

September 26, 2006

Peter T. Dietrich
Vice President
FitzPatrick Nuclear Power Plant
268 Lake Road East
Lycoming, NY 13093

SUBJECT: NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT AND CONDUCT SCOPING PROCESS FOR LICENSE RENEWAL FOR THE JAMES A. FITZPATRICK NUCLEAR POWER PLANT (TAC NO. MD2667)

Dear Mr. Dietrich:

The U.S. Nuclear Regulatory Commission (NRC) staff has received your application dated July 31, 2006, for the renewal of the Operating License No. DPR-59 for the James A. FitzPatrick Nuclear Power Plant (JAFNPP). In support of the application and in accordance with Title 10 of the *Code of Federal Regulations* Part 51 (10 CFR Part 51) and 10 CFR Part 54, Entergy Nuclear Operations, Inc. (Entergy), submitted an environmental report (ER). This letter provides information related to the staff's review of the JAFNPP ER.

The NRC prepared a notice that was published in the Federal Register on September 20, 2006, (71 FR 55032), advising the public that the NRC intends to gather information necessary to prepare a plant-specific supplement to the Commission's "Generic Environmental Impact Statement for License Renewal of Nuclear Plants" (GEIS), NUREG-1437, related to the review of the application for the renewal of the JAFNPP operating license.

Pursuant to 10 CFR 51.28, Entergy is invited to participate in the environmental scoping process. As discussed in the aforementioned notice, the staff is providing the public with the opportunity to participate in two environmental scoping meetings to be held Thursday, October 12, 2006. The meetings will be held at the Town Municipal Building, 42 Creamery Road, Oswego, New York 13126. The first session will be held in the afternoon, and the second session, covering the same subjects, will be held in the evening. The NRC will present an overview of the environmental review process and will describe how the process will be implemented for the review of the JAFNPP license renewal application.

P. Dietrich

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A separate NRC meeting notice with a more detailed agenda is forthcoming. You will be provided a copy of that notice.

In the interim, should you have any questions regarding the scoping meeting, please contact the NRC's Environmental Project Manager, Mr. Samuel Hernandez, at 301-415-4049 or by e-mail at shq@nrc.gov.

Sincerely,

/RA/

Rani Franovich, Branch Chief
Environmental Branch B
Division of License Renewal
Office of Nuclear Reactor Regulation

Docket No. 50-333

Enclosure:
Federal Register Notice

cc w/encl: See next page

P. Dietrich

-2-

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Distribution: See next page

ADAMS Accession No. **ML062480235**

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NAME	I. King /RA/	J. Muir /RA SHQ for/	S. Hernandez /RA/	R.Franovich /RA/
DATE	09/22/06	09/25/06	09/25/06	09/26/06

OFFICIAL RECORD COPY

Letter to P. Dietrich, dated September 26, 2006

SUBJECT: NOTICE OF INTENT TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT AND CONDUCT SCOPING PROCESS FOR LICENSE RENEWAL FOR THE JAMES A. FITZPATRICK NUCLEAR POWER PLANT (TAC NO. MD2667)

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FitzPatrick Nuclear Power Plant

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FitzPatrick Nuclear Power Plant

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Mayor of Oswego, NY
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Ms. Mary Bennett
Penfield Library
Suny-Oswego
7060 State Route 104
Oswego, NY 13126

Ms. Carol Ferlito
Oswego Public Library
140-142 East Second Street
Oswego, NY 13126

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-333]

Notice of Acceptance for Docketing of the Application, Notice of Opportunity for Hearing and Notice of Intent To Prepare an Environmental Impact Statement and Conduct Scoping Process for Facility Operating License No. DPR-59 for an Additional 20-Year Period, Entergy Nuclear Operations, Inc., James A. Fitzpatrick Nuclear Power Plant

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Operating License No. DPR-59, which authorizes Entergy Nuclear Operations, Inc. (Entergy), to operate the James A. FitzPatrick Nuclear Power Plant (JAFNPP) at 2536 megawatts thermal. The renewed license would authorize the applicant to operate the JAFNPP for an additional 20 years beyond the period specified in the current license. JAFNPP is located on Lake Ontario in Oswego County, approximately seven miles northeast of the City of Oswego, New York. The current operating license for the JAFNPP expires on October 17, 2014.

On August 1, 2006, the Commission's staff received the application from Entergy, to renew the Operating License No. DPR-59 for JAFNPP, pursuant to 10 CFR part 54. A Notice of Receipt and Availability of the license renewal application (LRA) was published in the Federal Register on August 11, 2006 (71 FR 46245).

The Commission's staff has reviewed the LRA for its acceptability and has determined that Entergy has submitted sufficient information in accordance with 10 CFR 54.19, 54.21, 54.22, 54.23, and 51.53(c), and the application is acceptable for docketing. The current Docket No. 50-333 for Operating License No. DPR-59 will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application.

Before issuance of each requested renewed license, the NRC will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. In accordance with 10 CFR 54.29, the NRC may issue a renewed license on the basis of its review if it finds that actions have been identified and have been or will be taken with respect to: (1) Managing the effects of aging during the period of extended operation on the functionality of structures and components that have been identified as requiring aging management review, and (2) time-limited aging analyses that have been identified as requiring review, such that there is reasonable assurance that the activities authorized by the renewed license will continue to be conducted in accordance with the current licensing basis (CLB), and that any changes made to the plant's CLB comply with the Act and the Commission's regulations. The Commission also must first find that the requirements of subpart A of 10 CFR 51 have been satisfied, and that matters raised under 10 CFR 2.335 have been addressed. Within 60 days after the date of publication of this Federal Register Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852 and is accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or

ENCLOSURE

who encounter problems in accessing the documents located in ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209, or 301-415-4737, or by e-mail at pdr@nrc.gov. If a request for a hearing/petition for leave to intervene is filed within the 60-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request/petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing/petition for leave to intervene is filed within the 60-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 51 and 54, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, taking into consideration the limited scope of matters that may be considered pursuant to 10 CFR parts 51 and 54. The petition must specifically, explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/ requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/ petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/ petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.¹ Contentions shall be limited to matters within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission requests that each contention be given a separate numeric or alpha designation within one of the following groups: (1) Technical (primarily related to safety concerns); (2) environmental; or (3) miscellaneous.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention or propose substantially the same contention, the requestors/petitioners will be required to jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct

¹ To the extent that the application contains attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitions desired access to this information should contact the applicant or applicant's counsel to discuss the need for a protective order.

of the hearing. A request for a hearing or a petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC, 20555– 0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at 301–415–1101, verification number is 301–415–1966.² A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC, 20555– 0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301–415–3725 or by e-mail to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to the attorney for the applicant, Mr. Terrence A. Burke, Entergy Nuclear, 1340 Echelon Parkway, Mail Stop— ECH–62, Jackson, Mississippi 39213. Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)–(viii).

In addition, the purpose of this notice is to inform the public that the NRC will be preparing an environmental impact statement (EIS) related to the review of the LRA and to provide the public an opportunity to participate in the environmental scoping process, as defined in 10 CFR 51.29. In accordance with 10 CFR 51.95(c), the NRC will prepare an environmental impact statement that will be used as a supplement to the Commission’s NUREG–1437, “Generic Environmental Impact Statement for License Renewal of Nuclear Power Plants” (GEIS), dated May 1996. Pursuant to 10 CFR 51.26, and as part of the environmental scoping process, the NRC staff intends to hold a public scoping meeting. In addition, as outlined in 36 CFR 800.8, “Coordination with the National Environmental Policy Act,” the NRC plans to coordinate compliance with section 106 of the National Historic Preservation Act in meeting the requirements of the National Environmental Policy Act of 1969 (NEPA).

In accordance with 10 CFR 51.53(c) and 10 CFR 54.23, Entergy prepared and submitted the Environmental Report (ER) as part of the LRA. The LRA and the ER are publicly available at the NRC’s PDR, located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, or from the NRC’s ADAMS. The ADAMS Public Electronic Reading Room is accessible at <http://adamswebsearch.nrc.gov/dologin.htm>. The ADAMS Accession Numbers for the LRA and the ER are ML062160494 and ML062160557, respectively. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC’s PDR reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at pdr@nrc.gov. The LRA and the ER may also be viewed on the Internet at <http://www.nrc.gov/reactors/operating/licensing/renewal/applications/fitzpatrick.html>. In addition, the LRA and the ER are available for public inspection near the JAFNPP at the following public libraries: Penfield Library SUNY, 7060 State Route 104,

² If the request/petition is filed by e-mail or facsimile, an original and two copies of the document must be mailed within 2 (two) business days thereafter to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555– 0001; Attention: Rulemaking and Adjustment Staff.

Oswego, New York 13126; and Oswego Public Library, 140–142 East Second Street, Oswego, New York 13126.

Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. The NRC is required by 10 CFR 51.95 to prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with 10 CFR 51.26.

The NRC staff will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in the scoping process by members of the public and local, State, Tribal, and Federal government agencies are encouraged. As described in 10 CFR 51.29, the scoping process for the supplement to the GEIS will be used to accomplish the following:

- a. Define the proposed action which is to be the subject of the supplement to the GEIS.
- b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.
- c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.
- d. Identify any environmental assessments and other EISs that are being or will be prepared that are related to, but are not part of, the scope of the supplement to the GEIS being considered.
- e. Identify other environmental review and consultation requirements related to the proposed action.
- f. Indicate the relationship between the timing of the preparation of the environmental analyses and the Commission's tentative planning and decision-making schedule.
- g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.
- h. Describe how the supplement to the GEIS will be prepared, and include any contractor assistance to be used.

The NRC invites the following entities to participate in scoping:

- a. The applicant, Entergy Nuclear Operations, Inc.
- b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.
- c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.
- d. Any affected Indian tribe.
- e. Any person who requests or has requested an opportunity to participate in the scoping process.
- f. Any person who has petitioned or intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC will hold public meetings for the JAFNPP license renewal supplement to the GEIS, at the Town Municipal Building, 42 Creamery Road, Oswego, New York 13126, on Thursday, October 12, 2006. There will be two identical meetings to accommodate interested parties. The first meeting will convene at 1:30 p.m. and will continue until 4:30 p.m., as necessary. The second meeting will convene at 7 p.m. and will continue until 10 p.m., as necessary. Both meetings will be transcribed and will include:

(1) An overview by the NRC staff of the NRC's license renewal review process; (2) an overview by the NRC staff of the NEPA environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; and (3) the opportunity for interested government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the same location. No formal comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. For more information about the proposed action, the scoping process, and the environmental impact statement, please contact the NRC Environmental Project Manager, Mr. Samuel Hernandez, at Mail Stop O-11F1, U.S. Nuclear Regulatory Commission, Washington, DC 20555, by telephone at 1-800-368-5642, extension 4049, or by e-mail at shq@nrc.gov. Persons may register to attend or present oral comments at the meetings on the scope of the NEPA review by contacting Mr. Hernandez. Members of the public may also register to speak at the meeting within 15 minutes of the start of each meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. Mr. Hernandez will need to be contacted no later than September 29, 2006, if special equipment or accommodations are needed to attend or present information at the public meeting, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scope of the JAFNPP license renewal review to: Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop T-6D59, U.S. Nuclear Regulatory Commission, Washington, DC, 20555-0001, and should cite the publication date and page number of this Federal Register notice. Comments may also be delivered to the U.S. Nuclear Regulatory Commission, Mail Stop T-6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, 20852, from 7:30 a.m. to 4:15 p.m. during Federal workdays. To be considered in the scoping process, written comments should be postmarked by November 14, 2006. Electronic comments may be sent by e-mail to the NRC at FitzPatrickEIS@nrc.gov, and should be sent no later than November 14, 2006, to be considered in the scoping process. Comments will be available electronically and accessible through ADAMS.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for viewing in ADAMS. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and separate public meetings. Copies will be available for public viewing at the above-mentioned addresses, and one copy per request will be provided free of charge, to the extent of supply. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public viewing.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Hernandez at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 14th day of September 2006.
For the Nuclear Regulatory Commission.
Eric J. Benner,
Acting Director, Division of License Renewal, Office of Nuclear Reactor Regulation.
[FR Doc. 06-7974 Filed 9-19-06; 8:45 am]