

August 5, 2010

MEMORANDUM TO: Brent Clayton, Branch Chief
Environmental Technical Support Branch
Division of Site and Environmental Reviews
Office of New Reactors

FROM: Jack Cushing, Senior Project Manager/**RA**/
Environmental Technical Support Branch
Division of Site and Environmental Reviews
Office of New Reactors

SUBJECT: SUMMARY OF JULY 15, 2010 PUBLIC MEETING
TO DISCUSS EFFECTIVE MULTI-AGENCY PRE-APPLICATION
INTERACTIONS DURING THE EARLY SITE PERMIT PROCESS

On July 15, 2010, the U.S. Nuclear Regulatory Commission (NRC) staff held a Category 2 public meeting at the NRC Headquarters in Rockville, Maryland to discuss when and how applicants for an Early Site Permit (ESP) should contact Federal and State Agencies, when preparing an ESP application. Participants in the meeting included staff from the Environmental Protection Agency (EPA), the Army Corp of Engineers (the Corp), Commonwealth of Virginia, the Bureau of Reclamation, and the Nuclear Energy Institute (NEI). The expected participant from the US Fish and Wildlife Service was unable to attend. A list of attendees is provided as enclosure 1. Topics discussed were the ESP process, an overview of the other agencies' roles, pre-application interactions with Federal and State agencies, and industry experience. A summary of the topics is provided in Enclosure 2.

Materials that were provided at the meeting are available in the Agencywide Documents and Management System (ADAMS) and include the following:

- Meeting notice and Agenda (ADAMS Accession Number ML101790032)
- NRC slides (ADAMS Accession Number ML102000579)
- EPA Slides (ADAMS Accession Number ML102000489)
- EPA Handout (ADAMS Accession Number ML102000585)
- Nuclear Energy Institute (NEI) slides (ADAMS Accession Number ML102000484)

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Enclosures: As stated

cc w/encl: See next page

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Public Meeting to Discuss Effective Multi-Agency Pre-Application Interactions
During the Early Site Permit (ESP) Process
July 15, 2010

Attendance List

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Kevin Magerr	EPA	Via Phone	NA
Julie VanWinkle	EPA	Via Phone	NA
Gregg Gies	EPA	Via Phone	NA
Jim Butch	EPA	Via Phone	NA
Kim McLaughlin	Army Corps of Engineers	Via Phone	NA
Janelle Schlamp	BWSG	Via Phone	NA

ENCLOSURE 1

(Continuation)

Public Meeting to Discuss Effective Multi-Agency Pre-Application Interactions
During the Early Site Permit (ESP) Process
July 15, 2010

Attendance List

NAME	INDUSTRY	PHONE	E-MAIL
Kathy Cunningham	Bureau of Reclamation	Via Phone	NA
Art Coy Kendall	Bureau of Reclamation	Via Phone	NA
Michael Murphy	VA Dept of Environ. Qual.	Via Phone	NA
Brian Littleton	EPA	Via Phone	NA
Jason Hudson	Army Corps of Engineers	Via Phone	NA
Chris Perry	Bureau of Reclamation	Via Phone	NA
Larry Shepard	EPA	Via Phone	NA

ENCLOSURE 1

Summary of the Topics Discussed During the July 15, 2010 Meeting on Effective Multi-Agency Pre-Application Interactions During the ESP Process

Brent Clayton, Chief of the Environmental and Technical Support Branch at the Nuclear Regulatory Commission (NRC), welcomed the Environmental Protection Agency (EPA), the U. S. Army Corps of Engineers (the Corps), the Bureau of Reclamation and the Commonwealth of Virginia Department of Environmental Quality (VDEQ) and the Nuclear Energy Institute (NEI) to the meeting. The purpose of the meeting was to open a dialogue between the nuclear industry and Federal and State Agencies, other than the NRC, from which an applicant may need a permit. The EPA handout listed agencies from which an applicant may need a permit (ML102000585). The list is meant to be illustrative and is not all inclusive. From the list it can be seen that a number of Federal and State permits will be required to construct and operate a nuclear power plant.

Jack Cushing explained the NRC's ESP licensing process (ML102000579). The purpose of the ESP is to resolve siting issues with the NRC before construction. The NRC suggested that applicants should engage other agencies when developing their ESP application to allow the other agencies to address issues early in the licensing process. If the applicant has taken into account the other agencies concerns at the ESP stage, then the permitting process should be smoother for the permits required from those agencies at the combined license stage.

Marthea Rountree explained EPA's role in the environmental impact statement (EIS) review process. Under section 309 of the Clean Air Act, EPA reviews and rates all EISs. As necessary EPA meets with the lead agency to resolve significant issues. EPA has regulatory authority under several statutes including the Clean Air Act, Clean Water Act and Safe Drinking Water Act. EPA has delegated authority to various states under the Clean Air and Clean Water Acts. EPA has an oversight role and veto authority under the Clean Water Act for the Section 404 permits that are issued by the Corps. The applicant should engage the permitting authority, either the State or EPA, early in the process to ensure the concerns the agencies may have are identified and addressed in the applicant's environmental report.

Following EPA's presentation, Kim McLaughlin discussed the Corps' role and regulatory responsibility. The Corps, per the Memorandum of Understanding with the NRC, is a cooperating agency with the NRC on its EISs for new reactors. The Corps is responsible for issuing Section 404 Clean Water Act permit for disturbing wetland areas and Section 10 River and Harbors Act permit for impacts to navigable waters. Ms. McLaughlin recommended that applicants engage the Corps early in developing their application. In particular, engaging the Corps in developing the purpose and need for the Corps' permit action and in understanding requirements for the making the determination of the least damaging practicable alternative (LEDPA) would make the Corps' review process more efficient. The applicant should engage the Corps at the local level at the earliest stages of developing its project to ensure it has taken into account the Corps responsibility to ensure that impacts to wetlands are minimized.

Michael Murphy, from the VDEQ, provided a State's perspective on the ESP process. Mr. Murphy said that the ESP process along with the Coastal Zone Management Act, did allow the State and the applicant to work out issues such as water use early in the licensing process. As a result, the review was more efficient at the COL stage. There was effective early interaction between the NRC and the State during the review process. Early interaction is also important between the NRC as the lead agency and other State and Federal agencies. Mr. Murphy also mentioned that interactions during the review, such as coordinating the State and NRC meetings with the public, aided the public's understanding of the project and the different roles of the State and the NRC. The NRC found that VDEQ was very effective in coordinating the review by the various State agencies.

Kathy Cunningham described the Bureau of Reclamation role. The Bureau of Reclamation is best known for the dams, and power plants, it constructed in the 17 western states. The Bureau supplies water to a large portion of the Western States. Reclamation is also the second largest producer of hydroelectric power in the western United States. The Bureau's mission is to assist in meeting the increasing water demands of the West while protecting the environment. The Bureau would have a role in ESP if an applicant proposed to use water supplied by the Bureau. The NRC invited the Bureau to participate, so that in the event that an applicant would need to engage the Bureau, the Bureau would understand the ESP process. Ms. Cunningham asked the NRC if we knew of any applicants planned to use water the bureau controls. The NRC staff responded that it was unaware of any applicant that that planned to do so. The NRC staff referred the Bureau to the NRC's website that lists potential applicants (<http://www.nrc.gov/reactors/new-reactors.html>).

Rod McCullum from NEI, thanked the agencies for attending and describing their roles and responsibilities. Mr. McCullum described the role of the NEI ESP task force, which includes developing guidance for the industry on how to prepare an ESP application includes multi-agency interactions (ML102000484). The guidance to the industry includes:

- Identification of Federal Agency and the point of contact
- timing of Federal and State agency interactions (early and often)
- Identification of the types of State agencies that need to be involved
- Interactions between applicant, and Federal and State Agencies
- Effective communications between all agencies and applicant

The industry would like to improve the efficiency of the environmental review process, by avoiding to the extent practical multi-agency review of the same or similar information. Because up to 20 years can elapse between the issuance of an ESP and it being referenced in a combined license application, there is a possibility of new and significant information that may need to be addressed by the NRC in its combined license EIS. The industry is aware that the NRC's permitting process with an ESP that is then referenced in a combined license is different than other Federal and State Agencies permitting processes. In most cases at the ESP stage, permits from other Federal and State agencies would not be needed. However, these permits would be needed at the combined license stage, and the industry would for efficiency, like the other Federal and State agencies to use the ESP environmental review (ESP EIS) to the maximum extent possible in their review at the combined license stage.

Mr. McCullum concluded by stating that the NEI ESP task force is interested in producing guidance on effective multi-agency interactions. The discussion at this meeting was a starting point and the task force welcomes additional dialogue.

Jack Cushing thanked everyone for attending the meeting and describing their agency's role and responsibility and informing the industry how they can interact with their agency prior to submitting an application.

DCWG - Combined (All)

(Revised 10/07/2009)

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