

NP-10-0013
June 15, 2010

10 CFR 52, Subpart A

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

Subject: Exelon Nuclear Texas Holdings, LLC
Victoria County Station
Early Site Permit Application
Transmittal of Texas Historical Commission Concurrence Letters for
Phase Ia and Ib Investigations of the VCS Site
Docket No. 52-042

References: (1) Exelon Nuclear Texas Holdings, LLC letter to USNRC, Application for
Early Site Permit for Victoria County Station, dated March 25, 2010

Exelon Nuclear Texas Holdings, LLC (Exelon) submitted an application for an early site permit (ESP) in Reference 1 for the Victoria County Station (VCS) site. That submittal consisted of six parts as described in the referenced letter.

As discussed in Part 3, Environmental Report (ER), of the VCS ESP Application (ESPA), Exelon initiated informal consultation with the Texas Historical Commission (THC) for the VCS site in December 2007 and subsequently completed Phase Ia and Phase Ib cultural resource investigations. The THC concurred with the findings of the Phase Ia investigation by way of letter dated May 29, 2008 (ER, Appendix A). In February 2009, Exelon submitted to the THC the Phase 1b Investigations Report for the VCS site. The THC responded via letter dated April 30, 2009 (Enclosure 1), with the following findings:

1. The THC concurred with Exelon's recommendations regarding the eligibility of archaeological sites;
2. The THC concurred with the resources recommended as contributing to a potential Town of McFaddin Historic District and the eligibility recommendations for several specific resources;
3. The THC did not concur with the recommendation of eligibility of several specific resources, determining that they are individually ineligible;
4. The THC requested additional information for several resources to aid in the agency's determinations of eligibility.

In addition, the ESPA references a maximum building height of approximately 230 feet, increased from the height of 166 feet referenced in the VCS Combined License (COL) application. Accordingly, the revisions to the Phase Ib Investigations Report included

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changes to address this increase in height. As requested by the THC, Exelon also reevaluated the visual effects Area of Potential Effect (APE) and concluded that a 10-mile radius around the site remains a conservative APE when the greater (i.e., 230 feet above grade) building height is considered.

Exelon submitted the revised Phase 1b Investigations Report to the THC in March 2010, and the THC responded with concurrence of the report findings via letter dated April 6, 2010 (Enclosure 2). As noted in Exelon's correspondence with the THC and stated in ER Subsection 2.5.3.5, the final locations of offsite infrastructure will be determined at the COL application stage. When the offsite infrastructure locations have been defined, Exelon will continue consultation with the THC to identify potential effects to historic resources arising from that infrastructure.

ER Appendix A will be revised to include the THC letters provided in Enclosure 1 and Enclosure 2. This ER revision will be included in the next periodic ESPA update.

Regulatory commitments established in this submittal are identified in Enclosure 3. If additional information is required, please contact Joshua Trembley at (610) 765-5345.

I declare under penalty of perjury that the foregoing is true and correct. Executed on the 15th day of June, 2010.

Respectfully,



Marilyn C. Kray
Vice President, Nuclear Project Development

Enclosures: (1) THC Letter to Exelon, dated April 30, 2009
(2) THC Letter to Exelon, dated April 6, 2010
(3) Summary of Regulatory Commitments

cc: USNRC, Director, Office of New Reactors/NRLPO (w/enclosures)
USNRC, Project Manager, VCS, Division of New Reactor Licensing
(w/enclosures)
USNRC, Environmental Project Manager, VCS, Division of New Reactor
Licensing (w/enclosures)
USNRC Region IV, Regional Administrator (w/enclosures)

ENCLOSURE 1

THC Letter to Exelon, dated April 30, 2009

TEXAS HISTORICAL COMMISSION
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April 30, 2009

Kenneth A. Ainger
Director – New Plant Licensing
Exelon Generation
200 Extension Way
KSA-3N, Suite 320
Kennett Square, PA 19348

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966, as amended, Draft Phase IB Investigations of the Proposed Site for Victoria County Station, Units 1 and 2, Victoria , Refugio and Calhoun Counties, Texas (NRC, 200906587)*

Dear Mr. Ainger:

Thank you for your correspondence describing the above referenced project. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Bill Martin, has completed its review of the draft report and has the following comments. We look forward to receiving the revised documents for review.

The Archeology Division staff has reviewed the survey data reported in *Volume I: Archaeological, Geoarchaeological, and Geophysical Investigations*. **This office concurs with all determinations of eligibility for archeological sites as listed in Table 8 of the report.** Specifically, we consider sites 41VT145, 41VT146, 41VT147, 41VT148, and 41VT149 to be ineligible for inclusion in the National Register of Historic Places because they are unlikely to yield information important to our understanding of history or prehistory. We also consider the isolated finds to be ineligible. Additional editorial comments related to *Volume I* may be found in the attachment to this letter and should be corrected in the final report.

The History Programs Division staff has reviewed the survey report in *Volume II: Cultural Landscape, Historic Resources, and Visual Impact Investigations* and the survey forms and information provided in *Volume III* and has the following comments listed below. Additional comments related to the format and content of *Volumes II & III* may be found in the attachment to this letter and should be corrected in the final report.

In *Volume II*, on page 268, Figure 182, is a Pratt truss railroad bridge on US 59, in the Northwest Quadrant, for which there has been no determination of eligibility made by Geo-Marine. THC review staff has determined that this Pratt truss railroad bridge is **eligible** for listing in the NRHP, at the local level of significance, under Criterion A for Transportation, and under Criterion C for Engineering.



Staff concurs that the McFaddin Ranch is **eligible** under Criteria A and B at the state level of significance with a period of significance spanning 1878-1968. However, staff does not concur with the list of contributing features included in Appendix A pages A-4-A-26; no resources beyond the date of 1968 are considered contributing.

Staff concurs that the following resources are individually **eligible** for listing in the NRHP:

- 035 1607 Old Refugio Road, Victoria, Victoria Co
- 060 86 Grand Avenue, Victoria, Victoria Co
- 129 1163 Hwy 239 East, Tivoli, Refugio Co
- 414 Union Pacific Building, First Street, Bloomington, Victoria Co
- 490 1901 Hand Road, Victoria, Victoria Co
- 491 1907 Ben Jordan Street, Victoria, Victoria Co
- 500a Ruddock's Grocery Building, 7658 (875) US 87, Victoria, Victoria Co
- 501 8780 US 77, Victoria, Victoria Co (as farmstead complex of multiple buildings/structures/objects)
- 506 Mission Church, O'Connor Brothers Ranch, intersection of US 77 and Hwy 239, Victoria, Victoria Co
- 508 First Lutheran Church, Main Street (Hwy 35), Tivoli, Refugio Co

Staff concurs with the recommendation to consider the following resources as **contributing** to a potential Town of McFaddin Historic District, McFaddin, Victoria County:

- 415 Barn 1, FM 445
- 416 Barn 3, FM 445
- 417 Historic McFaddin Post Office Building, FM 445
- 418 Infant Jesus of Prague Catholic Church, FM 445
- 420 Historic McFaddin Mercantile Building, FM 445
- 421 Residence 1, FM 445
- 422 Residence 10, FM 445
- 423 Residence 11, FM 445
- 424 Residence 12, FM 445
- 425 Residence 13, FM 445
- 426 Residence 14, FM 445
- 427 Residence 15, FM 445
- 428 Residence 18, Cushman Road
- 429 Residence 19, "The Mansion," Cushman Road
- 430 Residence 20, Cushman Road
- 431 Residence 21, Cushman Road
- 432 Residence 22, Cushman Road
- 433 Residence 23, Cushman Road
- 435 Residence 3, FM 445
- 436 Residence 4, FM 445
- 437 Residence 5, FM 445
- 438 Residence 6, FM 445
- 439 Residence 7, FM 445
- 440 Residence 9, FM 445
- 511 Barn 4, FM 445
- 512 Barn 5, Cushman Road
- 513 Barn 6, Cushman Road
- 514 Barn 7, Cushman Road
- 515 Barn 8, Cushman Road

- 516 Residence 2, FM 445
- 517 Residence 8, FM 445
- 518 Residence 16, FM 445
- 519 Residence 17, FM 445
- 520 Historic McFadden School, FM 445

Staff **does not concur** with the recommendations of eligibility for the following resources; rather, THC has determined these resources to be individually **ineligible**:

- 002 1165 Hwy 239 East, Tivoli, Refugio Co
- 006 414 Illinois Street, Bloomington, Victoria Co
- 025 1167 Hwy 239 East, Tivoli, Refugio Co
- 026 302 Scott Street, Tivoli, Refugio Co
- 029 1172 Hwy 239 East, Tivoli, Refugio Co
- 043 1349 Guadalupe Road, Victoria, Victoria Co
- 045 901 Guadalupe Road, Victoria, Victoria Co
- 053 7220 US Hwy 87 South, Victoria, Victoria Co
- 245 117 Fifth Street, Victoria, Victoria Co
- 246 175 Hwy 239, Victoria, Victoria Co
- 248 303 Scott Street, Victoria, Victoria Co
- 483 83 Second Street, Bloomington, Victoria Co
- 485 917 Indiana Street, Bloomington, Victoria Co
- 486 1409 South Laurent Street (Hwy 185), Victoria, Victoria Co
- 487 1505 Hand Road, Victoria, Victoria Co
- 489 1805 Hand Road, Victoria, Victoria Co
- 494 2405 Dudley Street, Victoria, Victoria Co
- 495 2500 Ellis Street, Victoria, Victoria Co
- 496 2514 Odem Drive, Victoria, Victoria Co
- 497 2614 Callis Street, Victoria, Victoria Co
- 500b 7658 (875) US 87, Victoria, Victoria Co
- 507 Tivoli Presbyterian Church, Williams Street, Tivoli, Refugio Co
- 509 DuPont-Invista Plant, Old Bloomington Road, Victoria, Victoria Co
- 527 901 South Laurent Street (Hwy 185), Victoria, Victoria Co

Staff **requests more information** on the following resources in order to make determinations of eligibility; if the property is a complex of multiple structures, then a photograph of each structure and dates of construction are needed):

- 036 2303 Guadalupe Road, Victoria, Victoria Co
- 044 844 Guadalupe Road, Victoria, Victoria Co
- 066 12716 San Antonio River Road, Victoria, Victoria Co
- 071 508 Hwy 239 East, Tivoli, Refugio Co
- 407 corner of Fourth Street and Shepley Street, Bloomington, Victoria Co (Why is this recommended ineligible?)
- 454 Austwell Road and Main Street (Hwy 35), Tivoli, Refugio Co (Why is this recommended ineligible?)
- 499 4853 Hwy 185, Victoria, Victoria Co (Why is this recommended eligible? The façade is proportioned like a recently-constructed house.)
- 502 9178 US 87, Victoria, Victoria Co (Why is this recommended eligible, when the house is “modern”? Please provide photos and date for “modern” dwelling.)

Kenneth A. Ainger

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504 9900 Kemper City Road, Victoria, Victoria Co (Why is this recommended eligible? Is it a kit house? What is in the vicinity of this house?)

Staff **concur** with the recommendation that the remainder of the resources surveyed are individually **ineligible** for listing in the NRHP.

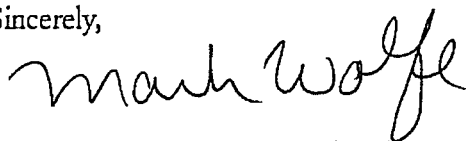
The Division of Architecture staff has reviewed the draft report for a determination of effect. It is our understanding that construction of the Victoria County Station generating plant and associated cooling water basin and reservoir will physically impact a portion of the historically significant McFaddin Ranch, including almost all of the recorded rural historic landscape and its contributing elements. Staff **concur** that the physical impact constitutes an **adverse effect** and that visual impacts will further adversely affect the historic setting, feeling, and association of the NR eligible McFaddin Ranch.

Additionally, the proposed project, consisting of a building approximately 166 feet in height as well as a steam plume that would range in height from 160 feet in summer to 544 feet in winter, will have a visual impact to resources within a 10-mile radius of the project site. However, we do not have adequate information to concur with the effect determinations at this time. Staff **requests more information**, including properly keyed plans and rationale for the proposed determinations of effect for all historic resources determined eligible for listing in the NRHP. For example, we will need to know what of the three criteria (topography, vegetation, and height) are present to make a determination of no adverse effect for each historic resource determined eligible for listing in the NRHP.

Section 106 regulations note that the federal agency must seek methods to avoid, minimize, or mitigate the adverse effect. Once we have concurred with the effects of the proposed undertaking on eligible resources, it must be demonstrated that efforts have been made to avoid and minimize any adverse effects. If we find this information to be sufficient, we will request that the Nuclear Regulatory Commission create a Memorandum of Agreement (MOA) and agree to mitigation efforts.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review of this report, or if we can be of further assistance, please contact Bill Martin at (512) 463-5867 or bill.martin@thc.state.tx.us; historian Rachel Leibowitz at (512) 463-6046 or rachel.leibowitz@thc.state.tx.us; or Kim Barker at (512) 463-8952 or kim.barker@thc.state.tx.us.

Sincerely,



Mark Wolfe, Deputy State Historic Preservation Officer

cc: Dennis Riedesel, Victoria County Historical Commission
C. Herndon Williams, Ph.D., Refugio County Historical Commission
Cherre Cain, Calhoun County Historical Commission

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Additional SHPO Comments to be Addressed in Revisions to the Draft Reports.

The Archeology Division has the following editorial comments related to *Volume I* that should be corrected in the final report:

- Sketch maps of sites: While sketch maps help reviewers to see the distribution of shovel tests in relation to topography, vegetation and man-made features such as pipelines and roads (as in Figures 17 and 20), they are of little use for small sites with no discernable topography or features (as in Figures 23-26). Future reports do not need to include sketch maps if they only illustrate evenly spaced dots on a white background.
- p. 14. Missing word in last paragraph. "... expected observations that may associated with" should read, "... expected observations that may be associated with."
- p. 41. Typographical error. "Kawankawa" should read "Karankawa."
- p. 57. Geophysical Survey. The introductory paragraph should specify why these techniques were used for this project and where they were used. The reader does not know until several pages into the discussion how this is relevant to the survey. Given the nature of what was found, the author should address why a simple metal detector was not used instead of the more complicated and sensitive equipment that was employed.
- p. 60. Typographical errors. "remnant magnetism" should read, "remanent magnetism." Similarly, "thermoremnant magnetism" should read, "thermoremanent magnetism."
- p. 79. Typographical error. "December of 1828" cannot be correct if Thomas Babcock was listed as 27 years old in 1870. One of these dates is incorrect.
- p. 82. Site 41VT145. The authors argue that the site lacks integrity because of cracks in the soil, and disturbance demonstrated by a mixture of manure and leaf litter at depth. While we concur that this site is ineligible, we object to the reasoning used by the authors. The site is not ineligible because of a lack of integrity, but rather, because it simply cannot yield significant information. Since the site appears to be a single component historic occupation with no subsequent mixing of later material, it does not matter that there has been disturbance that has caused artifacts to move down through the soil. The artifacts still relate to the period of occupation, which could be interpreted if there was anything to be gained by such an exercise.

The History Programs Division staff has reviewed the survey report in *Volume II: Cultural Landscape, Historic Resources, and Visual Impact Investigations* and the survey forms and information provided in *Volume III* and has the following comments:

- All survey forms should include the National Register criteria of eligibility and the level of significance for each resource.
- All survey forms should include the seven areas of historic integrity (location, design, setting, materials, workmanship, feeling, and association).
- When dealing with a resource that has multiple structures or buildings, like a farmstead, the survey form should include supplemental pages so that photographs of all components can clearly be seen. Generally, it

is not possible to evaluate a farmstead or other resource with potentially-contributing components if only one building is photographed.

- The fold-out maps of each quadrant of the 10-mile viewing radius should be labeled so that each surveyed resource number can appear next to its appropriate keyed symbol. If this means that the quadrant maps need to be enlarged and reproduced on multiple pages, that is acceptable. It is difficult for our reviewers to understand the spatial relationship between resources if they are not keyed to a map.

ENCLOSURE 2

THC Letter to Exelon, dated April 6, 2010

TEXAS HISTORICAL COMMISSION
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April 6, 2010

Joshua Trembley
Exelon Generation Company
200 Exelon Way, KSA1-E
Kennett Square PA 19348

Re: *Project review under Section 106 of the National Historic Preservation Act of 1966, as amended,
Phase IB Investigations of the Proposed Site for Victoria County Station, Units 1 and 2, Victoria,
Refugio and Calhoun Counties, Texas
NRC/106 (THC Track #201008503; see also #200906587)*

Dear Mr. Trembley:

Thank you for your correspondence providing additional information regarding the above referenced project which was received on March 9, 2010. This letter serves as comment on the proposed undertaking from the State Historic Preservation Officer, the Executive Director of the Texas Historical Commission.

The review staff, led by Kim Barker, has completed its review of the project documentation provided. As noted in your letter, The Archeology Division concurred with all of your contractor's recommendations regarding archeological sites within the Exelon APE. Specifically, we concurred that sites 41VT145, 41VT146, 41VT147, 41VT148, and 41VT149 are ineligible for inclusion in the National Register of Historic Places, as are the three isolated finds. We consider Volume I to be the final report for this project. No further consultation is required with the Archeology Division.

Our History Programs Division staff has reviewed the survey forms submitted in *Volume II: Texas Historical Commission Forms*. Regarding eligibility of historic resources, our letter dated April 30, 2009 stands. With this letter we will address only the properties for which we requested additional information.

For the following resources, we **concur** that they are **eligible** for listing in the National Register of Historic Places:

- 036 2303 Guadalupe Road, Victoria, Victoria County (as intact mid-century farmstead)
- 044 844 Guadalupe Road, Victoria, Victoria County (as intact 1920s farmstead)
- 066 12716 San Antonio River Road, Victoria, Victoria County (as intact 1940s farmstead)
- 071 508 Hwy 239 East, Tivoli, Refugio County (as intact 1940s farmstead)
- 504 9900 Kemper City Road, Victoria, Victoria County (as intact possible kit house)

For the following resource, we **concur** that the property is not eligible:
499 4853 Hwy 185, Victoria, Victoria County

For the following resources, we **do not concur** and have determined the properties **eligible** for NRHP listing:



407 corner of Fourth Street and Shepley Street, Bloomington, Victoria County
454 Austwell Road and Main Street (Hwy 35), Tivoli, Refugio County

For the following resource, we **do not concur** and have determined the properties **ineligible** for NRHP listing:

502 9178 US 87, Victoria, Victoria County

In our letter of April 30, 2009, Division of Architecture staff concurred that the proposed project would have **adverse direct and indirect effects on the McFaddin Ranch**, and requested additional information to determine potential visual effects on other eligible resources within the 10-mile APE. At that time, the project consisted of a building approximately 166 feet in height as well as a steam plume that would range in height from 160 feet in summer to 544 feet in winter. The proposal has since been revised to accommodate a potential building height of 230 feet; the APE remains the same.

We **concur** that the project will have **adverse visual effects** on the proposed Town of McFaddin Historic District, and each of its individual contributing resources. Further, we **concur** that the proposed project will have **adverse visual effects** on the following individually eligible resources:

035 1607 Old Refugio Road, Victoria, Victoria County
501 8780 US 77, Victoria, Victoria County

We have **determined** that the project will have **no adverse effects** on the following eligible resources for which no recommendations of effect were provided:

407 corner of Fourth Street and Shepley Street, Bloomington, Victoria County
454 Austwell Road and Main Street (Hwy 35), Tivoli, Refugio County

We **concur** that the project as proposed will have **no adverse effects** on all other eligible resources.

Section 106 regulations note that the federal agency must seek methods to avoid, minimize, or mitigate the adverse effects. The Nuclear Regulatory Commission must now show efforts to avoid and minimize the adverse effects as noted above. If we find this information to be sufficient, we will request that the Nuclear Regulatory Commission create a Memorandum of Agreement (MOA) and agree to mitigation efforts.

We look forward to further consultation with your office and hope to maintain a partnership that will foster effective historic preservation. Thank you for your cooperation in this federal review process, and for your efforts to preserve the irreplaceable heritage of Texas. If you have any questions concerning our review of this report, or if we can be of further assistance, please Kim Barker at (512) 463-8952 or kim.barker@thc.state.tx.us.

Sincerely,



Kim Barker, Project Reviewer
for: Mark Wolfe, State Historic Preservation Officer

cc: Dennis Riedesel, Chair, Victoria County Historical Commission
C. Herndon Williams, Ph.D., Chair, Refugio County Historical Commission
Larry Nichols, Chair, Calhoun County Historical Commission

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ENCLOSURE 3

SUMMARY OF REGULATORY COMMITMENTS

(Exelon Letter to USNRC No. NP-10-0013, dated June 15, 2010)

The following table identifies commitments made in this document. (Any other actions discussed in the submittal represent intended or planned actions. They are described to the NRC for the NRC's information and are not regulatory commitments.)

COMMITMENT	COMMITTED DATE	COMMITMENT TYPE	
		ONE-TIME ACTION (Yes/No)	Programmatic (Yes/No)
ER Appendix A will be revised to include the THC letters provided in Enclosure 1 and Enclosure 2. This ER revision will be included in the next periodic ESPA update.	Revision 1 of the ESPA Environmental Report planned for March 25, 2011	Yes	No