

September 3, 2003

Dr. Ronald L. Simard  
Nuclear Energy Institute (NEI)  
1776 I Street, NW, Suite 400  
Washington, DC 20006-3708

SUBJECT: RESOLUTION OF EARLY SITE PERMIT TOPIC 22, FORM AND CONTENT OF  
AN EARLY SITE PERMIT

Dear Dr. Simard:

The purpose of this letter is to inform you of our understanding and expectations regarding the form and content of an early site permit (ESP), and the nature of envisioned NRC findings for an ESP that is based on the plant parameters envelope (PPE) approach (generic topic ESP-6). This topic, which is identified as ESP-22 on the list of Nuclear Energy Institute (NEI) generic ESP issues, was discussed at public meetings between August 22, 2002, and March 5, 2003. Subsequently, NEI documented its position on this topic in a letter dated April 30, 2003.

In your April 30, 2003, letter, you indicated that the NRC staff has agreed that, "ESP applicants may use the PPE approach as a surrogate for actual facility information to support required safety and environmental reviews" (Letter to R. Simard, February 5, 2003, on the subject "Resolution of Early Site Permit Topic 6 (ESP-6), Use of Plant Parameter Envelope (PPE) Approach"). You also indicated that, in discussions on the PPE approach, the pilot ESP applicants emphasized the importance of common understandings concerning ESP findings because it is these findings that will determine the future value of an ESP, e.g., in a combined license (COL) proceeding. In addition, you provided an enclosure to your letter containing a draft ESP for NRC review and comment. You indicated that detailed comments are not necessary at this time but that your primary interest is NRC feedback confirming that ESP findings envisioned by the staff are equivalent in substance to those you have proposed. You also requested that the staff identify conditions, terms, and limitations of a generic nature that the staff foresees specifying in ESPs.

You are correct in stating that the NRC staff has agreed that ESP applicants may use the PPE approach as a surrogate for actual facility information to support required safety and environmental reviews. However, as was stated in our February 5, 2003, letter on ESP-6, should the information listed in Section 52.17(a)(1)(i)-(viii) not be provided in an ESP application, it may complicate the NRC staff review, perhaps resulting in increased review time, as well as having a bearing on the staff assumptions and associated staff findings. Since NRC review of the pilot ESP applications will be first-of-a-kind reviews the staff cannot, at this point in time, say definitively how ESP findings will be structured or what terms and conditions the Commission may need to include in an ESP. The content of the ESP findings and any necessary terms and conditions will depend largely on the scope and depth of information provided by the ESP applicants and the staff's ability to determine, based on that information,

that an application for an ESP meets the applicable standards and requirements of the Atomic Energy Act and the Commission's regulations.

With regard to the draft ESP that was attached to your April 30, 2003, letter, we believe that the types of findings presented in your draft ESP are generally representative of the types of findings the staff envisions for an ESP, although the staff cannot, at this time, comment on the specific wording of the findings. The staff notes, however, that it is the combination of site characteristics and PPE values that will comprise the ESP bases for comparison with the design of the actual plant proposed for the site at the COL stage. Therefore, the staff believes that the ESP should contain or reference both the site characteristics and the PPE values. In addition, the staff emphasizes that, given that PPE values do not reflect a specific design and will not be reviewed by the NRC staff for correctness, the granting of an ESP by the NRC does not indicate NRC approval of the site for any specific plant or type of plant.

With regard to additional conditions and limitations on an ESP, it would be inappropriate for the staff to attempt to identify every condition and limitation that may be necessary for ESPs prior to raising this topic to the Commission, since, in accordance with 10 CFR 52.24, the Commission will issue an ESP, "in the form and containing the conditions and limitations, as the Commission deems appropriate and necessary." As we have stated in the past (e.g., in our letter of June 17, 2003, on the subject, "Resolution of Early Site Permit Topic 13 (ESP-13), Guidance for ESP Seismic Evaluations"), ESPs will contain a license condition requiring the reporting of any information the ESP holder has identified as having a significant implication for public health and safety. Also, as we stated in our letter of August 11, 2003, on the subject, "Resolution of Early Site Permit Topic 19 (ESP-19), Effects of Potential New Units at an Existing Site," the staff is considering ESP conditions for sites with an existing reactor that would require the ESP holder to notify the operating plant licensee and the NRC prior to conducting any activity authorized under 10 CFR 52.25(a). The staff cannot identify any additional generic conditions or limitations on an ESP at this time.

Please contact Nanette Gilles of my staff at 301-415-1180 if you have any questions on this matter.

Sincerely,

/RA/

James E. Lyons, Program Director  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Programs  
Office of Nuclear Reactor Regulation

Project No. 689

cc: See next page

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James E. Lyons, Program Director  
New, Research and Test Reactors Program  
Division of Regulatory Improvement Programs  
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