



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 2
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NEW YORK, NY 10007-1866

OCT 31 2014

Lt. Colonel Michael Bliss
District Commander
U.S. Army Corps of Engineers
Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390

Dear Colonel Bliss:

This is in further regard to Public Notice CENAP-OP-R-2009-0157 dated September 4, 2014, concerning an application by Public Service Electric and Gas Company Nuclear, LLC for a Department of the Army permit to construct a new nuclear power reactor and associated infrastructure adjacent to its existing nuclear power facility in Lower Alloways Creek Township, Salem County, New Jersey.

In conjunction with this permit application, the applicant has applied for an early site permit (ESP) with the Nuclear Regulatory Commission (NRC), which is necessary for site selection and preparation for a new nuclear power plant or reactor. An ESP does not approve construction or provide a detailed design of a reactor or reactors and the associated facilities. Instead, the ESP application and review process makes it possible to evaluate and resolve site safety issues, environmental protection issues, and plans for coping with emergencies, independent of the review of a specific nuclear design. If approved, the applicant can "bank" the site for up to 20 years for future reactor siting. NRC's regulations require the preparation of an environmental impact statement (EIS) as part of its review of an ESP application. The Philadelphia District, United States Army Corps of Engineers (Corps) is a cooperating agency for this EIS. The basis of the decision for this permit is included in this EIS which is located at: <http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr2168/>

Although no detailed design of a reactor and associated facilities was submitted, the ESP uses a plant parameter envelope (PPE) as a surrogate for the proposed nuclear power plant and its associated facilities. The analysis of environmental impacts based on a PPE approach allows an ESP applicant to defer the selection of a reactor design until the construction permit (CP) or combined construction permit and operating license (combined license or COL) stage. For the purposes of this ESP application, the applicant is using a PPE approach that includes plant design parameters derived from four different certified reactor technologies. The EIS analyzes the environmental impacts of these technologies using either one unit or two units at the site. Although the applicant would not be required to use any of these designs if it elected to proceed with a CP or COL application, it would be required to address whether the characteristics of the reactor ultimately selected fits within the values of the design parameters specified in the ESP.

Based on the PPE evaluated in the EIS, the applicant proposes to permanently impact 149.6 acres, and temporarily impact 53.4 acres, of waters of the United States for the construction of a reactor, cooling tower, switchyard, batch plant, heavy haul road, construction parking, and laydown area. Work would also include the construction of a barge and mooring facility, and construction of a 4.75 mile causeway to provide secondary access to the site. A total of 440,000 cubic yards of new dredging is proposed to accommodate the barge mooring facility. The applicant proposes to compensate for these impacts by rehabilitating 720 acres of *Phragmites australis* dominated tidal marsh to a *Spartina alterniflora* tidal marsh near Alloway Creek in Elsinboro Township, Salem County, New Jersey. The stated purpose of the proposed project is to generate 2,200 megawatts of nuclear electrical power to meet the need for additional baseload capacity and/or power in the State of New Jersey.

EPA believes that the wetlands associated with the Delaware Estuary are an aquatic resource of national importance as described in the revised 404(q) Memorandum of Agreement (MOA). This consideration is due to the designation of this waterway, and adjacent areas for management, as an Estuary of National Significance. The importance of the Delaware Estuary ecosystem was recognized by EPA when the Comprehensive Conservation and Management Plan was signed in 1996. The Partnership for the Delaware Estuary, a partnership of state, local and federal agencies, business interests, scientists, and concerned citizens has spent the past 18 years developing and implementing this plan to protect and restore the estuary.

After evaluating the information provided in the Public Notice, and information currently available in the Draft Environmental Impact Statement (DEIS) for the Project, EPA concludes that the proposed discharge of fill material will have a substantial and unacceptable impact on wetlands associated with the Delaware Estuary, which is an aquatic resource of national importance. We therefore recommend that a Department of the Army permit not be issued for this project.

Neither the Public Notice nor the DEIS provides sufficient information for us to make a reasonable judgment as to whether the proposed discharge will comply with the Clean Water Act Section 404(b)(1) guidelines. Without this information, we cannot determine if the wetlands impacts associated with construction have been minimized to the greatest extent practicable.

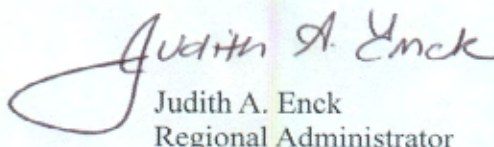
Furthermore, we cannot conclude, from the information provided in the Public Notice and the DEIS, whether the proposed mitigation for this project will adequately compensate for the impacts described. The Public Notice only provides a brief description of the proposed work and states that the site is located near the applicant's Alloway Creek Wetland Restoration Site. Without an opportunity to review a comprehensive mitigation plan for the project, we cannot determine that the proposed mitigation will be sufficient to compensate for the project's impacts.

Please note that this project is within the Philadelphia-Wilmington-Atlantic City, PA-NJ-MD-DE non-attainment area for the ozone National Ambient Air Quality Standard. Any Federal action within a non-attainment area must undergo a general conformity applicability analysis (see 40 CFR 93.153) to ensure that the action will not (1) cause or contribute to any new violation of any air quality standard, (2) increase the frequency or severity of any existing violation of any air quality standard, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The Public Notice does not state whether the Army Corps of Engineers (Corps) has performed the requisite applicability analysis for this project. Therefore, we recommend that the Corps prepare a general conformity applicability analysis for this project, and if necessary, a full general conformity determination, including any mitigation proposed to offset project emissions.

In summary, we have insufficient information to conclude that the project complies with the Clean Water Act Section 404(b)(1) guidelines. Once EPA is given the opportunity to review the mitigation plans, we will work with the Corps, as we have on many previous permit applications, to ensure that the Clean Water Act is followed. Without this information, however, we must conclude that the project as proposed will have a substantial and unacceptable impact on the Delaware Estuary, which is an aquatic resource of national importance. We therefore recommend that a Department of the Army permit not be issued for this project until this information can be developed and circulated for comment. This letter is intended to satisfy the requirements of Part IV 3(b) of the Section 404(q) MOA.

If you have any questions regarding this matter, please contact me at (212) 637-5000, or have your staff contact Mr. Richard Balla, Chief of EPA's Watershed Management Branch, at (212) 637-3788.

Sincerely,



Judith A. Enck
Regional Administrator

cc: Mr. Eric Schradung
Field Office Supervisor, U.S. Fish and Wildlife Service

Ms. Karen Greene
EFH Coordinator, National Marine Fisheries Service

Virginia Kopkash
Acting Director, Division of Land Use Regulation, NJDEP