



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

JUL 30 2009

Operations Division

Mr. Michael Lesar
Chief, Rules and Directives Branch
Division of Administrative Services
Mailstop T6-D59
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

Dear Mr. Lesar:

This is in reference to the Phase I Mitigation Plan for the Department of the Army (DA) permit application NAB-2007-08123-M05 (Calvert Cliffs 3 Nuclear Project, LLC/Unistar Nuclear Operating Services, LLC) to construct the proposed Calvert Cliffs Nuclear Power Plant Unit 3 in the Chesapeake Bay and unnamed tributaries to the Chesapeake Bay, forested non-tidal wetlands, Johns Creek and Goldstein Branch and their unnamed tributaries at Unistar's Calvert Cliffs site near Lusby, Calvert County, Maryland.

We have reviewed the Phase I Mitigation Plan dated February 18, 2009, and find that the proposal to enhance one manmade, abandoned sediment basin within the Lake Davies Disposal Area; to enhance portions of Johns Creek; to create forested and herbaceous wetland habitat within the largest manmade, abandoned, sediment basin on the Lake Davies disposal area; to create forested wetland habitat within the Camp Conoy area; to construct stream restoration; and to construct stream enhancement is conceptually acceptable as a suitable methodology to provide compensatory mitigation for the proposed project impacts to Waters of the U.S., including jurisdictional wetlands.

The proposed wetland mitigation includes creation of approximately 0.9 acres area of open water pond habitat; 1.3 acres of freshwater marsh; 7.2 acres of bottomland hardwood forest; eradication of invasive vegetation and enhancement of approximately 2.4 acres of bottomland hardwood forest; enhancement of wetlands abutting Johns Creek by eradication of invasive vegetation and enhancement of approximately 15.7 acres of bottomland hardwood forest; and creation of approximately 4.6 acres of forested wetland habitat. The proposed stream mitigation includes restoration of stream functions along approximately 6,283 linear feet of stream portions by employing treatments such as instream habitat structures (cover logs, lateral/longitudinal diversity and root wads); bank stabilization (vegetative and bioengineering solutions); and riparian wetland enhancements (hydraulic and vegetative). The proposed stream mitigation also includes enhancement of a total of approximately 4,146 linear feet of specific stream portions by improving aquatic habitat, constructing bank stabilization and planting native riparian vegetation. These proposed compensatory mitigation projects must be monitored for a 5-

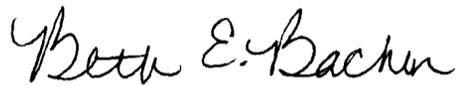
year period and must be protected in perpetuity through establishment of a legally binding long-term protection mechanism. The final mitigation plan must comply with the U.S. Army Corps of Engineers Regulatory Guidance Letter No. 08-03 (Minimum Monitoring Requirements for Compensatory Mitigation Projects Involving the Restoration, Establishment and/or Enhancement of Aquatic Resources, dated October 10, 2008). The Final Mitigation and Monitoring Plan should be an update of the Phase I Mitigation Plan based on actual field survey conditions and qualitative/quantitative data. In addition, the Final Mitigation and Monitoring Plan should include final construction design plans and the following:

1. Content of the final compensatory mitigation plan must be based on the final proposed project impacts and results of the ground truth surveys and analysis.
2. Detailed explanation for any deviations from the Phase I plan.
3. Detailed short-term and long-term plans to control *Phragmites australis* (common reed) within and in the vicinity of the proposed wetland and stream creation, enhancement and restoration areas before, during and after the proposed mitigation work.
4. A summary of the various assessment methods or analytical models used and definition of the basis for the ratings or criteria.
5. A description of upland conditions on site that could have a detrimental impact on the mitigation areas and a description of work in uplands on site that could ameliorate future potential impacts to mitigation areas.
6. A declaration and a plan sheet illustration showing that work in the 100-foot wide stream mitigation area centered at the confluence of the stream with the Chesapeake Bay will be restricted from June 1 through August 31, inclusive of any year, to avoid impacts to tiger beetle habitat.
7. A declaration that only wetland vegetation species that are native and non-persistent will be planted in the wetland mitigation areas
8. A declaration ensuring the wetland and stream creation, enhancement and restoration areas continue to function as wetlands as defined in the Corps Wetland Delineation Manual (87 Manual) (i.e., the areas must exhibit wetland hydrology, hydric soils and a predominance of hydrophytic vegetation) and the streams continue to function as designed after work is completed.
9. A declaration that the wetland creation and enhancement areas will be field checked to ensure that elevations will achieve the hydrology necessary to support the plants species proposed for planting in those areas. If the wetland creation and enhancement areas do not thrive, the reasons for failure will be determined; corrective measures will be taken and the area replanted.
10. A signed document that ensures appropriate financing will be set aside to cover the estimated potential costs of remediation for the compensatory mitigation projects if stipulation number 8 above is not accomplished as required by the Corps.

In addition, Calvert Cliffs 3 Nuclear Project, LLC/Unistar Nuclear Operating Services, LLC must provide a draft restrictive covenant document for permanent conservation easements on the wetland and stream creation, enhancement and restoration areas to the Corps at least 45 days prior to completion of the Final Mitigation and Monitoring Plan. Once the document is approved by the Corps, a copy of the signed document and confirmatory evidence that the said documents have been filed in the land records of the appropriate County must be included in the Final Mitigation and Monitoring Plan.

A copy of this letter will be furnished to Ms. Laura Quinn, NRC, Ms. Cheryl Kerr, MDE, Mr. Michael Milbradt, Calvert Cliffs 3 Nuclear Project, LLC, and Mr. Dimitri Lutchenkov, Unistar Nuclear Operating Services, LLC. If you have any questions concerning this letter, please call Mrs. Kathy Anderson, of this office, at (410) 962- 5690.

Sincerely,



Beth E. Bachur
Acting Chief, Maryland Section Southern