

PUBLIC SUBMISSION

As of: October 18, 2010
Received: October 18, 2010
Status: Pending_Post
Tracking No.: 80b718ef
Comments Due: November 13, 2010
Submission Type: Web

Docket: NRC-2009-0435
Notice of Receipt of License Renewal Application from Nuclear Fuel Services

Comment On: NRC-2009-0435-0002
Notice of Availability of Draft Environmental Assessment and Draft Finding of No Significant Impact and Notice of Public Meeting for the Proposed License Renewal for Nuclear Fuel Services, Inc., in Erwin, TN

Document: NRC-2009-0435-DRAFT-0002
Comment on FR Doc # 2010-25997

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10/15/2010
75 FR 63519
(1)

General Comment

See attached file(s)

Attachments

NRC-2009-0435-DRAFT-0002.1: Comment on FR Doc # 2010-25997

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2010 OCT 18 PM 2:08

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Template = ADM-013

E-REDS = ADM-03
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Union of Concerned Scientists

Citizens and Scientists for Environmental Solutions

October 18, 2010

Cindy Bladey, Chief
Rules, Announcements and Directives Branch
Division of Administrative Services
Office of Administration, Mail Stop TWB-05-B01M
U.S. Nuclear Regulatory Commission
Washington, DC 20555-0001

**SUBJECT: Docket ID NRC-2009-0435: Comments on Draft
Environmental Assessment for Nuclear Fuel Services, Inc. of
Erwin, Tennessee License Renewal**

Comments submitted via www.regulations.gov

Dear Ms. Bladey:

I reviewed the Nuclear Regulatory Commission's draft environmental assessment (DEA) for the proposed renewal of the license for the Nuclear Fuel Services facility in Erwin, TN. On behalf of the Union of Concerned Scientists, I provide the following comments, sorted in no particular order:

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vi, vii, 1-2 & 1-5	<p>Table ES-1, "Summary of Potential Environmental Impacts," at first glance appears to have unexplainable results. For example, the first parameter, Land Use, has SMALL impacts for the Proposed Action and 10-Year Renewal Cases but MODERATE impacts if the facility ceases operation. The same holds for the Scenic & Visual, Soils, and Waste Management parameters and is similar for the Water Resources – Surface Water, Water Resources – Groundwater, Ecology, and Noise parameters. These results are counter-intuitive, at least to me.</p> <p>Statements towards the bottom of page 1-2 explain how this happened. According to the NRC's DEA:</p> <p><i>Under the no-action alternative, NRC would not renew license SNM-124. Operations at the NFS site in Erwin, Tennessee, would cease. NFS would be required under 10 CFR 70.38 to submit a detailed decommissioning plan, and facility decommissioning would begin upon NRC approval of that plan. NRC would address both the health and safety and the environmental aspects of the proposed decommissioning plan.</i></p>

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	<p>In other words, the decommissioning plan for the Erwin facility has not yet been drafted, yet alone reviewed the NRC staff. Thus, the NRC staff filled the vacuum created by the non-existent decommissioning plan with whatever fanciful notions needed to make the other two options look better by comparison.</p> <p>The only parameter in Table ES-1 that favors the No-Action option is Public & Occupational Health – Accidents. Even a fertile imagination could not make a non-operational fuel fabrication center have greater impact than an operational one in terms of accidents.</p> <p>Turn the clock ahead to when the NFS facility does shut down and the NRC does receive the currently non-existent detailed decommissioning plan. At that time, Table ES-1 in the DEA the NRC develops to show that decommissioning is the right thing to do will magically be transformed to show that the “No-Action” option (likely renamed the Decommissioning option) will be better than any other option being considered. Nuclear alchemy will convert what appears to be a higher risk option today into the lowest risk option then.</p> <p>Contrasting definitive information from the license renewal application and supporting documents to pure speculation and conjecture needed to substitute for the non-existing decommissioning plan, the NRC staff is able to “show” that license renewal is the better option.</p> <p>On the top of page 1-5, the NRC listed the documents “reviewed and considered in the development of this draft EA.” <u>None</u> of the listed documents is a decommissioning plan for the NFS facility. <u>None</u> of the listed documents is a decommissioning plan for any other facility on the planet, nuclear or non-nuclear. This reinforces the very apparent fact that the NRC staff relied on rumor, supposition, and speculation – not science – in conjuring up the alleged, purported impacts of the No Action option.</p>
<p>vi, vii, 1-1, 1-2 & 1-3</p>	<p>The NRC improperly characterized the three options in Table ES-1 and defined in Sections 1.2, 1.4.1, and 1.4.2. The NRC portrays the three options as 40-year renewal, 10-year renewal, or no renewal followed by decommissioning. In reality, all the options involve decommissioning or none of the options involve decommissioning. The only difference is the timing of that certain decommissioning – in 40 years, in 10 years, or now.</p> <p>The 40-year renewal option is, in fact, 40 more years of facility operation followed by decommissioning.</p> <p>The 10-year renewal option is, in fact, 10 more years of facility operation followed by decommissioning.</p>

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	<p>The no-renewal option is stated correctly, no more operation following by decommissioning.</p> <p>By improperly defining the options, the NRC has improperly evaluated their impacts. All three options implicitly include decommissioning. So, whatever impacts are associated with decommissioning, they are associated equally with all three options.</p> <p>The 40-year renewal option therefore has the decommissioning impacts plus the impacts from up to 40 more years of facility operation.</p> <p>The 10-year renewal option therefore has the decommissioning impacts plus the impacts from up to 10 more years of facility operation.</p> <p>The no renewal option has only the decommissioning impacts. Nothing more. It is the option having the least impact of the three.</p> <p>Thus, the NRC should have considered decommissioning part and parcel of all three options because decommissioning is an inherent aspect of all three. Or, the NRC should be excluded decommissioning from all three options and treated it as a separate activity when that moment arrives (and when proper documents are submitted for NRC to review in evaluating its potential hazards).</p>

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1-4	<p data-bbox="393 275 1075 306">Below Table 1-1, the NRC staff states the following:</p> <p data-bbox="492 344 1455 606">For the purposes of its NEPA reviews, the NRC staff considers an NRC licensee’s compliance with other federal and state permits to be protective of public health and safety, given the expectation that the various limits and conditions in the permits are reflective of the issuing agency’s regulatory authority. For this reason, in this draft EA, the NRC staff does not review the adequacy of permit limits and conditions granted to NFS by other federal and state agencies, but rather identifies NFS’ compliance with such permits as part of its assessment of potential impacts.</p> <p data-bbox="393 644 1417 741">In other words, the NRC does not ascertain if the various federal and state permits provide adequate protection. Instead, the NRC checks to see if applicants comply with those permits.</p> <p data-bbox="393 779 1414 919">As mentioned in a comment above, had the NRC properly defined the three options considered in the DEA, they very likely would have reached different conclusions when applying factors like compliance with other federal and state permits.</p> <p data-bbox="393 957 1384 989">NFS has been sanctioned for non-compliances with regulatory requirements.</p> <p data-bbox="393 1035 1372 1140">The chances for NFS failing to comply with regulatory requirements during decommissioning equally affects all three options, since all three options implicitly involve decommissioning.</p> <p data-bbox="393 1178 1450 1318">The chances for NFS failing to comply with regulatory requirements during 40 more years of operation are higher than the chances of failing to comply during 10 more years of operation, which in turn are higher than the chances of failing to comply during no more minutes of operation.</p> <p data-bbox="393 1356 1438 1497">The DEA has not accounted for the fact that NFS has greater probability of noncompliance with federal and state requirements over 40 years of operation than over 0 years of operation. The failure to do so has unfairly biased the results in favor of renewal.</p>
3-20 & 1-5	<p data-bbox="393 1535 1438 1885">Section 3.6 reports that a 2001 study calculated a peak ground acceleration of 60 centimeters per second squared while a 2008 study calculated a higher peak ground acceleration of 80 centimeters per second squared. This 33 percent increase is consistent with the recently issued NRC Information Notice 2010-18, Generic Implications of Updated Probabilistic Seismic Hazard Estimates in Central and Easter United States on Existing Plants. Page 4 of that Information Notice states that “Updates to seismic data and models show increased seismic hazard estimates for some operating nuclear power plant sites...” and “...not all of the information needed to perform the regulatory assessment is current available...”.</p>

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	<p>Page 1-5 of the DEA labeled seismic risk analysis as outside the scope of the DEA. This page explained that issues were determined outside the scope of the DEA if they (a) involved safety and enforcement issues or (b) were not within NRC’s regulatory authority.</p> <p>As strongly suggested by the referenced Information Notice and the explicit coverage of seismic issues in the DEA, seismic issues after nuclear facilities are within NRC’s regulatory authority. So, the NRC must have considered the seismic issues to only involve safety and/or enforcement issues rather than environmental issues.</p> <p>Seismic events can have significant environment consequences. The NRC is aware that past seismic evaluations have likely under-estimated the associated hazards. The DEA should include, not ignore, this reality. By failing to include this known risk factor in the DEA, the NRC has unfairly biased results in favor of license renewal.</p>
<p>vii, 3-23 & 4-13</p>	<p>Table ES-1 claims that the 40-year renewal and 10-year renewal options would have SMALL impacts with regard to Noise while the No-Action option would entail SMALL to MODERATE impact for Noise.</p> <p>Section 4.8 of the DEA reports that “an increased noise level would be expected due to site decommissioning” under the No-Action option and uses this conclusion to apply a SMALL to MODERATE impact label.</p> <p>This conclusion is contradictory to the criterion the NRC stated it applies to such matters. Below Table 1-1, the NRC staff states the following:</p> <p style="padding-left: 40px;">For the purposes of its NEPA reviews, the NRC staff considers an NRC licensee’s compliance with other federal and state permits to be protective of public health and safety, given the expectation that the various limits and conditions in the permits are reflective of the issuing agency’s regulatory authority. For this reason, in this draft EA, the NRC staff does not review the adequacy of permit limits and conditions granted to NFS by other federal and state agencies, but rather identifies NFS’ compliance with such permits as part of its assessment of potential impacts.</p> <p>Section 3.8 of the DEA details the noise created by operation of the NFS facility in Erwin. This section reports that Erwin “does not have a specific environmental noise standard that is applicable to NFS” and the town’s “Code of Ordinances does not reference a decibel level that defines ‘excessive’” noise.</p> <p>The NRC has not reviewed any decommissioning plans for the NFS facility in Erwin. Thus, their thoughts about how noisy these undefined, unspecified actions</p>

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	<p>might be are purely speculative, and irrelevant. By its own admission, the NRC knows that the town of Erwin has no “specific environmental noise standard that is applicable to NFS.” Thus, it is impossible for decommissioning activities – whatever they are – to violate a non-existent standard. The NRC stated in the DEA that it considered compliance and compliance alone and “does not review the adequacy of permit limits.” Yet with respect to noise, the NRC has implicitly deemed the town of Erwin’s noise protection standards deficient and unilaterally judged unspecified future decommissioning activities to be too noisy. In doing so, the NRC has unfairly disadvantaged the No-Action option.</p>

In summary, the NRC’s draft environmental assessment is defective and unfair because it is clearly biased in favor of the two license-renewal options.

The DEA improperly characterizes the three options by lumping decommissioning in only with the No-Action option when decommissioning is just as closely associated with the two license-renewal options. The decommissioning plan for the NFDS facility in Erwin has not be reviewed by the NRC staff. Thus, their opinion as to what activities will be involved and their potential environmental consequences is purely speculative. In NRC’s imagination – unsupported by any documents or facts on the record – decommissioning has more potential environmental impacts than renewed operation of the NFS facility for up to 40 years. Because renewed operation would then be followed by decommissioning, it is unfair to bundle the No-Action option with these alleged impacts while pretending the license renewal options lack such burden. All three options should include decommissioning, or none of the options should account for it. It is patently unfair to saddle only the No-Action option with it.

In addition, the DEA improperly evaluates factors that have the result of making the No-Action option seem relatively unattractive. For example, the NRC explicitly stated in the DEA that it considers compliance with federal and state requirements alone when evaluating public protection. The NRC explicitly stated that it does not and will not consider the adequacy of those requirements, just compliance. But the NRC deviated from this self-stated approach when it concluded that the No-Action option had SMALL to MODERATE noise impacts while both license renewal options had only SMALL impacts. The DEA reports NRC’s finding that the town of Erwin has no environmental noise standard applicable to NFS. Yet the NRC found this inadequate and unilaterally imposed one in order to judge the No-Action option wanting.

The NRC must not approve license renewal at NFS based on this defective draft environmental assessment. The NRC should revise the draft environmental assessment to remedy its many shortcomings and re-issue the corrected draft for public comment.

Sincerely,

A handwritten signature in black ink that reads "David A. Lochbaum". The signature is written in a cursive, flowing style with a large initial 'D'.

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