

July 8, 2010

Ronald M. Spritzer, Chair
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. Gary S. Arnold
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

Dr. William W. Sager
Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555-0001

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

Dear Administrative Judges:

In response to the Licensing Board's Order dated June 24, 2010, the NRC staff provides the following information for the Board's consideration in setting the procedures and schedule for the resolution of Contention 1.

Current Staff Review Status and Schedule

The Staff review of the ownership information for the proposed unit is on-going. The primary milestones for the Staff's review will be issuance of the Safety Evaluation Report with open items (SER o/i) currently scheduled for March 22, 2011, and the issuance of the final SER currently scheduled for March 26, 2012. The SER chapters typically become publicly available ten days after staff completion. The Applicant has delayed until July 9, 2010, a response to a request for additional information related to the ownership of the proposed plant. The Staff will consider the information as it conducts its review, and will issue more requests for additional information as necessary.

Timing of Resolution

The Board requested the parties to indicate a preference for early resolution and describe a desired procedure and schedule for resolving Contention 1. The Staff believes that Contention 1 is not ripe for resolution at this time. The admitted contention involves both factual and legal issues as described by the Board's Order admitting Contention 1. Although the Applicant has submitted new ownership information and may seek summary disposition, the Staff's ability to participate in the resolution of Contention 1 on the merits, either through summary disposition or an evidentiary hearing, is necessarily tied to the Staff's technical review of the application materials. Even if the Board resolves the contention dispute in the Applicant's

favor in the near future, the Staff's review could result in license conditions or changes to the Application's negation plan necessary to comply with the Atomic Energy Act and Commission regulations. These considerations could result in new information subject to contentions and piecemeal litigation of foreign ownership issues.

The Board's current scheduling order indicates that a hearing on Contention 1 will be held on the SER o/i. It is the Staff's position that disposition of Contention 1 should wait until issuance of the final SER in accordance with the model milestones to minimize risk of changes and to allow the Staff to fully participate. If the Board affirms its prior decision to resolve Contention 1 after issuance of the SER o/i, the scope of the open items may limit the Staff's participation. In addition, holding the hearing after issuance of the SER o/i will impact the Staff's ability to conduct concurrent reviews of other applications.

Method of Contention Resolution

The Board instructed the parties to advise whether the Board should now proceed to resolve Contention 1 through motions for summary disposition, an evidentiary hearing, or some combination of those procedures. The Staff does not believe there is any particular benefit to limit the methods of resolution. Therefore, the Staff respectfully suggests that the Board not narrow the options available to the parties.

Conferring With the Other Parties

Counsel for the Staff has spoken with counsel for the Applicant, but has been unable to reach agreement regarding the timing of resolution of Contention 1. Counsel for the Staff spoke with Michael Marriott, who will be filing the letter on behalf of the Intervenor, and Mr. Marriott indicated that he agrees in principal with the Staff's position subject to the stated position of the Intervenor in their letter to the Board. Counsel for the Staff spoke with counsel for Maryland, but the state did not yet have a position.

Respectfully submitted,

/signed (electronically) by/

James P. Biggins
Counsel for the NRC Staff
U.S. Nuclear Regulatory Commission
Mail Stop O-15 D21
Washington, DC 20555-0001
(301) 415-6305
James.Biggins@nrc.gov

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)	Docket No. 52-016-COL
SERVICES, LLC)	
)	
(Calvert Cliffs Nuclear Power Plant, Unit 3))	

CERTIFICATE OF SERVICE

I hereby certify that copies of the NRC Staff letter dated July 8, 2010, responding to the Licensing Board Order of June 24, 2010, have been served upon the following persons by Electronic Information Exchange this 8th day of July 2010:

Administrative Judge
Ronald M. Spritzer, Chair
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: rms4@nrc.gov

Office of Commission Appellate
Adjudication
Mail Stop O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: OCAmail@nrc.gov

Administrative Judge
Gary S. Arnold
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: gxa1@nrc.gov

Office of the Secretary
ATTN: Docketing and Service
Mail Stop: O-16C1
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: HEARINGDOCKET@nrc.gov

Administrative Judge
William W. Sager
Atomic Safety and Licensing Board Panel
Mail Stop: T-3F23
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001
E-mail: wws1@nrc.gov

David A. Repka, Esq.
Tyson R. Smith, Esq.
Emily J. Duncan, Esq.
Winston & Strawn LLP
1700 K St. NW
Washington, DC 20006
E-mail: drepka@winston.com
E-mail: trsmith@winston.com
E-mail: ejduncan@winston.com

Public Citizen
 Allison Fisher, Energy Organizer
 215 Pennsylvania Avenue, SE
 Washington, DC 20003
 E-mail: afisher@citizen.org

Southern MD CARES
 June Sevilla, Spokesperson
 P.O. Box 354
 Solomons, MD 20688
 E-mail: qmakeda@chesapeake.net

Brent A. Bolea, Assistant Attorney General
 M. Brent Hare, Assistant Attorney General
 State of Maryland
 Office of the Attorney General
 Maryland Energy Administration and
 Power Plant Research Program of the
 Department of Natural Resources
 1623 Forest Drive, Suite 300
 Annapolis, Maryland 21403
 E-mail: BBolea@energy.state.md.us
 E-mail: bhare@energy.state.md.us

Carey W. Fleming, Esq.
 UniStar Nuclear Energy, LLC
 750 E. Pratt Street
 Baltimore, MD 21202
 E-mail: Carey.Fleming@constellation.com

Nuclear Information and Resource Service
 Michael Mariotte, Executive Director
 6930 Carroll Avenue, Suite 340
 Takoma Park, MD 20912
 E-mail: nirsnet@nirs.org

Beyond Nuclear
 Paul Gunter, Director
 6930 Carroll Avenue Suite 400
 Takoma Park, MD 20912
 E-mail: paul@beyondnuclear.org

/Signed (electronically) by/

James P. Biggins
 Counsel for the NRC Staff
 U.S. Nuclear Regulatory Commission
 Mail Stop O-15 D21
 Washington, DC 20555-0001
 (301) 415-6305
 James.Biggins@nrc.gov

Dated at Rockville, Maryland
 this 8th day of July, 2010