

April 24, 2013

Mr. William Jenkins
U.S. Army Corps of Engineers
Philadelphia District
The Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

SUBJECT: THE U.S. NUCLEAR REGULATORY COMMISSION AND U.S. ARMY CORPS OF ENGINEERS, PHILADELPHIA DISTRICT ENVIRONMENTAL IMPACT STATEMENT FOR THE PSEG POWER, LLC, AND PSEG NUCLEAR, LLC, EARLY SITE PERMIT APPLICATION RESPECTIVE AGENCY ROLES UNDER SECTION 106 OF THE NATIONAL HISTORIC PRESERVATION ACT

Dear Mr. Jenkins:

In 2008, a Memorandum of Understanding (MOU) between the U.S. Army Corps of Engineers (USACE or Corps) and the U.S. Nuclear Regulatory Commission (NRC) was developed to streamline the respective regulatory processes associated with the authorizations required to construct and operate nuclear power plants. The MOU identifies the NRC as the lead agency under the National Environmental Policy Act (NEPA) and notes that agencies that have an action on the same project may serve as cooperating agencies on the environmental impact statement (EIS). On November 5, 2010, the NRC invited the USACE, Philadelphia District, by letter to participate as a cooperating agency in the development of an EIS associated with the PSEG Power, LLC (PSEG) request for an early site permit, approving a site for the future construction and operation of a new nuclear power plant, along the Delaware River, on the southern part of Artificial Island, in Lower Alloways Creek Township, Salem County, New Jersey. The USACE accepted the invitation, by letter, to serve as a cooperating agency in the development of the EIS on January 24, 2011.

The purpose of this letter is to clarify and confirm NRC and USACE, Philadelphia District, Federal agency roles with respect to Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA), as part of the environmental review of the PSEG Early Site Permit application.

The Section 106 consultation roles for the project were discussed by Mr. Ed Bonner, USACE Regulatory Project Manager, and Mr. Allen Fetter of the NRC during a June 26, 2012, meeting in Salem, New Jersey. This meeting included the participation of State Historic Preservation Officers (SHPO) from both New Jersey and Delaware and the USACE Cultural Resource Specialist. Because the NRC and the USACE have limited regulatory authority, neither agency can complete the Section 106 process on the entire project.

The NRC and the USACE, in consultation with the SHPOs agreed that each agency will conduct the Section 106 process in areas where project activities are within their respective regulatory authority.

The NRC will consult on the impacts to cultural resources from proposed construction and operation activities on Artificial Island, and on the visual impacts from the project. The USACE will consult on potential impacts to cultural resources for activities affecting navigable waters or involving discharges of dredged or fill material into the waters of the United States, specifically any cultural resources potentially affected by the proposed construction of the causeway from Money Island Road to the PSEG site and the potential dredge (barge facility and water intake, for example) and fill areas at the proposed PSEG site and Site 15G.

Site 15G, a former confined disposal facility (CDF) for Delaware River dredge spoils, has been acquired by PSEG for the purpose of a land exchange with the USACE. The exchange would give PSEG an additional 85+ acres of land on Artificial Island for the PSEG site and the Corps would acquire CDF disposal capacity that can be utilized for maintenance dredging on the Delaware River. Because the land exchange is an action to be taken by the Corps, the Corps will be responsible for any Section 106 consultations that may be necessary to complete this action.

The clarification of NRC and the USACE roles on the PSEG application will ensure that each agency's review responsibilities under Section 106 of the NHPA are met within their respective jurisdictions.

If you have any questions or would like to discuss in more detail the project, please contact Mr. Allen Fetter, Project Manager for the environmental review of PSEG's application at 301-415-8556 or via e-mail at Allen.Fetter@nrc.gov or myself at 301-415-2809 or by e-mail at Paul.Kallan@nrc.gov.

Sincerely,

/RA/

Paul B. Kallan, Chief
Environmental Projects Branch 2
Division of New Reactor Licensing
Office of New Reactors

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Sincerely,
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Docket No. 52-043

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NRO - 002

***see previous concurrence**

****concurred via email**

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