

February 5, 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of:)	
)	
CALVERT CLIFFS 3 NUCLEAR)	
PROJECT, LLC AND UNISTAR)	
NUCLEAR OPERATING SERVICES,)	Docket No. 52-016-COL
LLC)	
)	
(Calvert Cliffs Nuclear Power Plant, Unit 3))	

APPLICANTS’ MOTION FOR
SUMMARY DISPOSITION OF CONTENTION 7

INTRODUCTION

Pursuant to 10 C.F.R. § 2.1205, Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC (“UniStar” or “Applicants”) file this motion for summary disposition of Contention 7, which relates to low-level waste.¹ Summary disposition is warranted on the grounds that the omission averred in the contention has been cured, and there exists no genuine issue as to any material fact relevant to the contention. Therefore, under the applicable Commission regulations, the Applicants are entitled to a decision as a matter of law. This motion is supported by a Statement of Material Facts as to which UniStar asserts that there is no genuine dispute and the affidavit of Gregory T. Gibson, Vice President, Regulatory Affairs, for UniStar Nuclear Energy.

¹ Counsel for Applicants has contacted counsel for the NRC Staff and Joint Intervenors. Counsel for the NRC Staff agrees that the contention is moot, while the Joint Intervenors indicated that they would oppose the motion.

LEGAL STANDARDS FOR SUMMARY DISPOSITION

Because this is the first motion for summary disposition filed by Applicants in this proceeding, we set forth the relevant law at some length.

A. Rule

The proceeding is governed by the informal adjudicatory procedures described in Subpart L of 10 C.F.R. Part 2. Subpart L contains certain instructions for filing motions for summary disposition, but directs the Licensing Board to apply the standards of Subpart G, which are set forth in 10 C.F.R. § 2.710(d)(2). *See* 10 C.F.R. § 2.1205(c). A motion for summary disposition must be granted “if the filings in the proceeding ... together with the statements of the parties and the affidavits, if any, show that there is no genuine issue as to any material fact.” 10 C.F.R. § 2.710(d).

The movant for summary judgment bears the initial burden of showing the absence of a genuine dispute as to any material fact. *Advanced Medical Systems, Inc.* (One Factory Row, Geneva, Ohio 44041), CLI-93-22, 38 NRC 98, 102 (1993). If the movant makes such a showing and that showing is not countered by the opposing party, the Board may summarily dispose of the arguments in question on the basis of the pleadings. *Id.* “The opposing party must controvert any [individual] material fact properly set out in the statement of material facts that accompanies a summary disposition motion or the fact will be deemed admitted.” *Id.* at 102-103. Opponents must “pinpoint[] each of [the] Applicant’s stated material facts which they genuinely dispute and set[] forth the basis for their belief that the facts are not as stated.” *Commonwealth Edison Company* (Braidwood Nuclear Power Station, Units 1 and 2), LBP-86-12, 23 NRC 414, 420 (1986).

B. Material Fact

Material facts are determined by the substantive law applicable to the case. *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). “Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted.” *Id.* A licensing board will ultimately determine which facts are material on the basis of the parties’ submissions and the record. *Advanced Medical Systems*, CLI-93-22, 38 NRC at 115 and n.65.

C. Genuine Issue

To counter a motion for summary disposition, an opponent “may not rest upon ‘mere allegations or denials,’ but must set forth specific facts showing that there is a genuine issue.” *Advanced Medical Systems*, CLI-93-22, 38 NRC at 102. “Bare assertions or general denials are not sufficient. Although the opposing party does not have to show that it would prevail on the issues, it must at least demonstrate that there is a genuine factual issue to be tried.” *Id.* (citations omitted). “[Opponents] have to present contrary evidence that is so significantly probative that it creates a material factual issue.” *Id.* n.13 (citing *Public Service Co. of New Hampshire* (Seabrook Station, Units 1 and 2), CLI-92-8, 35 NRC 145, 154 (1992)). Merely a “metaphysical doubt” concerning the material facts is insufficient. *Id.* n.13 (citing *Matsushita Elec. Indus. Co., Ltd. v. Zenith Radio Corp.*, 475 U.S. 574, 586-87 (1986)).

D. Evidence

Evidence in support of or opposition to a motion for summary disposition can include: “filings in the proceeding, depositions, answers to interrogatories, and admissions on file, together with the statements of the parties and the affidavits.” 10 C.F.R. § 2.710(d). All factual material in the administrative record may be used by pointing it out to the Licensing

Board. *See Celotex Corp. v. Catrett*, 477 U.S. 317, 323 (1986). Identifying such material, however, is an obligation of the party, not the Licensing Board. *See, e.g., Barge v. Anheuser-Busch, Inc.*, 87 F.3d 256, 260 (8th Cir. 1996). The Board, however, retains the power to request and consider further materials from the parties to make a decision on a summary disposition motion. *Cleveland Electric Illuminating Company* (Perry Nuclear Power Plant, Units 1 and 2), ALAB-443, 6 NRC 741, 752 (1977).

SCOPE OF ADMITTED CONTENTION 7

Contention 7, as proposed, alleged that the application fails to offer a viable plan for managing low-level radioactive waste (“LLRW”) because, as of June 30, 2008, the disposal facility in Barnwell, South Carolina no longer accepts Class B and Class C LLRW that is generated outside the Atlantic Compact Commission States of Connecticut, New Jersey, and South Carolina. Specifically, the Intervenors argued that the application “does not address long term storage onsite.” *See* “Petition to Intervene in Docket 52-016, Calvert Cliffs-3 Nuclear Power Plant Combined Construction and License Application” (“Petition”), dated November 19, 2008, at 50 (“Petition” or “Pet.”). Proposed Contention 7 also included challenges to the application’s treatment of Greater-Than-Class-C waste and the generic assumptions and conclusions in Table S-3. *Id.* at 47-48.

The Licensing Board rejected the portions of the contention that related to Greater-Than-Class-C waste and Table S-3. *See* LBP-09-04 at 62. The Licensing Board, however, admitted one portion of the proposed contention as an environmental “contention of omission” — that is, a contention that the application failed to include information required by the National Environmental Policy Act (“NEPA”). *Id.* at 67. The Licensing Board first explained that the Environmental Report (“ER”) for Unit 3 failed to acknowledge the closure of

the Barnwell facility to Class B and C waste from Calvert Cliffs. LBP-09-04 at 70. The Licensing Board then narrowed Contention 7 as follows:

The ER for CCNPP-3 is deficient in discussing its plans for management of Class B and C wastes. In light of the current lack of a licensed off-site disposal facility, and the uncertainty of whether a new disposal facility will become available during the license term, the ER must either describe how Applicant will store Class B and C wastes on-site and the environmental consequences of extended on-site storage, or show that Applicant will be able to avoid the need for extended on-site storage by transferring its Class B and C wastes to another facility licensed for the storage of LLRW.

Id. at 66.

The narrowed contention of omission is therefore limited to (1) the ER's failure to acknowledge the closure of Barnwell to out-of-compact waste; and (2) the ER's failure to either (a) address the need for, and the environmental consequences of, long-term storage of Class B and C waste at the Calvert Cliffs site, or (b) demonstrate that long-term storage at the Calvert Cliffs site will not be necessary.

THE APPLICANTS ARE ENTITLED TO
SUMMARY DISPOSITION ON CONTENTION 7

The Applicants move for summary disposition of Contention 7 on the grounds that there no longer exists a genuine dispute concerning any facts material to the foregoing matters because the Applicants have revised the Environmental Report so as to render this contention of omission moot. The Commission has explained that where a contention alleges the omission of particular information, and the information is later supplied by the applicant, the contention is moot. *Duke Energy Corp.* (McGuire Nuclear Station, Units 1 and 2; Catawba Nuclear State, Units 1 and 2), CLI-02-28, 56 NRC 373, 282-283 (2002); *see also USEC, Inc.* (American Centrifuge Plant), CLI-06-09, 63 NRC 433 (2006). Summary disposition is

appropriate for a contention that is moot. *Exelon Generation Company* (Early Site Permit for Clinton ESP Site), LBP-05-19, 62 NRC 134, 182 (2005).

On December 9, 2009, the Applicants revised the Calvert Cliffs Unit 3 ER to address the omissions that are the subject of Contention 7. *See* Letter to Document Control Desk from Greg Gibson, Vice President of Regulatory Affairs, UniStar Nuclear Energy, UNE#09-510, “Response to NRC Telecom Question Regarding CCNPP Unit 3 Low Level Radioactive Waste Disposal Plans” (ADAMS Accession No. ML093550165). The new information and the revised application cure the omissions described above.

Specifically, the revised ER notes that, as of July 1, 2008, the Barnwell LLRW disposal facility in Barnwell, South Carolina no longer accepts Class B and C waste from sources in Maryland. *See* UN#09-510, Enclosure, at 3 (markup of ER Section 3.5.4.5). The ER notes that the only other operating disposal site in Richland, Washington, also does not currently accept Class B and C wastes from Maryland. *Id.* Thus, UniStar has cured the ER’s failure to acknowledge the closure of the Barnwell facility to Class B and C waste from Calvert Cliffs. *See* LBP-09-04 at 70.

The revised ER also describes how, in the absence of an offsite disposal facility for Class B and C generated at Calvert Cliffs Unit 3, the Applicants would store Class B and C waste on-site and discusses the environmental consequences of extended on-site storage. For example, the ER explains that additional waste minimization measures could be implemented to reduce or eliminate the generation of Class B and C waste. These measures include: reducing the service run length for resin beds; short loading media volumes in ion exchange vessels; and other techniques discussed in the EPRI Class B/C Waste Reduction Guide and EPRI Operational Strategies to Reduce Class B/C Wastes. UN#09-510, Enclosure, at 3-4. These measures would

extend the capacity of the proposed Solid Waste Storage System to store Class B and C waste to over ten years. *Id.* at 4. The ER also concludes that continued storage of Class B and C waste would maintain occupational exposures within permissible limits and result in no additional environmental impacts. *Id.*

The waste minimization measures described in the revised ER would provide additional time for offsite disposal capability to be developed or additional onsite capacity to be added. If additional storage capacity for Class B and C were to become necessary, the revised ER explains that UniStar could construct a new temporary storage facility. UN#09-510, Enclosure, at 4. The facility would meet applicable NRC design guidance² and both construction and operation of the storage facility would have minimal environmental impacts. *Id.* Operation of the storage facility would provide appropriate protection against releases and would maintain exposures to workers and the public below applicable limits. *Id.* Thus, the ER describes how Applicants will manage Class B and C wastes onsite, including both the environmental consequences of extended on-site storage and the environmental consequences of constructing additional storage. *See* LBP-09-04 at 66 (describing the narrowed contention as asserting a need to address, in the alternative, storage of Class B and C wastes on-site and the environmental consequences of extended on-site storage).

To address the possibility that UniStar may utilize alternative approaches to managing low-level waste at the Calvert Cliffs site, the revised ER also describes the process for and the environmental impacts of transferring Class B and C waste to another facility licensed for the storage of LLRW prior to eventual disposal. In lieu of onsite storage, the revised ER

² *See, e.g.,* NUREG-0800, “Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants,” Section 11.4, Appendix 11.4-A, “Design Guidance for Temporary Storage of Low Level Radioactive Waste.”

explains that the site could enter into a commercial agreement with a third-party contractor to process, store, own, and ultimately dispose low-level waste generated as a result of Unit 3 operations. UN#09-510, Enclosure, at 4. According to the revised ER, activities associated with the transportation, processing, and ultimate disposal of low level waste by the third-party contractor would necessarily comply with applicable laws and regulations (including licenses and permits) in order to assure public health and safety and protection of the environment. *Id.* The revised ER also explains that the third-party contractor would be required to conduct its operations consistent with applicable Agreement State or NRC regulations (*e.g.*, 10 C.F.R. Part 20), which assure that the radiological impacts from these activities would be acceptable. Moreover, the environmental impacts resulting from management of low-level wastes by third parties are expected to be bounded by the NRC findings in 10 C.F.R. § 51.51(b) (Table S-3).³ Thus, the ER, as revised, fully describes the environmental and radiological consequences of a transfer of waste to a third party for storage and eventual disposal.

With the changes to the Calvert Cliffs ER, UniStar’s revised plan for managing low-level waste is much like that described in the Bell Bend COL application. As the Board in that case explained in rejecting a proposed contention similar to Contention 7:

[T]he Bell Bend Application discusses the LLRW issue in detail and specifically states what “additional waste minimization measures” will be implemented “[i]n the event no offsite disposal facility is available to accept Class B and C waste from BBNPP when it commences operation.” Further, PPL provides that if additional storage were necessary, it would

³ Table S-3 assumes that solid, low-level waste from reactors will be disposed of through shallow land burial, and concludes that this kind of disposal will not result in the release of any significant effluent to the environment. The conclusions in Table S-3 are not time- or licensee-dependent — that is, the environmental impacts do not depend on *when* the waste is disposed of or *by whom*. Thus, regardless of whether the third-party becomes the licensee for the material and takes responsibility for eventual disposal or UniStar remains responsible for eventual disposal, the environmental impacts of disposal are bounded by those in Table S-3.

build an additional storage facility in accordance with NRC guidelines. Such a facility, PPL states, would have “minimal” impacts and “would provide appropriate protection against releases, maintain exposures to workers and the public below applicable limits, and result in no significant environmental impact.” We fail to see any omission in the Application on the LLRW issue, nor have [Petitioners] shown that this plan is inadequate.

PPL Bell Bend, LLC (Bell Bend Nuclear Power Plant), LBP-09-18, 70 NRC ___, (slip op. at 27) (Aug. 10, 2009) (citations omitted). Like the application in *Bell Bend*, the Calvert Cliffs ER now states that, if necessary, further temporary storage would be developed in accordance with NUREG-0800, Standard Review Plan 11.4, Appendix 11.4-A and describes the environmental and dose-related impacts to temporary storage. UN#09-510, Enclosure, at 2-3, 4. Thus, the Licensing Board decision in *Bell Bend* further supports the conclusion that the “omission” in this case has been cured.⁴

The present circumstances are also similar to those in the North Anna COL proceeding. There, the Licensing Board admitted a portion of Contention 1, which alleged that the Applicant should have explained its plan for the management of LLRW given the lack of an offsite disposal facility. *See Virginia Electric & Power Co.* (Combined License Application for North Anna Unit 3), Order (Dismissing Contention 1 as Moot), ___ NRC ___ (slip op. at 2-3) (August 19, 2009). Like Contention 7 in the *Calvert Cliffs* proceeding, the *North Anna*

⁴ Joint Intervenors have not to date elected to revise or amend Contention 7 based on the new information provided in UniStar’s December 9, 2009 letter to the NRC. The Board’s scheduling order, dated April 22, 2009, specifically stated that new or amended contentions must be submitted “in a timely fashion based on the availability of the [new] information.” Order at 6. Other Licensing Boards have concluded that thirty days is a reasonable limit for fulfilling the timing requirement of 10 C.F.R. § 2.309(f)(2)(iii). *See, e.g., See Virginia Electric & Power Co.* (Combined License Application for North Anna Unit 3), Order (Admitting Contention 10 in Part), ___ NRC ___ (slip op. at 13-14) (November 25, 2009); *Entergy Nuclear Vermont, LLC, and Entergy Nuclear Operations, Inc.* (Vermont Yankee Nuclear Power Station), LBP-06-14, 63 NRC 568, 574 (2006); *Shaw AREVA MOX Services* (Mixed Oxide Fuel Fabrication Facility), LBP-07-14, 66 NRC 169, 210 n.95 (2007).

Licensing Board construed Contention 1 as a contention of omission. *Id.* The Applicant revised its application to include a plan for the LLRW management and then filed a motion for summary disposition. The *North Anna* Licensing Board concluded that “it is no longer true that the COLA lacks a plan for the management of such wastes in the absence of a disposal facility” and that the contention of omission had therefore become moot.⁵ *Id.* at 4. Accordingly, the *North Anna* Licensing Board dismissed Contention 1. *Id.* Similarly, it is no longer true that the Calvert Cliffs ER lacks a plan for management of low-level wastes in the absence of a disposal facility. Thus, as with Contention 1 in the *North Anna* proceeding, Contention 7 is moot and should be dismissed.

Because the alleged omission in the application has been cured by the revision to the COL application, Contention 7, as admitted by the Licensing Board, is now moot. There remains no genuine issue as to any material fact relevant to the admitted contention. Accordingly, the Applicant is entitled to a decision as a matter of law.

CONCLUSION

For the above reasons, the Licensing Board should grant summary disposition of Contention 7.

⁵ The admitted low-level waste contention in the *North Anna* proceeding was based on a failure to address Class B and C waste in the Final Safety Analysis Report (“FSAR”). The *North Anna* contention was therefore a “safety” contention. In contrast, the admitted contention in the *Calvert Cliffs* proceeding is an “environmental” contention based on the Applicants’ ER. This difference between the admitted contentions does not alter the fact that the “omission” has been cured in both cases.

Respectfully submitted,

/s/ signed electronically by

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Dated at Washington, District of Columbia
this 5th day of February 2010

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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PROJECT, LLC AND UNISTAR)
NUCLEAR OPERATING SERVICES,) Docket No. 52-016-COL
LLC)
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(Calvert Cliffs Nuclear Power Plant, Unit 3))

CERTIFICATE OF SERVICE

I hereby certify that copies of “APPLICANTS’ MOTION FOR SUMMARY DISPOSITION OF CONTENTION 7,” “STATEMENT OF MATERIAL FACTS ON WHICH NO GENUINE DISPUTE EXISTS,” and, “AFFIDAVIT OF GREGORY T. GIBSON IN SUPPORT OF SUMMARY DISPOSITION OF CONTENTION 7” in the captioned proceeding have been served via the Electronic Information Exchange (“EIE”) this 5th day of February 2010, which to the best of my knowledge resulted in transmittal of the foregoing to the following persons:

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UNISTAR NUCLEAR OPERATING
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UNITED STATES OF AMERICA
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NUCLEAR OPERATING SERVICES,)	Docket No. 52-016-COL
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(Calvert Cliffs Nuclear Power Plant, Unit 3))	

STATEMENT OF MATERIAL FACTS
ON WHICH NO GENUINE DISPUTE EXISTS

Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC (“Applicants”) submit, in support of their motion for summary disposition of Contention 7, this statement of material facts as to which the Applicants contend that there is no genuine issue to be heard.

1. Calvert Cliffs 3 Nuclear Project, LLC, and UniStar Nuclear Operating Services, LLC filed the combined license (“COL”) application for Calvert Cliffs Unit 3 on July 13, 2007, and March 14, 2008. The application included an Environmental Report (“ER”).
2. On November 19, 2008, Nuclear Information and Resource Service (“NIRS”), Beyond Nuclear, Public Citizen Energy Program, and Southern Maryland Citizen’s Alliance for Renewable Solutions (collectively “Joint Intervenors”) filed their “Petition to Intervene in Docket 52-016, Calvert Cliffs-3 Nuclear Power Plant Combined Construction and License Application” (“Petition”). Contention 7 alleged that the COL application failed to offer a viable plan for disposal of low-level radioactive waste (“LLRW”).
3. In its Memorandum and Order dated March 24, 2009, the Licensing Board admitted a portion of Contention 7 as an environmental “contention of omission.” LBP-09-04, ___ NRC ___, slip op. at 67. Contention 7 was narrowed by the Licensing Board as follows:

The ER for CCNPP-3 is deficient in discussing its plans for management of Class B and C wastes. In light of the current lack of a licensed off-site disposal facility, and the uncertainty of whether a new disposal facility will become available during the license term, the ER must either describe how Applicant will store Class B and C wastes on-site and the environmental consequences of extended on-site storage, or show that Applicant will be able to avoid the need for extended on-site storage by

transferring its Class B and C wastes to another facility licensed for the storage of LLRW.

4. On December 9, 2009, the Applicants provided a response to an NRC Staff question regarding the plan for managing LLRW at Calvert Cliffs Nuclear Power Plant, Unit 3. *See* Letter to Document Control Desk from Greg Gibson, Vice President of Regulatory Affairs, UniStar Nuclear Energy, UNE#09-510, “Response to NRC Telecom Question Regarding CCNPP Unit 3 Low Level Radioactive Waste Disposal Plans” (ADAMS Accession No. ML093550165). The letter also included revised content for ER Section 3.5.4.5.
5. The revised text for ER Section 3.5.4.5 describes UniStar’s plans for managing low-level waste on site, including the environmental consequences of extended on-site storage. The revised ER language also describes the process for and the environmental and radiological impacts of transferring the Class B and C wastes to another licensed LLRW storage facility prior to eventual disposal.

/s/ signed electronically by
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SERVICES, LLC

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LLC)
)
(Calvert Cliffs Nuclear Power Plant, Unit 3))

AFFIDAVIT OF GREGORY T. GIBSON IN
SUPPORT OF SUMMARY DISPOSITION OF CONTENTION 7

I, Gregory T. Gibson, do hereby state as follows:

1. I am Vice President, Regulatory Affairs for UniStar Nuclear Energy. In my current position, I have overall responsibility for the combined license (“COL”) application for Calvert Cliffs Nuclear Power Plant, Unit 3.

2. In a letter dated December 9, 2009, I provided, on behalf of UniStar Nuclear Energy, a response to an NRC Staff question regarding the plan for managing low level radioactive waste (“LLRW”) at Calvert Cliffs Nuclear Power Plant, Unit 3. The letter also included revised content for the COL application. Specifically, the letter provided revised text for Section 3.5.4.5 of the Environmental Report (“ER”). *See* Exhibit 1.

3. I hereby certify under penalty of perjury that the foregoing is true and complete to the best of my knowledge, information, and belief.

Executed in accord with 10 C.F.R. § 2.304(d),



Gregory T. Gibson
UniStar Nuclear Energy
750 East Pratt Street, Suite 1600
Baltimore, Maryland 21202

Dated at Baltimore, Maryland
this 1st of February 2010



UN#09-510

Enclosure

Response to NRC Telecom Question Regarding
CCNPP Unit 3 Low Level Radioactive Waste Disposal Plans

Question

Low Level Waste Disposal Plans

In a teleconference with NRC Staff on October 27, 2009, a question was raised as to whether UniStar Nuclear Energy (UNE) intended to provide a response regarding its low-level radioactive waste (LLRW) disposal plans. The NRC Staff pointed out that Atomic Safety and Licensing Board Contention No. 7 having to do with LLRW disposal plans (ADAMS document No. ML091080044) had been admitted for further consideration and asked if UNE intended to provide a response on the subject LLRW question.

Response

CCNPP Unit 3 has capacity for storing packaged LLRW onsite until it is shipped offsite to a licensed radioactive waste processing facility or a burial site. Onsite processing of the waste will be performed in accordance with the Process Control Program (PCP) identified in FSAR Section 11.4.3 of the CCNPP Unit 3 COLA. The development of this PCP is a Condition of License listed in FSAR Table 13.4-1. The PCP assures that the final solid waste disposal product from CCNPP Unit 3 meets applicable Federal, State, and Disposal Site requirements for low-level radioactive waste classification and characterization, waste transfers and shipping manifests, shipping regulations, and waste acceptance criteria of authorized disposal facilities.

As of July 1, 2008, the Barnwell LLRW disposal facility in Barnwell, South Carolina no longer accepts Class B and C waste from sources in states outside of the Atlantic Compact. The only other operating disposal site in Richland, Washington, does not currently accept Class B and C wastes from outside the Northwest or Rocky Mountain LLRW Compacts. Maryland is affiliated with the Appalachian Compact.

CCNPP Unit 3 expects to enter into an agreement prior to initial criticality with an NRC-licensed facility that will process or otherwise accept Class B and C LLRW. For example, a site in Andrews County, Texas was recently licensed to accept Class B and C waste. For now, however, the site will only accept waste from Texas and Vermont.

In the event that no offsite disposal facility is available to accept Class B and C waste from CCNPP Unit 3 when it commences operation, additional waste minimization measures could be implemented to reduce or eliminate the generation of Class B and C waste. These measures include: reducing the service run length for resin beds; short loading media volumes in ion exchange vessels; and other techniques discussed in the EPRI Class B/C Waste Reduction Guide (Nov. 2007) and EPRI Operational Strategies to Reduce Class B/C Wastes (April 2007). These measures would extend the capacity of the Solid Waste Storage System to store Class B and C waste to over ten years. This would provide additional time for offsite disposal capability to be developed or additional onsite capacity to be added. Continued storage of Class B and C waste in the Solid Waste Storage System would be in accordance with procedures that maintain occupational exposures within permissible limits and result in no additional environmental impacts.

If additional storage capacity for Class B and C were necessary, CCNPP3 could elect to construct a new temporary storage facility. The facility would meet applicable NRC guidance, including Appendix 11.4-A of the Standard Review Plan, "Design Guidance for Temporary

Storage of Low-Level Waste." Such a facility would be located in an appropriate onsite location. The environmental impacts of constructing such a facility would be minimal and would be addressed at the time the facility was announced. The operation of a storage facility meeting the standards in Appendix 11.4-A would provide appropriate protection against releases, maintain exposures to workers and the public below applicable limits, and result in no significant environmental impact.

In lieu of onsite storage, CCNPP3 could enter into a commercial agreement with a third-party contractor to process, store, own, and ultimately dispose of low-level waste generated as a result of CCNPP3 operations. Activities associated with the transportation, processing, and ultimate disposal of low level waste by the third-party contractor would necessarily comply with applicable laws and regulations in order to assure public health and safety and protection of the environment. In particular, the third-party contractor would conduct its operations consistent with applicable Agreement State or NRC regulations (e.g., 10 CFR Part 20), which assure that the radiological impacts from these activities would be acceptable. Environmental impacts resulting from management of low-level wastes are expected to be bounded by the NRC findings in 10 CFR 51.51(b) (Table S-3). Table S-3 assumes that solid, low-level waste from reactors will be disposed of through shallow land burial, and concludes that this kind of disposal will not result in the release of any significant effluent to the environment.

COLA Impact

ER Section 3.5.4.5 of the CCNPP Unit 3 COLA will be revised as follows in a future COLA revision:

3.5.4.5 SOLID RELEASE TO THE ENVIRONMENT

Solid wastes will be shipped from the site for burial at a NRC licensed burial site or to a licensed radioactive waste processing facility. The containers used for solid waste shipments will meet the requirements of 49 CFR Parts 170 through 189 (Department of Transportation Radioactivity Material Regulations) (CFR, 2007e), and 10 CFR Part 71 (Packaging of Radioactive Materials for Transport) (CFR, 2007f). Table 3.5-10 summarizes the annual total solid radioactive waste generated at CCNPP Unit 3.

As of July 1, 2008, the Barnwell LLRW disposal facility in Barnwell, South Carolina no longer accepts Class B and C waste from sources in states outside of the Atlantic Compact. The only other operating disposal site in Richland, Washington, does not currently accept Class B and C wastes from outside the Northwest or Rocky Mountain LLRW Compacts. Maryland is affiliated with the Appalachian Compact.

CCNPP Unit 3 expects to enter into an agreement prior to initial criticality with an NRC-licensed facility that will process or otherwise accept Class B and C LLRW. For example, a site in Andrews County, Texas was recently licensed to accept Class B and C waste. For now, however, the site will only accept waste from Texas and Vermont.

In the event that no offsite disposal facility is available to accept Class B and C waste from CCNPP Unit 3 when it commences operation, additional waste minimization measures could be implemented to reduce or eliminate the generation of Class B and C waste. These measures include: reducing the service run length for resin beds; short loading media volumes in ion

exchange vessels; and other techniques discussed in the EPRI Class B/C Waste Reduction Guide (Nov. 2007) and EPRI Operational Strategies to Reduce Class B/C Wastes (April 2007). These measures would extend the capacity of the Solid Waste Storage System to store Class B and C waste to over ten years. This would provide additional time for offsite disposal capability to be developed or additional onsite capacity to be added. Continued storage of Class B and C waste in the Solid Waste Storage System would be in accordance with procedures that maintain occupational exposures within permissible limits and result in no additional environmental impacts.

If additional storage capacity for Class B and C were necessary, CCNPP3 could elect to construct a new temporary storage facility. The facility would meet applicable NRC guidance, including Appendix 11.4-A of the Standard Review Plan, "Design Guidance for Temporary Storage of Low-Level Waste." Such a facility would be located in an appropriate onsite location. The environmental impacts of constructing such a facility would be minimal and would be addressed at the time the facility was announced. The operation of a storage facility meeting the standards in Appendix 11.4-A would provide appropriate protection against releases, maintain exposures to workers and the public below applicable limits, and result in no significant environmental impact.

In lieu of onsite storage, CCNPP3 could enter into a commercial agreement with a third-party contractor to process, store, own, and ultimately dispose of low-level waste generated as a result of CCNPP3 operations. Activities associated with the transportation, processing, and ultimate disposal of low level waste by the third-party contractor would necessarily comply with applicable laws and regulations in order to assure public health and safety and protection of the environment. In particular, the third-party contractor would conduct its operations consistent with applicable Agreement State or NRC regulations (e.g., 10 CFR Part 20), which assure that the radiological impacts from these activities would be acceptable. Environmental impacts resulting from management of low-level wastes are expected to be bounded by the NRC findings in 10 CFR 51.51(b) (Table S-3). Table S-3 assumes that solid, low-level waste from reactors will be disposed of through shallow land burial, and concludes that this kind of disposal will not result in the release of any significant effluent to the environment.