



NUCLEAR INFORMATION AND RESOURCE SERVICE

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Thank you for participating in this briefing.

I am Michael Mariotte, executive director of Nuclear Information and Resource Service.

We called this briefing to 1) alert you to the fact that the Nuclear Regulatory Commission Atomic Safety and Licensing Board conducting the licensing proceeding for the proposed Calvert Cliffs-3 reactor in Maryland has informed the parties that it will issue three orders in this case, covering all remaining issues, by tomorrow, Friday, July 27 (*note, the order was postponed and finally released August 30, 2012*) and 2) to discuss the possible implications of these orders for Calvert Cliffs, the South Texas nuclear project and the so-called nuclear renaissance generally.

The remaining issues are, most importantly, our contention, first filed in November 2008, that the Calvert Cliffs project violates the Atomic Energy Act's prohibition against foreign ownership, control or domination of a U.S. nuclear reactor, and our contention that the NRC's Environmental Impact Statement understates the potential contribution of solar and wind power as alternatives to Calvert Cliffs-3.

Now, I have to hedge a little bit in discussing our expectations and implications of these pending decisions. We have not seen them, we have no inside information about them.

But, by way of background, the applicant for Calvert Cliffs-3 is UniStar Nuclear. In November 2010, Electricite de France became the sole owner of UniStar Nuclear (*note: if people would like background on how that came about, I'll be happy to discuss that in Q&A*). On April 6, 2011, the NRC staff determined that UniStar is ineligible to receive a construction license

because of EDF's 100% ownership of UniStar. On April 18, 2011, the Licensing Board issued a show cause order to UniStar, asking why the board should not therefore rule in our favor on the foreign ownership contention, deny a license and end the proceeding.

An oral hearing on this show cause order was held on July 7, 2011. At that hearing, UniStar argued that the licensing proceeding should be open-ended and that it should have as much time as it desires to find a U.S. partner to proceed with the project (we found that rather ironic, since it has been a popular myth pushed by industry for years that it is intervenors who try to delay these proceedings). UniStar also acknowledged that the economic/energy climate and the Maryland state regulatory climate are not conducive to building a new reactor in Maryland.

In an August 26, 2011 decision, the licensing board rejected UniStar's argument that the proceeding should be open-ended, stating that would be a violation of stated NRC policy to expedite licensing hearings to the extent possible. The board wrote, "At the time the Board issues its Partial Initial Decision on Contention 10C [the solar and wind contention, which had not been heard at that point] it will also issue its decision whether summary disposition should be granted as to Contention 1. Deferring judgment on Contention 1 until that date will give Applicants ample time—roughly a year and a half from the date on which EDF acquired a 100 percent interest in UniStar—to find a U.S. partner for Calvert Cliffs Unit 3, while also avoiding the type of open-ended proceeding which the Commission's regulations and policies clearly seek to avoid."

Two days of hearings on the solar/wind contention were held in January 2012 and now the Board is ruling on that contention, and apparently on the foreign ownership contention as well.

Based on that August decision, and that UniStar appears to have made no progress in enticing a U.S. partner to join it in this ill-fated project, we believe the likeliest outcome is that the board will grant summary disposition of the foreign ownership contention in our favor, and will issue that rarest of decisions—an actual denial of a license to a nuclear reactor.

If so, that will be great news for Maryland, whose residents will be able to avoid the danger of nuclear accident, the accumulation of more radioactive

waste on the Chesapeake Bay, and the higher electricity prices this reactor would have provided.

It will also be a blow to the nuclear industry generally, which is seeing viable new reactor orders fade away into the horizon. The first applicant affected will be Nine Mile Point 3, also owned by UniStar. That project has been on hold pending the outcome of the Calvert Cliffs-3 proceeding. It will not proceed.

Also greatly affected will be the South Texas Nuclear Project, and lead attorney Bob Eye is here and will discuss that one in a moment.

I should point out that four years ago, Calvert Cliffs and South Texas were the flagships of the nuclear renaissance. In the summer of 2007, Calvert Cliffs became the first partial applicant for a new reactor license in 30 years. It was followed a few weeks later by South Texas, which became the first applicant to file a full license application. Now, both projects have failed.

The two other Areva projects, Callaway and Bell Bend, are also not going to happen. And a key avenue of financing contemplated by many in the nuclear industry—loans from foreign export-import banks like Japan Bank for International Cooperation and the French Coface—are extremely unlikely to materialize.

To be sure, many of these projects have been on life support anyway; but nuclear reactor projects are not dead until they're dead. Now, knowing that they are not even remote options means states and regions can get to work on clean energy options that will actually benefit their citizens and ratepayers.

National and grassroots groups expend a lot of resources to do these interventions and challenge these reactors. We seek to preserve citizens' rights and uphold the law, and that doesn't always happen without legal interventions. And, in extremely rare—perhaps unique--cases like it appears this one will be, they actually stop a dangerous, unnecessary project. This truly has been a David vs Goliath case. NIRS, with five staff people, took on one of the largest nuclear utilities in the U.S. (Constellation) and the largest nuclear utility in the world (EDF) and the largest nuclear reactor manufacturer in the world (AREVA)—(Areva was not an official party in the case). **NIRS did not have a lawyer representing us—this was done**

pro se, while UniStar was represented by mega nuclear law firm Winston and Strawn. We hope this case and these pending decisions will prove to be an inspiration to grassroots activists and people everywhere: the nuclear industry can be defeated. And the corollary is true too: we can achieve a clean energy future.