

# NEWS FROM NIRS

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## **NRC STAFF RULES THAT UNISTAR NUCLEAR IS NOT ELIGIBLE TO RECEIVE A LICENSE TO BUILD OR OPERATE CALVERT CLIFFS-3 REACTOR**

The Nuclear Regulatory Commission staff today released a letter to UniStar Nuclear that says UniStar is not legally eligible to receive a Construction/Operating License from the NRC to build its proposed Calvert Cliffs-3 reactor.

The letter states that while the NRC would continue to review UniStar's license application for Calvert Cliffs-3 "while UniStar considers its options to move forward," the letter adds, "However, a license will not be issued unless the requirements of 10 CFR 50.38 are met." 10 CFR 50.38 is the implementing regulation for the Atomic Energy Act, which prohibits nuclear projects in the U.S. that are "owned, controlled or dominated" by foreign corporations or governments.

"Calvert Cliffs-3 will become known as the first nuclear casualty of the post-Fukushima era," said Michael Mariotte, Executive Director of Nuclear Information and Resource Service. "The project already was on shaky ground with the withdrawal of Constellation Energy; it is impossible to imagine that Electricite de France will be able to find a new American partner to join in on a multi-billion dollar fiasco after the Fukushima nuclear disaster."

Mariotte also pointed out that this ruling should end UniStar's chances of obtaining a Department of Energy loan guarantee for the project. "We would find it difficult to believe that the Energy Department could issue a loan guarantee for a project that is legally ineligible to obtain a construction license," said Mariotte. He promised that if the DOE attempts to issue one anyway, "the matter would certainly be decided by the courts."

UniStar had been hoping to obtain a DOE loan guarantee to help lure in new U.S. investors to the project.

Since former partner Constellation Energy dropped out of the Calvert Cliffs-3 project last October, UniStar Nuclear has been 100% owned by Electricite de France, which is 85% owned by the French government. UniStar has proposed to build a new reactor at Constellation's Calvert Cliffs, Maryland site, designed by another firm owned by the French government, Areva.

Nuclear Information and Resource Service, Beyond Nuclear, Public Citizen and Southern Maryland CARES had challenged the license application before an Atomic Safety and Licensing Board in November 2008 on the grounds that the then-existing corporate structure violated the Atomic Energy Act.

The ASLB admitted that contention for hearing in March 2009; but hearings have not yet been held. The ASLB had stated when admitting the contention that 100% ownership by a foreign entity was *per se* not allowed, and in November 2010 ruled that the issue would not proceed to hearing until after the NRC staff issues a determination that the foreign ownership issue is resolved.

In January 2011, UniStar Nuclear submitted a “negation action plan” in an attempt to overcome the foreign ownership issue, stating that certain security and safety-related decisions would only be made by American citizens.

It was this plan that the NRC has rejected, saying it does not overcome the fundamental facts that “(1) UniStar is 100 percent owned by a foreign corporation (EDF), which is 85 percent owned by the French government; (2) EDF has the power to exercise foreign ownership, control, or domination over UniStar; and (3) the Negation Action Plan submitted by UniStar does not negate the foreign ownership, control or domination issues discussed above.”

The letter is available at:

<http://www.nirs.org/nukerelapse/calvert/NRCforeigndeterminationletter.pdf>

This press release is available at:

<http://www.nirs.org/nukerelapse/calvert/nirspronnrcttr4811.pdf>