

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:

Ronald M. Spritzer, Chairman
Dr. Gary S. Arnold
Dr. William S. Sager

In the Matter of

CALVERT CLIFFS 3 NUCLEAR PROJECT,
LLC, and UNISTAR NUCLEAR OPERATING
SERVICES, LLC

(Combined License Application
for Calvert Cliffs Unit 3)

Docket No. 52-016-COL

ASLBP No. 09-874-02-COL-BD01

June 24, 2010

ORDER

In LBP-09-04, the Board admitted Joint Intervenors' Contention 1,¹ which alleged that granting a license to Calvert Cliffs Unit 3 would violate section 103(d) of the Atomic Energy Act (AEA)² and 10 C.F.R. § 50.38 because the reactor "would be owned, dominated, and controlled by foreign interests."³

In issuing the initial schedule for this proceeding, the Board determined that "commencing a hearing on the safety issues [including Contention 1] prior to issuance of the FSER will expedite the proceeding, taking into account the effect of going forward on the Staff's ability to complete its evaluations in a timely manner."⁴ The Board also noted that "it is in the

¹ LBP-09-04, 69 NRC 170, 192-96 (2009).

² 42 U.S.C. § 2133(d).

³ LBP-09-04, 69 NRC at 190 (citing Petition to Intervene in Docket No. 52-016, Calvert Cliffs 3 Nuclear Power Plant Combined Construction and License Application (Nov. 19, 2008) at 5).

⁴ Licensing Board Order (Establishing schedule to govern further proceedings) (Apr. 22, 2009) at 3 (unpublished) [hereinafter Apr. 22, 2009 Licensing Board Order]. See also 63 Fed. Reg. 41,872, 41,873-74 (Aug. 5, 1998) ("[A]ny evidentiary hearing should not commence before completion of the staff's Safety Evaluation Report (SER) or Final Environmental Statement

interest of all concerned to have a reasonably prompt resolution” of Contention 1 because “[i]f granting the combined license would violate [AEA section 103(d)], then significant changes may be required if the Application is to proceed.”⁵

Because of subsequent rulings by the Board,⁶ Contention 1 is now the only remaining admitted contention in this proceeding. We therefore request that each party advise us by letter, on or before July 9, 2010, whether it believes the Board should now proceed to resolve Contention 1 through motions for summary disposition, an evidentiary hearing, or some combination of those procedures. Each party that believes early resolution of Contention 1 is appropriate should describe its desired procedure and schedule for resolving the Contention. The parties are encouraged to confer in order to arrive at a joint proposal, but each party is free to make its own submission addressing those issues on which no agreement has been reached.

Alternatively, any party believing that early resolution of Contention 1 is not desirable or appropriate should so notify the Board. Such notification should include that party’s reasons, and outline a proposed schedule for eventual resolution.

(FES) regarding an application, unless the presiding officer finds that beginning earlier, e.g., by starting the hearing with respect to safety issues prior to issuance of the SER, will indeed expedite the proceeding, taking into account the effect of going forward on the staff’s ability to complete its evaluations in a timely manner.”).

⁵ Apr. 22, 2009 Licensing Board Order at 3.

⁶ See, e.g., Licensing Board Memorandum and Order (Ruling on Joint Intervenors’ Proposed New Contentions 8 and 9 and Applicants’ Motion for Summary Disposition of Contention 7) (Apr. 5, 2010) at 20 (unpublished); LBP-09-15, 70 NRC 198 (2009).

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SERVICES, LLC) Docket No. 52-016-COL
)
(Calvert Cliffs 3 Nuclear Project, LLC))
(Combined License))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing ORDER have been served upon the following persons by Electronic Information Exchange.

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Docket No. 52-016-COL
ORDER

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Docket Nos. 52-016-COL
ORDER

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[Original signed by Christine M. Pierpoint]
Office of the Secretary of the Commission

Dated at Rockville, Maryland
this 24th day of June 2010