

April 5, 2015

Chairman Stephen G. Burns
Commissioner Kristine L. Svinicki
Commissioner William C. Ostendorff
Commissioner Jeff Baran

In the matter of
DTE ELECTRIC CO.
(Fermi Nuclear Power Plant, Unit 3)
Docket No. 52-033

Dear Chairman and Commissioners,

This letter is to inform the Commission that the NRC staff has completed consultation under the Endangered Species Act (ESA) with the U.S. Fish and Wildlife Service (FWS) on the rufa red knot bird. In addition, FWS published an ESA listing determination of “threatened” for the northern long-eared bat in the Federal Register on April 2, 2015 (80 FR 17,943). The NRC staff has developed a supplemental biological assessment (BA) for this newly listed species and, after reviewing the details of the listing, submitted it to FWS on April 3, 2015. As a separate matter, the NRC staff also proposes to make two clarifications in the draft combined license (COL) (Ex. NRC000002), should the Commission approve issuance of the Fermi 3 COL. The NRC staff has provided an updated exhibit list in Attachment B to reflect these developments in the record.

On December 22, 2014, the NRC staff notified the Commission that the rufa red knot had been designated as threatened under the ESA. The listing became effective on January 12, 2015. Consistent with Section 7 of the ESA, on February 20, 2015, the NRC staff submitted to FWS a supplemental BA analyzing the effects on the rufa red knot from activities associated with the development and operation of the proposed Fermi 3 (Ex. NRC000018). The NRC staff concluded in the BA that Fermi 3 activities “may affect, but are not likely to adversely affect” the rufa red knot because of minimal direct impacts on shoreline habitat, the low number of birds likely to be present on the site at any one time, and the short duration of stopovers for this migratory bird. By letter dated March 23, 2015 (and received April 1, 2015), FWS provided its concurrence with the NRC staff’s BA conclusions, stating that “we concur with your conclusion that the operation of the facility and construction may affect, but is not likely to adversely affect the rufa red knot” (Ex. NRC000019). Consistent with the FWS’s previous concurrence on the staff’s March 2012 BA, the letter acknowledges that if transmission lines are built, future interaction with FWS may be necessary.

Unrelated to the ESA consultation, the NRC staff has identified two clarifications to the draft COL, which are stated in Attachment A of this filing. The first change the staff proposes, to Section 2.D.(10), would add an introductory phrase after the “Operational Program Implementation” heading to provide context to the provisions of the condition that follow; this addition would be consistent with the text of the analogous provision in the Vogtle and Summer COLs. The second change the staff proposes, to Section 2.D.(12)(d), would change the reference to emergency planning ITAAC in EP ITAAC Table 2.3.1 to refer instead to the corresponding ITAAC in Appendix C of the license, in order to improve consistency in references throughout the license. If the Commission approves issuance of the COL and these corrections, the staff would make the indicated modifications to the Fermi 3 COL prior to issuance of the license, along with the clarifications to the draft COL already proposed in the

Staff Responses to Commission Questions (NRC000004) and Additional Prehearing Questions (NRC000016).

Respectfully submitted,

/Signed (electronically) by/
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Dated at Jersey City, New Jersey
this 5th Day of April 2015

Attachment A

Staff Proposed Corrections to Draft COL

ATTACHMENT A

Staff Proposed Corrections to Draft COL

Page and COL Section	Text to be corrected	Proposed correction
Page 7 2.D.(10)	n/a	Insert after “Operational Program Implementation” heading: “DTE shall implement the programs or portions of programs identified below, on or before the date DTE achieves the following milestones:”
Page 12 2.D.(12)(d)	“EP ITAAC 2.0 of EP ITAAC Table 2.3.1”	“the EP ITAAC in Table C.3.9.4 in Appendix C to this license”

Attachment B

Updated Staff Exhibit List

ATTACHMENT B

Staff Exhibits for Fermi Mandatory Hearing

Exhibit Number	Panel Number/ Sponsoring Witness(es)	Document Description/Title
NRC000001	Frank Akstulewicz	SECY-14-0132, Staff Statement in Support of the Uncontested Hearing for Issuance of Combined License for the Fermi Nuclear Power Plant Unit 3 (Nov. 20, 2014), ADAMS Accession No. ML14282A639.
NRC000002	Frank Akstulewicz	Draft Combined License, Enrico Fermi Nuclear Plant Unit 3 (Dec. 4, 2014), ADAMS Accession No. ML14296A600.
NRC000003	Mark Delligatti	Draft Record of Decision, Combined License Application for Enrico Fermi Nuclear Plant Unit 3 (Dec. 5, 2014), ADAMS Accession No. ML14303A425.
NRC000004	Frank Akstulewicz & Mark Delligatti	NRC Staff Responses to Commission Prehearing Questions (Jan. 14, 2015), ADAMS Accession No. ML15014A507.
NRC000005	Frank Akstulewicz	NON-PUBLIC – NRC Staff Responses to Non-Public Commission Prehearing Question (Jan. 14, 2015), ADAMS Accession No. ML15014A512.
NRC000006A	Frank Akstulewicz	Fermi 3 COL Application – Part 1 and Part 2 (FSAR) through Chapter 2, Section 2.4 (March 2010 & October 2014), ADAMS Accession Nos. ML14308A337, ML101110278, & ML14309A431-ML14309A440.
NRC000006B	Frank Akstulewicz	Fermi 3 COL Application – Part 2 (FSAR), Chapter 2, Section 2.5.1 (October 2014), ADAMS Accession Nos. ML14309A441 & ML14309A442.
NRC000006C	Frank Akstulewicz	Fermi 3 COL Application – Part 2 (FSAR), Chapter 2, Sections 2.5.2 and 2.5.3 (October 2014), ADAMS Accession Nos. ML14309A443 & ML14309A444.
NRC000006D	Frank Akstulewicz	Fermi 3 COL Application – Part 2 (FSAR), Chapter 2, Sections 2.5.4 through Appendices (October 2014), ADAMS Accession Nos. ML14309A445-ML14309A455 & ML14309A457.
NRC000006E	Frank Akstulewicz	Fermi 3 COL Application – Part 2 (FSAR), Chapters 3-19 (October 2014), ADAMS Accession Nos. ML14309A458-ML14309A459 & ML14309A461-ML14309A477.
NRC000006F	Frank Akstulewicz	Fermi 3 COL Application – Part 3 (ER) through Chapter 2, Section 2.4 (February 2011), ADAMS Accession No. ML110600476-ML110600479, ML110600481, & ML110600483-ML110600485.
NRC000006G	Frank Akstulewicz	Fermi 3 COL Application – Part 3 (ER), Chapter 2, Section 2.5 through Chapter 4 (February 2011), ADAMS Accession Nos. ML110600486-ML110600489.

Exhibit Number	Panel Number/ Sponsoring Witness(es)	Document Description/Title
NRC000006H	Frank Akstulewicz	Fermi 3 COL Application – Part 3 (ER), Chapters 3-10 (February 2011), ADAMS Accession Nos. ML110600491-ML110600497.
NRC000006J ¹	Frank Akstulewicz	Fermi 3 COL Application – Parts 4, 5, 7, 8, 10, & NEI References ² (various dates), ADAMS Accession Nos. ML14055A130, ML14295A167-ML14295A168, ML14295A170, ML14295A172-ML14295A174, ML12095A138, ML12095A140, ML14295A176, ML080910051, ML072710311, ML103410542, ML083380347, ML072780417, ML072600383, ML083380351, ML091050234, ML091460627, & ML111751698.
NRC000007A	Frank Akstulewicz	NON-PUBLIC – Fermi 3 COL Application – Part 9 & Non-Public NEI Reference (February 2012 & July 2009), ADAMS Accession Nos. ML12095A142 & ML092120160.³
NRC000008A	Frank Akstulewicz	Fermi 3 FSER, Chapters 1-10 and front matter (various dates), ADAMS Accession Nos. ML14287A676, ML14300A223, ML14300A376, ML14198A557, ML14246A385, ML14258B088, ML12306A280, ML14255A121, ML14183A622, ML13158A238, ML14192A986, ML14251A364, & ML13184A336.
NRC000008B	Frank Akstulewicz	Fermi 3 FSER, Chapters 11-20 and Appendices (various dates), ADAMS Accession Nos. ML13221A431, ML13358A219, ML14198A596, ML14197A260, ML12306A506, ML14196A296, ML13122A419, ML13162A357, ML14198A009, ML14238A661, ML14300A222, ML14302A567, ML14308A401, ML14279A181, ML14302A270, & ML14302A591.
NRC000009	Frank Akstulewicz	NON-PUBLIC - Fermi 3 FSER, Chapter 19, Attachment 19.B (November 2014), ADAMS Accession No. ML14198A017.⁴
NRC000010A	Mark Delligatti	NUREG-2105, Environmental Impact Statement for the Combined License (COL) for Enrico Fermi Unit 3, Vol. 1 (January 2013), ADAMS Accession No. ML12307A172.

¹ The letter “I” was skipped because of potential confusion with the number “1.”

² Part 6 of COL applications is reserved for Limited Work Authorizations (LWAs). No LWA was requested for Fermi 3, so there is no Part 6 in the COL application. Part 9 of the COL application contains proprietary and sensitive information and is listed as a separate exhibit.

³ The Fermi 3 COL application also contains safeguards information (SGI) that may not be placed in ADAMS or filed through the Electronic Information Exchange (EIE). Commissioners can obtain hard copies of the SGI portion of the application by contacting Judy Petrucelli or John Frost in the Office of Nuclear Security and Incident Response (NSIR).

⁴ The Fermi 3 FSER also contains SGI that may not be placed in ADAMS or filed through the EIE. Commissioners can obtain hard copies of the SGI portion of the FSER by contacting Judy Petrucelli or John Frost in NSIR.

Exhibit Number	Panel Number/ Sponsoring Witness(es)	Document Description/Title
NRC000010B	Mark Delligatti	NUREG-2105, Environmental Impact Statement for the Combined License (COL) for Enrico Fermi Unit 3, Vol. 2 (January 2013), ADAMS Accession No. ML12307A176.
NRC000010C	Mark Delligatti	NUREG-2105, Environmental Impact Statement for the Combined License (COL) for Enrico Fermi Unit 3, Vol. 3 (January 2013), ADAMS Accession No. ML12307A177.
NRC000010D	Mark Delligatti	NUREG-2105, Environmental Impact Statement for the Combined License (COL) for Enrico Fermi Unit 3, Vol. 4 (January 2013), ADAMS Accession No. ML12347A202.
NRC000011	Frank Akstulewicz & Mark Delligatti	Staff Presentation Slides – Overview (Feb. 4, 2015).
NRC000012	Frank Akstulewicz	Staff Presentation Slides – Safety Panel 1 (Feb. 4, 2015).
NRC000013	Frank Akstulewicz	Staff Presentation Slides – Safety Panel 2 (Feb. 4, 2015).
NRC000014	Mark Delligatti	Staff Presentation Slides – Environmental Panel 1 (Feb. 4, 2015).
NRC000015	Mark Delligatti	Staff Presentation Slides – Environmental Panel 2 (Feb. 4, 2015).
NRC000016	Mark Delligatti	NRC Staff Responses to Commission Additional Pre-hearing Questions (Jan. 30, 2015)
NRC000017	Mark Delligatti	NRC Staff Responses to Commission Post-Hearing Questions (Feb. 19, 2015), ADAMS Accession No. ML15050A665.
NRC000018	Mark Delligatti	Supplemental Biological Assessment (rufa red knot) (Feb. 2015) ADAMS Accession No. ML15043A747.
NRC000019	Mark Delligatti	Concurrence Letter from U.S. Fish and Wildlife Service to NRC on Supplemental Biological Assessment (rufa red knot) (Mar. 23, 2015) ADAMS Accession No. ML15092A737.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)
)
DTE ELECTRIC CO.) Docket No. 52-033-COL
)
(Fermi Nuclear Power Plant, Unit 3))

CERTIFICATE OF SERVICE

Pursuant to 10 C.F.R. § 2.305 (revised), I hereby certify that copies of the foregoing "NRC Staff Notification Letter" dated April 5, 2015, have been served upon the Electronic Information Exchange, the NRC's E-Filing System, in the above captioned proceeding, this 5th day of April, 2015.

/Signed (electronically) by/

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Dated at Jersey City, New Jersey
this 5th day of April, 2015