and 7-208; Code of Maryland Regulations (COMAR) 20.79	Certification of Public Convenience and Necessity (CPCN)	--(a) <u>Order No. 82741</u>	--(a)	Site preparation for construction and operation of electric generating station	<u>November 2007</u> <u>Issued June 26, 2009</u>
PSC	Annotated Code of MD 7-207 and 7-208; COMAR 20.79	CPCN	--(a) <u>Order No. 82741</u>	--(a)	Construction or modification of transmission lines (Lines to be modified)	<u>November 2007</u> <u>Issued June 26, 2009</u>
MDE	Federal Water Pollution Control Act, 33 USC 1341 et seq., COMAR 26.08.02.10	Section 401 Water Quality Certification	--(a)	--(a)	Compliance with state water quality standards	<u>Incorporated as part of the USACE/MDE Joint Permit Application for wetlands</u> <u>Submitted May 2008</u> <u>No separate application, combined with review for 404 (Dredging) permits</u>
Environmental Protection Agency (USEPA)/MDE	Federal Water Pollution Control Act, Sec 316(a) COMAR 26.08.03.03	Water Quality Impact Assessment	--(a)	--(a)	Demonstrate thermal discharges to water comply with thermal discharge criteria and are protective of aquatic species	With NPDES permit application <u>December 2013</u>
USEPA/MDE	Federal Water Pollution Control Act, Section 316(b) COMAR 26.08.03.05	Best Technology Available (BTA) Demonstration	--(a)	--(a)	Demonstrate cooling water intake structure represents BTA in minimizing potential for entrainment and impingement of aquatic species.	With NPDES permit application <u>December 2013</u>

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
MDE	Federal Water Pollution Control Act, Section 402;33 USC 1342; COMAR 26.08.04	National Pollution Discharge Elimination System (NPDES) Permit	--(a)	--(a)	Discharge of industrial wastewater and stormwater during operation	December 2013
Maryland Department of Natural Resources	COMAR 08.03.08.03	Maryland listed <u>endangered threatened</u> species	--(a) <u>45135</u>	--(a)	Removal of Bald Eagle nest within Limit of Disturbance	<u>July 2008</u> <u>Issued September 2008</u>
MDE	COMAR 26.08.04.09	General NPDES Permit for Stormwater Associated with Construction Activity	--(a) <u>08CA0079</u>	--(a)	Discharge of stormwater during construction	<u>August 2009</u> <u>Issued February 2008</u>
PSC/MDE	COMAR 26.24 and 20.79.03.02.B (4)(g)	Maryland Tidal Wetlands License	--(a)	--(a)	Construction work in tidal wetlands	<u>May 2008</u> <u>Submitted in May 2008, under the Joint Permit Application for wetlands and included in CPCN application</u>
PSC/MDE	COMAR 26.23 and 20.79.03.02.B (4)(g)	Maryland Non-Tidal Wetlands Permit	--(a)	--(a)	Construction work in non-tidal wetlands	<u>Submitted in May 2008 under the Joint Permit Application for wetlands</u>
MDE	COMAR 26.17.04	Waterway and 100-Year Floodplain Permits	--(a)	--(a)	Any activity that changes the course, current, or cross-section of a non-tidal stream or body of water, including the 100-year floodplain	<u>November 2007</u> <u>Submitted in May 2008 under the Joint Permit Application for wetlands</u>
MDE	COMAR 26.17.01	Erosion and Sediment Control Plan	--(a)	--(a)	Land clearing, grading, or other earth disturbance (construction)	<u>November April 2009</u>
MDE	COMAR 26.17.02	Stormwater Management Plan	--(a)	--(a)	Land development activity (construction and operation)	<u>November April 2009</u>

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
Chesapeake Bay Critical Area (CBCA) Commission	COMAR 27.02	CBCA Conformance	--(a)	--(a)	Construction and operation of an electric generating facility in the CBCA	June 2008 <u>Issued August 2008</u> <u>Revised Plan approval</u> <u>issued August 2009</u>
PSC/MDE	COMAR 26.17.06; 20.79.03.02.B (3)(e)	Water Appropriation Permit	--(a)	--(a)	Withdrawal of groundwater for construction and withdrawal of surface water during operation	November 2007 <u>Issued June 26, 2009</u>
MDE	COMAR 26.03.12	Major Water Facilities Permit	--(a)	--(a)	Construction of potable water supply system	January 2011
MDE	COMAR 26.03.12	Major Sewerage System Permit	--(a)	--(a)	Construction of sanitary waste treatment system for operation	January 2011
MDE	COMAR 26.04.06	Sewage Sludge Utilization Permit	--(a)	--(a)	Disposal of sludge from sewage treatment plant	January 2011
U.S. Environmental Protection Agency (USEPA)/MDE	40 CFR 262.12 COMAR 26.13.03	Hazardous Waste Generator Registration (USEPA Identification Number) (made through MDE)	--(a)	--(a)	Generation and storage of hazardous waste for ≤ 90 days	January 2009 <u>10</u>
MDE	COMAR 26.12.01.01	State Radioactive Materials License	--(a)	--(a)	Possession, use, acquisition, ownership, transfer of radioactive materials not regulated by NRC	January 2015
MDE	COMAR 26.04.07	Solid Waste Disposal Facility Permit	--(a)	--(a)	On-site disposal of land-clearing and construction debris	July 2008
MDE	COMAR 26.10.01.07	Oil Operations Permit	--(a)	--(a)	Storage of oil in above ground storage tanks $\geq 10,000$ gal and/or $>1,000$ gal of used oil	January 2015

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
MDE <u>PSC</u>	COMAR 26.11.02	State Air Permit to Construct - Construction Phase	--(a)	--(a)	Construction of construction phase air pollutant emission sources	November 2007 <u>Issued June 26, 2009</u>
MDEPSC	40 CFR 52.21; COMAR 26.11.01 and 26.11.02	Prevention of Significant Deterioration (PSD) – Construction Phase	--(a)	--(a)	Construction and operation of construction-phase major stationary sources of attainment pollutants.	November 2007 <u>Issued June 26, 2009</u>
MDEPSC	COMAR 26.11.01, 26.11.02; 26.11.17	New Source Review (NSR) – Construction Phase	--(a)	--(a)	Construction of construction-phase major stationary sources of nonattainment pollutants.	November 2007 <u>Issued June 26, 2009</u>
MDE	COMAR 26.11.02.13	State Air Permit to Operate	--(a)	--(a)	Operation of construction phase air pollutant emission sources	State issues permit after start-up period as defined in permit to construct
MDE/PSC	COMAR 26.11.02; 20.79.03.02.B(2)(c)	State Air Permit to Construct – Operational Phase	--(a)	--(a)	Construction of operational phase air pollutant emission sources	November 2007 <u>Issued June 26, 2009</u>
MDE/PSC	40 CFR 52.21; COMAR 26.11.01, 26.11.02 and 20.79.03.02.B (2)(c)	Prevention of Significant Deterioration (PSD) – Operational Phase	--(a)	--(a)	Construction of major stationary sources of attainment pollutants for operational phase facilities.	November 2007 <u>Issued June 26, 2009</u>
MDE/PSC	COMAR 26.11.01, 26.11.02, 26.11.17, and 20.79.03.02.B (2)(c)	New Source Review (NSR) – Operational Phase	--(a)	--(a)	Construction of major stationary sources of attainment pollutants for operational phase facilities.	November 2007 <u>Issued June 26, 2009</u>
MDE	COMAR 26.11.03; 20.79.03.02.B (2)(c)	Title V Operating Permit <u>State Operating Permit</u>	--(a)	--(a)	Operation of existing facility with major stationary sources of air emissions	May 2009 <u>May 2010</u>

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
Maryland State Highway Administration (SHA)	Annotated Code of MD 8-625 and COMAR 11.04.05	Highway Access Permit	--(a)	--(a)	Construction of new or modified entrances on state highways	January 2009 <u>Based on agency guidance</u>
Calvert County Department of Planning and Zoning	Calvert County Code, Ordinances and Resolutions Chapter 18, Building Code of Calvert County	County Grading Permit	--(a)	--(a)	Clearing and grading of land	<u>November April-2009</u>
Calvert County Department of Planning and Zoning	Calvert County Code, Ordinances and Resolutions Chapter 18, Building Construction Code <u>Code of Calvert County</u>	County Building Permit, and Related Site Development Plan	--(a)	--(a)	Construction of buildings and other structures. Demolish certain structures and movement of certain structures at Camp Canoy.	January 2009 <u>September 2010</u>
Calvert County Department of Planning and Zoning; Inspections and Permits	Calvert County Code Zoning, Ordinances <u>Ordinance, Article 4.</u>	County Use and Occupancy Permit	--(a)	--(a)	Use and occupancy of buildings	Certificate of Occupancy issued as defined by Building Permit
Federal Energy Regulatory Commission	<u>Section 205 of the Federal Power Act</u>	<u>Market Based Rate Authorization and related energy regulatory matters (e.g., Exempt Wholesale Generator filing)</u>	--(a)	--(a)	<u>Authority to sell power at market-based rates</u>	<u>Based on agency guidance</u>
Calvert County Department of Planning and Zoning	Calvert County Code, Ordinances and Resolutions Chapter 18, Building Code of Calvert County	County Permit for <u>Structure Demolition or Move</u>	--(a)	--(a)	<u>Demolish certain structures and move certain structures at Camp Canoy</u>	<u>Expected Spring 2010</u>

Table 1.3-1—Federal, State and Local Authorizations

Agency	Authority	Requirement	License/ Permit No.	Expiration Date	Activity Covered	Anticipated Application Submittal Date
USEPA	40 CFR 82.162	Ozone-Depleting Substance (ODS) Compliance Certification	--(a)	--(a)	Recovery and recycling of ODS	2010
US Department of Transportation	49 CFR 107, Subpart G	Certificate of Registration	--(a)	--(a)	Transportation of hazardous materials	April 2011
Tennessee Department of Environment and Conservation – Division of Radiological Health	TN Department of Environment and Conservation Rule 1200- 2-10.32	Tennessee Radioactive License-for Delivery	--(a)	--(a)	Transportation of radioactive waste into the State of Tennessee (below regulatory limits material materials)	November 2015
State of Utah Department of Environmental Quality – Division of Radiological Control	Utah Radiation Control Rules R313-26	General Site Access Permit	--(a)	--(a)	Transportation of radioactive waste into the State of Utah	November 2015