

January 4, 2011

Charlie Scott, Field Supervisor
U.S. Fish and Wildlife Service
101 Park DeVille Drive, Suite A
Columbia, MO 65203-0057

SUBJECT: SOLICITATION OF U.S. FISH AND WILDLIFE SERVICES COMMENTS ON
DRAFT ENVIRONMENTAL ASSESSMENT WITH A FINDING OF NO
SIGNIFICANT IMPACT ASSOCIATED WITH THE HEMATITE BURIAL PITS
20.2022 REQUEST (Docket No. 70-00036)

Dear Mr. Scott:

By letter dated May 21, 2009, the U.S. Nuclear Regulatory Commission (NRC) received a license amendment application from Westinghouse Electric Company LLC (WEC or the licensee), pertaining to its planned disposal of NRC-licensed source, byproduct and special nuclear material. Regarding this material, WEC sought approval, pursuant to 10 CFR 20.2002 of proposed disposal procedures which are not otherwise authorized by NRC regulations. WEC holds NRC License No. SNM-00033, which authorizes the licensee to conduct decommissioning activities at its former fuel cycle facility located in Festus, Missouri. The amendment request sought authorization to allow WEC to transfer decommissioning waste to U.S. Ecology Idaho, Inc., a Resource Conservation and Recovery Act (RCRA) Subtitle C disposal facility located near Grand View, Idaho. This facility is regulated by the Idaho Department of Environmental Quality and is not an NRC-licensed facility. Pursuant to 10 CFR 30.11 and 70.17, WEC's application also requested exemptions from the licensing requirements of 10 CFR 30.3 and 70.3 for the byproduct and special nuclear material it sought to transfer. These exemptions are necessary because the disposal of byproduct and special nuclear material must occur at a facility licensed to possess such material, and the U.S. Ecology Idaho facility has no NRC license.

An NRC administrative review, documented in a letter to WEC dated June 19, 2009, found the alternate disposal application acceptable to begin a technical review. The NRC is completing that technical review and it appears that the NRC is moving towards granting WEC's request. If approved, the NRC's approval would be documented in an amendment to Hematite's NRC License No. SNM-00033. However, before approving the proposed amendment, the NRC needs to make the findings required by the Atomic Energy Act of 1954, as amended, and the National Environmental Policy Act. These findings would be documented, respectively, by the NRC in a Safety Evaluation Report (SER), and in a separate Environmental Assessment (EA). The NRC staff has prepared, in accordance with 10 CFR 51.21, an EA of the effects of this action. A copy of the NRC's draft EA is enclosed for your review. Previously, in response to our October 1, 2009 letter, the U.S. Fish and Wildlife Service had stated in its December 22, 2009, response there are "... no Federally listed, proposed or candidate species or critical habitat on or near the project site." Should the U.S. Fish and Wildlife Service have any comments or suggestions on these drafts, please provide them to me within 30 days from the date of this letter. We will presume that you have no comments if none are received within the 30 days.

In transmitting the draft EA to you, the cover letter, by itself, may be made publicly available. However the draft EA document **should not** be made publicly available as the NRC considers the draft to be pre-decisional information. Accordingly, we have placed "Official Use Only – Pre-decisional Environmental Assessment" in the header/footer of the EA. Please limit distribution to staff within the U.S. Fish and Wildlife Service.

Since this action is associated with a facility located in Missouri and since the material is proposed to be buried in the State of Idaho, a copy of this draft EA is also being sent to the Missouri Department of Natural Resources and to the Idaho Department of Environmental Quality requesting their comments.

In accordance with 10 CFR 2.390 of the NRC's "Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders," a copy of this letter will be available electronically for public inspection in the NRC Public Document Room or from the Publicly Available Records component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html>.

If you have any further questions, please contact me at (301) 415-5928 or via email at John.Hayes@nrc.gov.

Sincerely,

/RA/

John J. Hayes, Senior Project Manager
Materials Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
Draft Environmental Assessment

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If you have any further questions, please contact me at (301) 415-5928 or via email at John.Hayes@nrc.gov.

Sincerely,

John J. Hayes, Senior Project Manager
Materials Decommissioning Branch
Decommissioning and Uranium Recovery
Licensing Directorate
Division of Waste Management
and Environmental Protection
Office of Federal and State Materials
and Environmental Management Programs

Enclosure:
Draft Environmental Assessment

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