April 15, 2010

The Honorable William “Red Wing” Tayac
Chief
The Piscataway Indians Nation
P.O. Box 131
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SUBJECT: SECTION 106 CONSULTATION AND NOTIFICATION OF THE ISSUANCE OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE CALVERT CLIFFS NUCLEAR POWER PLANT, UNIT 3 COMBINED LICENSE APPLICATION REVIEW

Dear Chief Tayac:

The U.S. Nuclear Regulatory Commission (NRC) staff is reviewing an application submitted by Calvert Cliffs 3 Nuclear Project, LLC and UniStar Nuclear Operating Services, LLC (collectively referred to as UniStar) for a combined license (COL) for construction and operation of one new nuclear unit at its Calvert Cliffs Nuclear Power Plant (CCNPP) site near Lusby, Maryland. The U.S. Army Corps of Engineers (Corps), Baltimore District, is reviewing a joint Federal/State Application for the Alteration of Any Floodplain, Waterway, Tidal or Non-tidal Wetland in Maryland and is a cooperating agency on the draft environmental impact statement (DEIS). As part of its review of the proposed actions, the NRC and Corps staff have prepared the enclosed DEIS (NUREG-1936). The DEIS includes analysis of relevant environmental issues, including potential impacts to historic and cultural resources, and documents the NRC staff’s determination regarding the environmental impacts of the proposed site from the construction and operation of one new nuclear unit. The NRC’s determination is independent of the Corps’ determination of a Least Environmentally Damaging Practicable Alternative pursuant to the Clean Water Act, Section 404(b)(1) Guidelines. The Corps will conclude its analysis of offsite and onsite alternatives, and issue its decision on the permit application in its Record of Decision, which will be issued after the final environmental impact statement.

In a March 5, 2008, letter, the NRC staff notified you that it will comply with its obligations under Section 106 of the National Historic Preservation Act of 1966, as amended, (NHPA) using the process set forth in Title 36 of the *Code of Federal Regulations* (36 CFR) 800.8(c) in lieu of the procedures set forth in 36 CFR 800.3 through 36 CFR 800.6. Pursuant to 36 CFR 800.8(c), the NRC staff is using the preparation of the DEIS required by the National Environmental Policy Act of 1969, as amended, (NEPA), to comply with its obligations under Section 106 of the NHPA.

The NRC staff has conducted an environmental audit at the site and has reviewed historic and archaeological records. The NRC staff also contacted four Native American Tribes identified as having potential interest in the proposed action. To date, no comments have been received.

The NRC staff has determined that the Area of Potential Effect (APE) for the COL review is the area at the power plant site and the immediate environs that may be directly or indirectly impacted by NRC authorized construction and operation of the proposed new unit. The APE is influenced by the limitation of the scale and nature of the NRC undertaking which does not include most of the ground disturbing activities which constitute "preconstruction" activities. Many of the activities required to build a nuclear power plant do not fall within NRC's regulatory authority and, therefore, are not "construction" as defined by the NRC. Such activities are referred to as "preconstruction" activities in 10 CFR 51.45(c).

In the context of NEPA, under which the DEIS was prepared, the NRC staff's preliminary determination is that the cumulative impact on historical and archaeological resources from the construction and preconstruction activities of the proposed new unit at the CCNPP site and vicinity would be large because the work associated with the proposed project would have an adverse effect on Baltimore & Drum Point Railroad (CT-1259) by demolition, Camp Conoy (CT-1312) by destruction of contributing buildings, and archaeological site 18CV474 by destruction. For the purposes of NHPA 106 consultation, based on the loss of three eligible National Register of Historic Places properties within the APE and the Corps' cultural resource analysis and consultation, the Corps concludes with a finding of historic properties adversely affected (36 CFR 800.5(d)(2)). For the purposes of NHPA 106 consultation pursuant to 36 CFR 800.8, the NRC concludes with a finding of historic properties adversely affected based on the loss of archaeological site 18CV474 within the APE from construction activities. A Memorandum of Agreement finalized on March 16, 2010, between the Maryland State Historic Preservation Office, UniStar, and the Corps stipulates agreed-upon mitigation measures appropriate to each property.

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 APE 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.

In accordance with our March 5, 2008, letter, the NRC staff is forwarding the DEIS for your review and comment. Pursuant to 36 CFR 800.8(c), the NRC staff is requesting your comments on the DEIS, and specifically on the preliminary conclusions regarding historic properties. The NRC staff will address your comments in the final environmental impact statement and upon resolving comments, the NRC would complete consultation under Section 106 of the NHPA with the Piscataway Indians Nation regarding the Calvert Cliffs COL application. Please provide any information or comments you may have on the DEIS during the comment period, which ends on July 6, 2010. Comments should be submitted either by mail to the Chief, Rulemaking and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop TWB-05-B01M, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, or via e-mail to CalvertCliffsCOLAEIS@nrc.gov.

The NRC staff plans to hold two public meetings to discuss the analysis and results in the DEIS on Tuesday, May 25, 2010, at the Holiday Inn Select, 155 Holiday Drive, Solomons, Maryland. The first meeting will convene at 1:00 p.m. and will continue until 4:00 p.m., as necessary. The second meeting will convene at 7:00 p.m., with a repeat of the overview portions of the first meeting, and will continue until 10:00 p.m., as necessary. The meetings will be transcribed and will include: (1) A presentation of the contents of the DEIS, and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft report. Additionally, the NRC and Corps staff will host informal discussions 1 hour before the start of each meeting during which members of the public may meet and talk with NRC and Corps staff members informally. You and your staff are invited to attend.

If you have any questions or require additional information, please contact Ms. Laura Quinn, Environmental Project Manager, by phone at 301-415-2220, or by e-mail at Laura.Quinn@nrc.gov.

Sincerely,

/RA/

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

Docket No.: 52-016

Enclosure:
As stated

cc: See next page

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If you have any questions or require additional information, please contact Ms. Laura Quinn, Environmental Project Manager, by phone at 301-415-2220, or by e-mail at Laura.Quinn@nrc.gov.

Sincerely,

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Enclosure:
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