

Mr. Henry A. Sepp
Site Manager
Westinghouse Electric Company, LLC
3300 State Road P
Festus, MO 63028

SUBJECT: WESTINGHOUSE ELECTRIC COMPANY LLC - AMENDMENT 50 - LICENSE CONTINUATION, DISMANTLEMENT AND DEMOLITION OF THE BUILDING COMPLEXES, ORGANIZATIONAL CHANGE AND ADMINISTRATIVE CHANGES TO MATERIALS LICENSE SNM-000033 FOR THE HEMATITE FACILITY (TAC NO. L52662 AND L52641)

Dear Mr. Sepp:

I am responding to your June 29, 2004 (MLXXXX), October 5, 2004 (ML051310063), and May 12, 2005 (MLXXXX) letters requesting that the U.S. Nuclear Regulatory Commission (NRC) amend Materials License Number SNM-00033. Specifically (1) on June 29, 2004, you requested that NRC continue the license in effective beyond the expiration date with respect to the possession of special nuclear material, (2) on October 5, 2004, you requested that NRC amend the license to allow for building dismantlement and demolition of building complexes at the Hematite Facility (at grade), and (3) on May 12, 2005 you requested that NRC amend the license to replace, by name, the Radiation Safety Officer (RSO). Regarding these requests, refer to Attachments 1, 2, and 3, respectively, on how we addressed these requests. We also addressed the applicability of license condition 14 as explain in our June 20, 2005 (MLXXXX) letter to you and the need to update the references to 10 CFR 71 subparts in license condition 13 to reflect the amended NRC regulations on packaging and transportation of radioactive material which became effective October 1, 2004. Attachment 4, is a summary of all the changes made to Materials License Number SNM-00033, organized according to your above request letters.

We have determined that your June 29, 2004 and May 12, 2005 request actions, removal of license condition 14, and update to title 10 of the Code of Federal Regulations (CFR) Part 71 references in license condition 13, all qualify for a categorical exclusion pursuant to 10 CFR 51.22(c)(11). These requested actions are administrative in nature and are not major federal actions. As such, the preparation of an Environmental Assessment (EA) is not required for any of these actions.

Regarding your October 5, 2004 request for Hematite building dismantlement and demolition at grade, staff determined that an EA was warranted. This is to inform you that staff, in accordance with the requirements of 10 CFR 51.21, has performed an EA of the effects of granting this requested action. The NRC staff contacted the Missouri Department of Natural Resources, the Missouri Fish and Wildlife Department and the Missouri Historical Preservation Society regarding this request. A summary of the consultation is described in Attachment 2. The EA and Finding of No Significant Impact (FONSI) was published in the *Federal Register* on

September X, 2005 (FR XXXX). A copy of the EA and FONSI (MLXXXX) and the *Federal Register* notice are provided as attachments 1 and 2, respectively.

The NRC staff has reviewed your June 29, 2004, October 5, 2004, and May 12, 2005 requests in accordance with the requirements of 10 CFR 70.21(a), 10 CFR 70.34, and 10 CFR 70.38(c) and finds them acceptable. In accordance with your application by letters dated June 29, 2004, October 5, 2004 supplemented by your December 22, 2004 letter, and pursuant to 10 CFR Part 70, Materials License SNM-000033 is hereby amended to reflect license renewal until decommissioning is complete through NRC approval, to allow building dismantlement and demolition at grade of building complexes with specific license conditions, and to reflect the removal of the name of the RSO at the Westinghouse Electric Company LLC Hematite Facility located in Jefferson County, respectively. In addition, license condition 14, has been deleted because the agreement between NRC and Westinghouse Electric Company (WEC) no longer applies as explained in the June 20, 2005 letter from NRC to WEC (ML0516500220) and references to 10 CFR 71 subparts have been updated in license condition number 13 to reflect the amendment to 10 CFR Part 71, effective October 1, 2004.

This amended license supersedes, in its entirety, Materials License Number SNM-00033, Amendment No. 49, dated XXXXXXXX. Changes made to the enclosed Materials License (attachment 3) are indicated by vertical lines in the right margin. In addition, enclosed are copies of the Safety Evaluation Reports (SER)s (attachments 4 and 5), and the associated *Federal Register* Notice of issuance for the amended license (attachment 6).

If you have any questions regarding this matter, please contact Amy M. Snyder of my staff at (301) 415-8580 or by e-mail at ams3@nrc.gov.

In accordance with 10 CFR 2.790 of the NRC's "Rules of Practice," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records (PARS) component of NRC's document system (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/NRC/ADAMS/index.html> (the Public Electronic Reading Room).

Sincerely,

Daniel M. Gillen, Deputy Director
Decommissioning Directorate
Division of Waste Management
and Environmental Protection
Office of Nuclear Material Safety
and Safeguards

Docket No.: 70-36
License No.: SNM-000033
Amendment 50

Enclosures: 1. July 29, 2004 Request Assessment
 2. October 5, 2004 Request Assessment
 3. May 12, 2005 Request Assessment
 4. Summary of Changes Made to Materials License Number SNM-00033

Attachments:

1. Environmental Assessment and FONSI Related to Consideration of Westinghouse Electric Company, LLC's License Amendment Request to Dismantle and Demolish the Hematite Facility Buildings, Docket no. 70-36
2. Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Westinghouse Electric Company, LLC, Festus, MO
3. Materials License SNM-000033
4. Safety Evaluation Report: Organizational Changes, and Deletion and Modification of Certain Commitments in License SNM-33 for the Hematite Facility with Categorical Exclusion (TAC No. L52662)
5. Safety Evaluation, SNM-00033, Hematite Former Fuel Fabrication Facility, Festus, MO, Docket no: 70-36
6. Federal Register Notice for License Amendment 50.

cc: G. M. Vytlačil, Manager, Licensing and Quality Assurance
 A. J. Nardi, Chairman, Project Oversight
 R. A. Kucera, Deputy Department Director for Policy
 Missouri Department of Natural Resources
 B. Moore, Project Manager, Missouri Department of Natural Resources

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June 29, 2004 Request Assessment

With respect to your June 29, 2004 license amendment request, U.S. Nuclear Regulatory Commission (NRC) staff notes that the Hematite site is currently undergoing decommissioning operations in accordance with the terms of Materials License Number SNM-00033. The site's activities are limited to those permitted by the license and necessary to perform such activities as site environmental characterization, remedial investigations, equipment removal, and continuation of the development of a Decommissioning Plan (DP). The NRC staff also notes that you intend to clean up site for unrestricted release and request termination of your license in accordance with the commitments in your draft Decommission Plans (Rev. 0, Rev. 1 and Rev. 2) and by your October 5, 2004 license amendment request to allow for building dismantlement and demolition at grade. Your June 29, 2004 letter notes that you will adhere to the current license terms and conditions and any future amendment approvals excluding Part II of the November 24, 1993 application. Part II is no longer applicable because it relates to production activities. Additionally, your June 29, 2004 letter identifies the commitment letters and applications that are no longer relevant to the possession only license.

We have determined that your June 29, 2004 request qualify for a categorical exclusion pursuant to 10 CFR 51.22 (c)(11). The request action is administrative in nature and is not a major federal action. As such, the preparation of an Environmental Assessment (EA) is not required.

Staff reviewed your application, performed a safety evaluation and found your request acceptable. Accordingly, the license was updated as described in Enclosure 4.

October 5, 2004 Request

With respect to your October 5, 2004 license amendment request, staff reviewed your application and determined that an Environmental Assessment (EA) was necessary. Staff developed a draft EA for Hematite Building Dismantlement and Demolition and by letter dated March 3, 2005, provided it to Missouri Department of Natural Resources (MDNR) for review and comment. By letter dated April 20, 2005 to the U.S. Nuclear Regulatory Commission (NRC), MDNR responded by stating it agreed with the proposed alternative, but made no other comments about the draft EA. However, this letter from MDNR also mentioned MDNR's January 2005 letter to Westinghouse Electric Company, LLC (WEC). MDNR's letter to WEC identified concerns related to monitoring and mitigation. Coincidentally, at this same time, the NRC realized that the application was not reviewed by a Health Physicist. NRC then conducted a complete technical review of the application. By a letter dated June 29, 2005, (MLXXXX) through the NRC's request for additional information (RAI) process, staff asked for additional information regarding the licensee's plans to characterize the buildings before building dismantlement and demolition and its methods proposed to control and monitor water discharges and fugitive emissions so that the staff could adequately evaluate their impacts on the environment. By letter dated July 22, 2005 (ML XXXX), WEC responded to the Request for Additional Information (RAI). NRC evaluated the responses and found them acceptable and evaluated the impact on the draft EA that was given to MDNR for the purposes of consultation. The draft EA was updated to reflect the characterization and environmental monitoring information and commitments. NRC discussed the responses with MDNR. MDNR believed that the response addressed their concerns and had no further comments. Staff then finalized the EA by discussing the additional environmental monitoring and characterization commitments made by the licensee.

Due to the potential cultural and historical significance and the proposed impacts to these buildings that WEC propose to dismantle and demolish, the U.S. National Park Service (NPS), the U.S. Fish and Wildlife Service (FWS), and State Historic Preservation Office (SHPO) of Missouri were consulted. The NPS and SHPO required a Historic American Engineering Record (HAER) be compiled for each of the buildings on site (HAER file No. MO-311), as a result of a draft Memorandum of Agreement (MOA) between WEC and SHPO. The SHPO's initial opinion was that the proposed demolitions will have an adverse effect on the National Register of Historic Places eligible district. The NPS advised WEC that it may proceed with demolition in accordance with stipulations outlined in the MOA with the Missouri SHPO. NPS further advised WEC that a letter of final approval for this large HAER project will be provided upon receipt of the complete, revised documentation. SHPO in a letter dated January 4, 2005 to NRC states: "While all parties involved in the project have followed the stipulations in the draft MOA in good faith, please be aware that an executed MOA is necessary to complete the Section 106 process. In order for the project to move forward, it is acceptable to our office that Westinghouse and NRC proceed with the project, in accordance with the draft MOA." The FWS has provided that their evaluation and search of existing information indicates no federally listed, proposed, or candidate species or critical habitat occurs on or near the project site. Staff finds this approach acceptable and expects the licensee to completely execute the MOA before building dismantlement and demolition.

During the August 2005 NRC inspection at Hematite, staff asked WEC about its technical basis for its environmental monitoring program. WEC informed NRC that a technical basis document for the environmental monitoring program was being developed. With respect to this proposed licensing action, staff informed the licensee that its technical basis document for the Hematite Environmental Monitoring Program must be completed and approved by NRC before any

building dismantlement and demolition work could begin in order fulfill commitments that WEC made in its June 22 RAI response letter (ML XXXX) regarding committing to characterization of the buildings and updating its environmental monitoring program and implementing procedures so that they are reflective of decommissioning, make or cause to make surveys in accordance with 10 CFR 20.1501(a), and maintain records sufficient to demonstrate compliance with the dose limit for individual members of the public per 10 CFR 20.2107.

Staff reviewed your application, performed a safety evaluation and found your request acceptable. Accordingly, the license was updated as described in Enclosure 4.

May 12, 2005 Request

With respect to Westinghouse ElectricWEC's May 12, 2005 license amendment request, staff noted that NRC's Decommissioning Directorate has changed its policy regarding listing the Radiation Safety Officer (RSO) by name in the license. For decommissioning sites, the RSO does not need to be named; however the license must include the qualifications that an RSO must meet for the respective site.

We have determined that your May 12, 2005 request action qualifies for a categorical exclusion pursuant to 10 CFR 51.22(c)(11). The requested action is administrative in nature and is not major federal action. As such, the preparation of an Environmental Assessment is not required.

Staff reviewed your application, performed a safety evaluation and found your request acceptable. Accordingly, the license was updated as described in Enclosure 4.

Changes to the License Summarized With Respect to License Request

Changes Related to WEC's June 29, 2004 request:

License Condition

- "17. Except as specifically provided otherwise in the license, the license shall conduct its program in accordance with statements, representations, and procedures contained in documents, including any enclosures, listed below. The U.S. Nuclear Regulatory Commission's regulations shall govern unless the statements, representations, and procedures in the licensee's application and correspondence are more restrictive than the regulations.
- A. Application dated May 12, 2005. Application dated October 5, 2004 (Chapter 3). Application dated April 21, 2004 (Chapter 2). Application dated October 29, 1993, (Chapters 1 through 8), and supplements dated November 24, 1993; January 14, January 28, March 21, April 20, June 14, and October 24, 1994; January 28, July 27, and December 15, 1995; January 26, May 29, August 8, August 11, 1997; July 10, 1998; January 15, and December 6, 1999; April 7, June 21, and December 22, 2000; and March 6, August 2, September 11, and October 24, 2001.
- B. Letters dated September 4, 2002, December 30, 2003, and April 7, June 29, June 15, August 27, October 5, and December 22, 2004 and May 12, and July 29, 2005."

The license expiration date is changed from July 29, 2004 to "until decommissioning is complete and approved by NRC."

Part II of the November 24, 1993 application was deleted.

Changes Related to WEC's October 5, 2004 request:

License Condition

- "17 If the licensee makes a decision to seek free release of any such structures, because of the evidence of radiological contamination of soil beneath many of the facility buildings, plans for this process will be addressed under a separate licensing action or the approved Decommissioning Plan."

License Condition

- "18. Before building dismantlement and demolition is allowed, all equipment must be removed from each of the buildings to allow for complete characterization of contamination within the buildings prior to demolition and to reduce the risk of future exposures to these materials, and building characterization must be complete and assessed, work plans as well as environmental and occupational monitoring plans must be updated as necessary to reflect building characterization assessments, and the licensee must verify after characterization is complete that no RCRA material is present in the buildings before building dismantlement and demolition."

Page 1-6 Revision 7"

add

" (d) Dismantlement and demolition of site buildings down to building slabs and foundations at grade.

(e) (deleted)."

Changes Related to WEC's May 12, 2005 request:

Chapter 2, page 2-1: First 2 paragraphs were deleted and replaced with "The experience summaries and qualifications of the Project Oversight Committee Chairman, Radiation Safety Officer, and other key staff members can be obtained from the Project Director. Within 30 days of change of any key staff member, the licensee must submit to NRC a summary of the new key staff member's experience and qualification for review."

Chapter 2, Rev. 0 Pages: 2-7, 2-24, 2-25, 2-26, 2-27, 2-28, 2-29 deleted.

Project Management Organization described in Section 2.2, page 2-30 was deleted and replaced with the following:

Insert Organization Chart

License Condition 11 A. was modified as follows:

The last sentence, " The Hematite Facility RSO ... is Cort Horton" was deleted.

Other administrative changes:

License condition 13 was deleted.

License condition 14 references were updated to reflect the October 1, 2004 regulatory update to 10 CFR Part 71 references:

"13. In accordance with 10 CFR 71.12, Westinghouse Electric Company is authorized to transport certain bulk materials contaminated with fissile material under the provisions of 10 CFR 71.15. The materials authorized are listed in Table 1, as limited by conditions listed in Table 2, of Westinghouse Electric Company application dated October 24, 2001. The materials are exempt from fissile material classification and from the fissile material package standards of 10 CFR 71.55 and 71.59, but are subject to all other requirements of 10 CFR Part 71."

"14 deleted."