

**NUCLEAR REGULATORY COMMISSION**

**[Docket No. 70-0036; NRC-2009-0278]**

**Environmental Assessment and Finding of No Significant Impact  
Related to Exemption of Material for Proposed Disposal Procedures for the  
Westinghouse Electric Company, LLC, Hematite Decommissioning Project,  
License No. SNM-33,  
Festus, Missouri**

**AGENCY:** Nuclear Regulatory Commission

**ACTION:** Notice of Availability.

**FOR FURTHER INFORMATION CONTACT:** John J. Hayes, Senior Project Manager,  
Decommissioning and Uranium Recovery Licensing Directorate, Division of Waste Management  
and Environmental Protection, Office of Federal and State Materials and Environmental  
Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555,  
telephone: 301-415-5928; e-mail: [John.Hayes@nrc.gov](mailto:John.Hayes@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Introduction**

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 materials. Regarding this material, WEC seeks approval, pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 20.2002, of proposed disposal procedures which are not otherwise authorized by NRC regulations. WEC holds NRC License No. SNM-33, which

authorizes the licensee to conduct decommissioning activities at its former fuel cycle facility located in Festus, Missouri. Since the fuel cycle facility operations have ceased, the Hematite site is undergoing preparation for decommissioning of the site. The facility is now referred to as the Hematite Decommissioning Project (HDP). The amendment request seeks authorization allowing WEC to transfer decommissioning waste to U.S. Ecology Idaho, Inc. (USEI), a Resource Conservation and Recovery Act 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 seeks 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 USEI facility has no NRC license.

On July 6, 2009, the NRC issued a Notice of Opportunity for Hearing (Agencywide Documents Access and Management System (ADAMS) No. ML091740733) on the May 21, 2009, WEC license amendment request (ADAMS No. ML091480071). The original notice of opportunity was extended to October 5, 2009, by Order dated September 4, 2009 (ADAMS No. ML092470425). On July 28, 2009, the NRC held a public meeting in the community of Grand View, Idaho, to inform the public and to provide an opportunity for the public to provide comments and ask questions of the NRC staff. On August 12, 2009, WEC submitted a Decommissioning Plan (DP) [ADAMS Nos. ML092330123, ML092330125, ML092330127, ML092330129, ML092330131, and ML092330132] and supporting documents. This DP superseded all previous DPs for the HDP. An Environmental Report (ADAMS Nos. ML092870403 and ML092870405) was included among the supporting documents for the DP. The NRC relied upon the information provided in the May 21, 2009, license amendment request, the July 28, 2009, public meeting, the July 2009 WEC Environmental Report, and other

sources as noted in the EA's references section, in preparing the EA. For this action, a Notice of Availability containing a draft EA and draft Finding of No Significant Impact (ADAMS No. ML110870992) was prepared and published in the Federal Register on April 25, 2011. No comments were received.

## II. EA Summary

Under 10 CFR §20.2002, WEC proposes to dispose of about 23,000 m<sup>3</sup> (30,000 yd<sup>3</sup>) of low level waste (LLW) from the HDP that contains byproduct and special nuclear material at the USEI hazardous waste disposal facility near Grand View, Idaho. The LLW will be generated as part of decommissioning activities, which will include exhumation of existing burial pits, as described in the Hematite DP. There are 40 unlined pits, each of which is approximately 12 meters (40 feet) long, 6 meters (20 feet) wide, and 3.6 meters (12 feet) deep. The pits were used to dispose of waste generated by the former owners of the facility from 1965 to 1971. In addition, there are an estimated 20-25 burials for which there are no records. These burials are believed to be in the area between the documented Burial Pits and the site buildings, under roadways in the eastern portion of the central tract area of the HDP site. Additionally impacted material may come from underneath the site buildings.

In 2002, Westinghouse and the Missouri Department of Natural Resources (MDNR) entered into a Letter Agreement, which, among other things, provided for MDNR oversight of certain studies and response actions in accordance with the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) under the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 *et seq.* Subsequently, Missouri and Westinghouse entered into a Consent Decree, and the Letter Agreement was terminated. The Consent Decree provides for MDNR oversight of those

portions of the investigation and selection of the remedy for Operable Units at the site that are not preempted by the Atomic Energy Act of 1954, as amended.

The no-action alternative was considered for the site. The no-action alternative involves discontinuing ongoing decommissioning activities at the HDP and leaving decommissioning waste, including waste buried in over 40 documented onsite trenches, at the HDP site. This action would require an exemption from the requirement in §70.38(d) of 10 CFR Part 70 that decommissioning of facilities specifically licensed for possession and use of special nuclear material (SNM) be completed and approved by the NRC after licensed activities cease. The no action alternative would cause WEC to continue environmental monitoring and surveillance, and to maintain administrative and engineered controls that are required to ensure facility safety and security. Environmental impacts of the no-action alternative would be bounded by impacts associated with normal operation of the facility prior to decommissioning.

Another alternative considered to the proposed action for disposal of LLW generated by decommissioning activities at the HDP is disposal of LLW in facilities specifically licensed by NRC Agreement States for storage or disposal of LLW. For the EA, the NRC evaluated an alternative licensed facility available to HDP -- the *EnergySolutions*, LLC (*EnergySolutions*) hazardous and radioactive waste disposal facility near Clive, Utah.

The *EnergySolutions* LLW facility routinely manages amounts of LLW above ground that contain low concentrations of SNM, but in total quantities in excess of the critical mass limits in 10 CFR Part 150. Part 150 provides that Agreement States may only license possession of quantities of SNM up to the critical mass limits (e.g., 350 g U-235, 200 g Pu-239). Above these limits, persons need a license from the NRC, in addition to the Agreement State license. *EnergySolutions* has an NRC exemption from the requirements for an NRC license, provided certain conditions, as specified by an NRC Order, are met. At Clive, the NRC has specified SNM concentration limits, in lieu of mass limits, to ensure criticality safety. The NRC staff

determined that there is no significant difference in the environmental impacts that result from WEC decision to utilize the USEI site for disposal of its waste as opposed to the EnergySolutions site.

### **III. Finding of No Significant Impact**

The NRC has concluded that the proposed action to grant a license amendment to WEC HDP, and an exemption to USEI from the requirements for a license under 10 CFR 30.3 and 70.3 with respect to HDP's disposal of approximately 23,000 m<sup>3</sup> (30,000 yd<sup>3</sup>) of soil and debris containing low concentrations of byproduct material and SNM, is authorized by law and will not endanger life or property or the common defense and security and is otherwise in the public interest.

On the basis of the EA, the NRC has concluded that there are no significant environmental impacts and the issuance of a license amendment does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

### **IV. Further Information**

Documents related to this action, including the letter requesting the amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. The ADAMS accession numbers for the documents related to this notice are:

- (1) Hematite Decommissioning Project Environmental Report (ML092870403 and ML092870405);
- (2) Hematite Decommissioning Plan (ML092330123, ML092330125, ML092330127, ML092330129, ML092330131, and ML092330132);

- (3) Hematite Supplemental Characterization Report - Books 1 and 2 (ML092870496 and ML092870506);
- (4) Environmental Assessment (ML110870992); and
- (5) Notice of Opportunity for Hearing (ML091740733).

If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 800-397-4209, 301-415-4737, or by email to [pdr.resource@nrc.gov](mailto:pdr.resource@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O-1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852.

The PDR reproduction contractor will copy documents for a fee.

Dated at Rockville, Maryland this 13<sup>th</sup> day of October, 2011

FOR THE NUCLEAR REGULATORY COMMISSION

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Keith I. McConnell, Deputy Director  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs