

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

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

In the Matter of

DTE ELECTRIC COMPANY
(Fermi Nuclear Power Plant, Unit 3)

Docket No. 52-033-COL

DUKE ENERGY CAROLINAS, LLC
(William States Lee III Nuclear Station, Units 1 and 2)

Docket Nos. 52-018-COL,
52-019-COL

LUMINANT GENERATION COMPANY LLC
(Comanche Peak Nuclear Power Plant, Units 3 and 4)

Docket Nos. 52-034-COL,
52-035-COL

NUCLEAR INNOVATION NORTH AMERICA LLC
(South Texas Project Units 3 and 4)

Docket Nos. 52-012-COL,
52-013-COL

PROGRESS ENERGY FLORIDA, INC.
(Levy County Nuclear Power Plant, Units 1 and 2)

Docket Nos. 52-029-COL,
52-030-COL

STP NUCLEAR OPERATING COMPANY
(South Texas Project, Units 1 and 2)

Docket Nos. 50-498-LR,
50-499-LR

TENNESSEE VALLEY AUTHORITY
(Watts Bar Nuclear Plant, Unit 2)

Docket No. 50-391-OL

DOMINION VIRGINIA POWER
(North Anna Nuclear Power Station Unit 3)

Docket No. 52-017-COL

CLI-15-10

MEMORANDUM AND ORDER

Several environmental organizations (collectively, Petitioners) have requested that we order the supplementation of final environmental impact statements in each of the captioned matters to reference the recently published Continued Storage generic environmental impact statement (Continued Storage GEIS).¹ For the reasons set forth below, we deny the petition.

I. BACKGROUND

Last year, we approved the Continued Storage Rule—supported by the Continued Storage GEIS—in accordance with the National Environmental Policy Act (NEPA) and the Administrative Procedure Act, to assess the environmental impacts associated with the storage of spent nuclear fuel after the end of a reactor’s license term.² The Continued Storage Rule directs that the “impact determinations in [the Continued Storage GEIS] shall be deemed incorporated into the environmental impact statements” associated with combined license and license renewal applications, such as those at issue here.³ Petitioners challenge the NRC Staff’s implementation of the Continued Storage Rule in the environmental impact statements

¹ *Petition to Supplement Reactor-Specific Environmental Impact Statements to Incorporate by Reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage*, 2 (Jan. 28, 2015) (Petition); NUREG-2157, Vols. 1 & 2, *Generic Environmental Impact Statement for Continued Storage of Spent Nuclear Fuel* (Sept. 2014) (ADAMS accession nos. ML14196A105 and ML14196A107) (Continued Storage GEIS).

² Final Rule, Continued Storage of Spent Nuclear Fuel, 79 Fed. Reg. 56,238 (Sept. 19, 2014) (Continued Storage Rule); National Environmental Policy Act § 102, 42 U.S.C. § 4332 (2012); Administrative Procedure Act, 5 U.S.C. § 553 (2012).

³ 10 C.F.R. § 51.23(b).

for the captioned matters.⁴ The NRC Staff and the applicants oppose the petition; Petitioners have replied.⁵

II. DISCUSSION

Petitioners argue that to comply with our obligations under NEPA and our implementing regulations in 10 C.F.R. part 51 we must supplement the final environmental impact statements

⁴ See, e.g., Petition at 2.

⁵ *NRC Staff Opposition to the "Petition to Supplement Reactor-Specific Environmental Impact Statements to Incorporate by Reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage"* (Feb. 12, 2015) (filed in each of the captioned matters) (Staff Answer); *Luminant Response Opposing Petition to Supplement Environmental Impact Statements* (Feb. 12, 2015); *Applicant's Opposition to Petition to Supplement Fermi 3 Final Environmental Impact Statement to Reference Continued Storage Generic Environmental Impact Statement* (Feb. 12, 2015) (DTE Answer); *Answer of Duke Energy Carolinas, LLC Opposing Petition to Supplement W.S. Lee Final Environmental Impact Statement* (Feb. 12, 2015); *Answer of Progress Energy Florida, Inc. Opposing Petition to Supplement Levy County Final Environmental Impact Statement* (Feb. 12, 2015); *Answer of Dominion Virginia Power Opposing Petition to Supplement North Anna Final Environmental Impact Statement* (Feb. 12, 2015); *Nuclear Innovation North America LLC Response Opposing Petition to Supplement Environmental Impact Statements* (Feb. 12, 2015); *STP Nuclear Operating Company Response Opposing Petition to Supplement Environmental Impact Statements* (Feb. 12, 2015); *Tennessee Valley Authority's Answer Opposing Petition to Supplement Reactor-Specific Environmental Impact Statements to Incorporate by Reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage* (Feb. 12, 2015); *Petitioners' Reply to Oppositions to Petition to Supplement Reactor-Specific Environmental Impact Statements to Incorporate by Reference the Generic Environmental Impact Statement for Continued Spent Fuel Storage* (Feb. 18, 2015) (Reply).

The Nuclear Energy Institute filed an unopposed motion for leave to file a brief *amicus curiae* opposing the Petition. *Nuclear Energy Institute, Inc.'s Unopposed Motion for Leave to File Amicus Curiae Brief* (Feb. 12, 2015); *Amicus Curiae Brief of the Nuclear Energy Institute, Inc. in Response to Petitions to Supplement Site-Specific Environmental Impact Statements to Reference the Continued Storage Generic Environmental Impact Statement* (Feb. 12, 2015). Our rule governing *amicus curiae* participation does not contemplate a brief under the current circumstances. See 10 C.F.R. § 2.315(d) (providing the opportunity to file *amicus* briefs for matters taken up at our discretion under 10 C.F.R. § 2.341 or *sua sponte*). We nonetheless have considered the Nuclear Energy Institute's views as a matter of discretion. See, e.g., *Omaha Public Power District* (Fort Calhoun Station, Unit 1), CLI-15-5, 81 NRC __, __ (Mar. 9, 2015) (slip op. at 5 n.19) (citing *Southern California Edison Co.* (San Onofre Nuclear Generating Station, Units 2 and 3), CLI-13-9, 78 NRC 551, 556 n.17 (2013)).

in the captioned matters to incorporate by reference the Continued Storage GEIS.⁶ Without this supplementation, Petitioners claim, our final environmental impact statements will not provide “complete, accurate, and up-to-date sources of information for members of the public and state and local governments.”⁷ As discussed below, we find Petitioners’ claims to be without merit.⁸

⁶ Petition at 2 (citing NEPA and 10 C.F.R. pt. 51, app. A).

⁷ Petition at 2 (citing *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989)). Petitioners also contend that supplementation is necessary to “allow members of the public to lodge ... ‘placeholder’ contentions challenging [our] reliance, in individual licensing proceedings, on the [Continued Storage] GEIS and [Continued Storage] Rule.” Petition at 2-3. Petitioners assert that such contentions would “ensure that if the Court [of Appeals] overturns the [Continued Storage] Rule and/or the [Continued Storage] GEIS, NRC licensing decisions that rely on them will also be overturned.” *Id.* at 3. We need not address here Petitioners’ assertions concerning either the significance of “placeholder” contentions or their relationship to any petitions for review pending before the court of appeals. Petitioners did not include any such contentions either in the petition or in the accompanying filings. See, e.g., Petition at 2-3. Separately, however, two hearing requests seeking to admit “placeholder” contentions were filed before us. See *Missouri [Coalition] for the Environment’s Hearing Request and Petition to Intervene in License Renewal Proceeding for Callaway Nuclear Power Plant* (Dec. 8, 2014) (ML14342B010); *Missouri [Coalition] for the Environment’s Motion to Reopen the Record of License Renewal Proceeding for Callaway Unit 1 Nuclear Power Plant* (Dec. 8, 2014) (ML14342B011); *Beyond Nuclear’s Hearing Request and Petition to Intervene in Combined License Proceeding for Fermi Unit 3 Nuclear Power Plant* (Feb. 12, 2015) (ML15043A567); *Beyond Nuclear’s Motion to Reopen the Record of Combined License Proceeding for Fermi Unit 3 Nuclear Power Plant* (Feb. 12, 2015) (ML15043A566). We deny these two requests in separate decisions also issued today. See *Union Electric Co. (Callaway Plant, Unit 1)*, CLI-15-11, 81 NRC __ (Apr. 23, 2015) (slip op.); *DTE Electric Co. (Fermi Nuclear Power Plant, Unit 3)*, CLI-15-12, 81 NRC __ (Apr. 23, 2015) (slip op.). Further, three additional hearing requests proposing similar placeholder contentions have been filed recently. *Southern Alliance for Clean Energy’s Motion for Leave to File a New Contention Concerning Reliance by Turkey Point Draft Environmental Impact Statement on the Continued Spent Fuel Storage Rule* (Apr. 13, 2015) (ML15103A468); *Southern Alliance for Clean Energy’s Hearing Request and Petition to Intervene in Operating License Proceeding for Watts Bar Unit 2 Nuclear Power Plant* (Apr. 21, 2015) (ML15111A356); *Nuclear Information and Resource Service’s Hearing Request and Petition to Intervene in Combined License Proceeding for Levy County Nuclear Plant* (Apr. 22, 2015) (ML15111A478). These requests will be addressed separately.

⁸ The litigants present numerous arguments regarding the procedural propriety of the petition now before us. See, e.g., Petition at 6-7; Staff Answer at 4-10; DTE Answer at 5-7. Because we find that the petition fails on the merits, we need not address these procedural issues. See, e.g., *DTE Electric Co. (Fermi Nuclear Power Plant, Unit 3)*, CLI-15-4, 81 NRC __, __ (Feb. 26, (continued . . .))

A. Incorporation of Continued Storage Impacts

Petitioners argue that, despite the plain language of 10 C.F.R. § 51.23, the impact determinations from the Continued Storage GEIS are “in fact ... *not* incorporated into individual reactor [final environmental impact statements]” because “the NRC has taken no steps to ensure that reactor-specific [final environmental impact statements] ... cross-reference or summarize the [Continued Storage] GEIS.”⁹ Petitioners argue that our treatment of the Continued Storage GEIS does not comport with either NEPA case law or our regulations regarding the incorporation of material in environmental impact statements by reference.¹⁰ Specifically, Petitioners express concern that our NEPA process with respect to this issue did not appropriately comply with regulations in 10 C.F.R. part 51, appendix A.¹¹

We find that Petitioners do not present a compelling case to support their arguments. Petitioners misread the plain language of 10 C.F.R. § 51.23(b), which states that the environmental impacts of continued storage are “deemed incorporated” into the environmental impact statements at issue in these proceedings.¹² By its terms, 10 C.F.R. § 51.23(b) does not contemplate that the environmental impacts in the Continued Storage GEIS will be incorporated by reference, as they have already been incorporated into environmental impact statements by operation of law. As we stated in the *Federal Register* notice for the Continued Storage Rule,

2015) (slip op. at 27 n.100) (citing *Union Electric Co. d/b/a Ameren Missouri* (Callaway Plant, Unit 2), CLI-11-5, 74 NRC 141, 158 n.65 (2011)); *DTE Electric Co.* (Fermi Nuclear Power Plant, Unit 3), CLI-14-7, 80 NRC 1, 7 n.22 (2014).

⁹ Petition at 3-4 (emphasis in original) (footnote omitted).

¹⁰ *Id.* at 7-9.

¹¹ *Id.* at 8.

¹² 10 C.F.R. § 51.23(b).

the Continued Storage GEIS sets forth the environmental impacts of post-licensed life storage and “[n]o additional analysis of the impacts of continued storage is required” in site-specific NEPA documents.¹³

In this instance, we have adopted a specific regulation that supersedes our general NEPA regulations in 10 C.F.R. part 51 with respect to the environmental impacts of continued storage. Rather than impose additional procedural requirements on the Staff to “incorporate by reference” the environmental impacts of continued storage in every reactor licensing and license renewal environmental impact statement, we deemed these impacts incorporated into environmental impact statements as part of the Continued Storage Rule.¹⁴ Thus, as we have done in the case of other generic environmental issues, we have adopted a specific procedure that governs the consideration of the environmental impacts of continued storage in our initial licensing and license renewal NEPA documents.¹⁵ It is well-established that specific regulations

¹³ Continued Storage Rule, 79 Fed. Reg. at 56,243. Absent a waiver, we do not expect the NRC Staff to revisit the impact determinations made in the Continued Storage GEIS as part of its site-specific NEPA reviews. The “deemed incorporated” function of 10 C.F.R. § 51.23(b) provides administrative efficiency by adding the environmental impacts of continued storage to site-specific environmental impact statements without additional work by the Staff. But this administrative step does not relieve the NRC of the responsibility to fully consider the environmental impacts of licensing decisions, including the impacts resulting from the continued storage of spent fuel. As discussed below, we expect the Staff to consider the environmental impacts of continued storage in the broader context of its site-specific NEPA reviews. Where, as here, the final environmental impact statement was issued prior to the issuance of the Continued Storage Rule, we expect the Staff to ensure that the environmental impacts of continued storage are fully considered in the broader NEPA context for each licensing action and to publicly disclose this review.

¹⁴ Continued Storage Rule, 79 Fed. Reg. at 56,243.

¹⁵ See, e.g., NUREG-1437, Rev. 1, Vols. 1-3, *Generic Environmental Impact Statement for License Renewal of Nuclear Plants—Final Report* (June 2013) (ML13106A241, ML13106A242, and ML13106A244); Final Rule, Revisions to Environmental Review for Renewal of Nuclear Power Plant Operating Licenses, 78 Fed. Reg. 37,281, 37,282-83 (June 20, 2013).

(here, the Continued Storage Rule) control over general regulations (here, our general NEPA implementing regulations in 10 C.F.R. part 51).¹⁶ Because 10 C.F.R. § 51.23(b) prescribes a specific procedure for incorporating the environmental impacts of continued storage into a site-specific analysis, this procedure—rather than a procedure set forth in the general provisions of 10 C.F.R. part 51—governs our environmental review in this instance.

B. General NEPA Obligations

In challenging the Staff's application of our regulations implementing NEPA, Petitioners raise concerns that, at bottom, challenge our compliance with our general obligation under NEPA to consider the environmental impacts of major federal actions. The statutory requirement to prepare an environmental impact statement serves two purposes.¹⁷ First, the environmental impact statement ensures that decisionmakers "will have available, and will carefully consider, detailed information concerning significant environmental impacts."¹⁸ Second, the environmental impact statement "guarantees that the relevant information will be made available to the larger audience [such as Petitioners and state and local governments] that may also play a role in the decisionmaking process."¹⁹ Our approach to assessing the environmental impacts of continued storage satisfies both these purposes.

¹⁶ See, e.g., *RadLAX Gateway Hotel, LLC v. Amalgamated Bank*, 132 S.Ct. 2065, 2071 (2012); *Bulova Watch Co. v. United States*, 365 U.S. 753, 758 (1961); *Toledo Edison Co. (Davis-Besse Nuclear Power Station)*, ALAB-300, 2 NRC 752, 761 (1975) (citing *Ginsberg & Sons v. Popkin*, 285 U.S. 204, 208 (1932)).

¹⁷ *Robertson*, 490 U.S. at 349.

¹⁸ *Id.*

¹⁹ *Id.*

With respect to the first purpose—ensuring that we have available for our consideration detailed information regarding the environmental impacts of continued storage—we have prepared, and approved, a comprehensive generic analysis of those impacts.²⁰ The Staff, in its two-year review, prepared a two-volume generic environmental impact statement that provides extensive detail regarding the environmental impacts of continued storage.²¹ To ensure that these impacts are considered in individual licensing actions that could implicate continued storage, we adopted a rule, 10 C.F.R. § 51.23, that deems these impacts incorporated into site-specific environmental impact statements.²²

With respect to the second purpose—ensuring that information is made available to members of the public and state and local governments—the Staff used a comprehensive rulemaking and NEPA process that involved extensive, robust, and meaningful public participation. Petitioners claim that, without supplemental environmental impact statements, state and local decisionmakers are “deprived of any information regarding the NRC’s current analysis of” continued storage.²³ The rulemaking record does not bear out Petitioners’ claim. The Continued Storage Rule and GEIS were developed through a robust, two-year notice-and-comment process that was one of the most extensive in NRC history and included an extended

²⁰ See Continued Storage GEIS.

²¹ *Id.* The Continued Storage GEIS responds to the three issues identified by the court of appeals (spent fuel pool fires, spent fuel pool leaks, and the possibility of a repository never becoming available). To fully consider the impacts of a repository never becoming available, the Continued Storage GEIS contains a comprehensive analysis of the environmental impacts of at-reactor and away-from-reactor storage of spent fuel for three timeframes: 60 years after the end of a reactor’s licensed life for operation, an additional 100 years of storage, and the indefinite storage of spent nuclear fuel. *Id.* chs. 4 and 5.

²² 10 C.F.R. § 51.23(b); Continued Storage Rule, 79 Fed. Reg. at 56,243.

²³ Petition at 9.

public comment period and thirteen public meetings held at various locations around the country.²⁴ Members of the public, including Petitioners and state and local decisionmakers, were involved throughout the rulemaking process.²⁵ From the beginning of this process, we recognized the importance of public involvement, and we—and the Staff—ensured that members of the public had the opportunity to fully participate in this proceeding.²⁶ The NRC need not undertake incorporation by reference of the GEIS where, as here, we have already taken public comment and performed a comprehensive analysis of the environmental consequences of continued spent fuel storage.²⁷

Further, since the publication of the Continued Storage Rule, the Staff has provided public notice of the Continued Storage Rule and GEIS in the context of the NEPA reviews for proceedings where the NRC is about to make a final decision. At the time the Continued Storage Rule was promulgated, we directed that “the results of the continued storage

²⁴ See, e.g., Continued Storage Rule, 79 Fed. Reg. at 56,253.

²⁵ See, e.g., Continued Storage GEIS § D.3, List of Unique Comment Authors (noting the many individuals and groups who submitted comments during the public comment period for the Continued Storage GEIS and Rule).

²⁶ See, e.g., *Calvert Cliffs 3 Nuclear Project, LLC and UniStar Operating Services, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-12-16, 76 NRC 63, 67 (2012); Proposed Rule, Proposed Waste Confidence Rule and Draft Generic Environmental Impact Statement—Public Meetings, 78 Fed. Reg. 54,789 (Sept. 6, 2013) (announcing plans to hold public meetings at various locations around the country).

²⁷ See *Nevada v. Dep’t of Energy*, 457 F.3d 78, 90-91 (D.C. Cir. 2006) (declining to direct the Department of Energy to revise its final EIS addressing transportation of waste from production sources to Yucca Mountain, Nevada, where the EIS did not identify a preferred rail corridor but the agency later announced its preference in a *Federal Register* notice and sought public comment; the court observed that to require revision would be a “meaningless gesture” in view of the agency’s subsequent disclosure).

proceeding must be accounted for before finalizing individual license decisions.”²⁸ In response to this direction, the Staff has assessed whether supplementation is needed for final environmental impact statements completed before the Continued Storage Rule was promulgated.²⁹ Our NEPA implementing regulations at 10 C.F.R. § 51.92 specify that supplementation of a final environmental impact statement is required when a final action has not been taken and “[t]here are new and significant circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.”³⁰

Petitioners did not raise the issue of supplementation in their initial petition but contend on reply that, “assuming for purposes of argument that [10 C.F.R. § 51.92] does apply here,” the vacatur and remand of the Waste Confidence proceeding by the court of appeals in *New York v. NRC* constitutes new and significant information and changed circumstances that necessitate supplementation under 10 C.F.R. § 51.92.³¹ We disagree. As discussed above, no additional procedural steps are necessary to add the impacts of continued storage to existing environmental impact statements because 10 C.F.R. § 51.23, by its terms, has already done so.

Further, the determination of whether information is significant enough to require supplementation of an environmental impact statement is not governed by the volume of information developed or the significance of the agency effort in developing the information.

²⁸ *Calvert Cliffs 3 Nuclear Project, LLC and UniStar Nuclear Operating Services, LLC* (Calvert Cliffs Nuclear Power Plant, Unit 3), CLI-14-8, 80 NRC 71, 77 (2014).

²⁹ See, e.g., “Consideration of New Information Regarding the Impacts of the Continued Storage of Spent Fuel for the Fermi Nuclear Power Plant, Unit 3, Combined License Application,” (ML14318A477) (Fermi 3 New Information Analysis).

³⁰ 10 C.F.R. § 51.92(a)(2).

³¹ Reply at 7-8 (citing *New York v. NRC*, 681 F.3d 471 (D.C. Cir. 2012)).

Rather, the Staff must consider, when finalizing site specific environmental analyses, whether, and to what extent, the now-incorporated impacts of continued storage affect the recommendations and analyses contained in the final environmental impact statements.

Undertaking this analysis does not mean that supplementation of the final environmental impact statements is automatically required: as we have stated in the past, supplementation “is not necessary every time new information comes to light after the [environmental impact statement] is finalized.”³²

Supplementation is required when the new information presents “a seriously different picture of the environmental impact of the proposed project from what was previously envisioned.”³³ Here, the vacatur and remand of the 2010 Waste Confidence Decision and Temporary Storage Rule, did not, by themselves, automatically trigger the supplementation requirements in 10 C.F.R. § 51.92. The relevant question is whether the inclusion of the environmental impacts from the Continued Storage GEIS presents “a seriously different picture” of the environmental impacts that have been assessed in the relevant licensing action, and of our analysis of those impacts, when compared to the previously issued final environmental impact statement. As we directed in CLI-14-8, the Staff must account for the environmental impacts of continued storage “before finalizing individual licensing decisions,” and, when

³² *Hydro Resources, Inc.* (P.O. Box 15910, Rio Rancho, NM 87174), CLI-04-39, 60 NRC 657, 659 (2004) (citing *Hydro Resources, Inc.* (2929 Coors Road, Suite 101, Albuquerque, NM 87120), CLI-99-22, 50 NRC 3, 14 (1999)) (internal quotation marks omitted). As the Staff notes, “[t]o warrant supplementation, ‘new information’ must paint a ‘seriously different picture of the environmental landscape.’” Staff Answer at 8-9 (citing *Luminant Generation Co. LLC* (Comanche Peak Nuclear Power Plant, Units 3 and 4), CLI-12-7, 75 NRC 379, 388-89 (2012); *Nat’l Comm. for the New River, Inc. v. FERC*, 373 F.3d 1323, 1330 (D.C. Cir. 2004)).

³³ *Hydro Resources*, CLI-04-39, 60 NRC at 659 (quoting *Hydro Resources*, CLI-99-22, 50 NRC at 4).

appropriate circumstances exist, we expect that the question of whether or not to prepare a supplemental final environmental impact statement to be part of that analysis.³⁴ In general, the environmental impact statements associated with our reactor licensing actions provide comprehensive analyses of the environmental impacts of the proposed actions, including storage of spent fuel, for the license term.³⁵ The Staff's assessment of the environmental impacts of continued storage (impacts that occur after the end of the license term) constitutes just one component of the assessment of many impacts associated with these proposed actions.³⁶ Nevertheless, the supplementation analysis must be conducted on a proceeding-specific basis to ensure that the unique circumstances of each proceeding (e.g., the scope of the analysis, the procedural posture, any balancing of costs and benefits and evaluation of alternatives, etc.) are appropriately considered to determine whether supplementation or other appropriate action is required.

For example, the Staff has conducted such an analysis for the *Fermi* combined license proceeding, in which it analyzed the environmental impacts of continued storage in the context of the *Fermi* environmental review; the Staff made its analysis publicly available in December

³⁴ *Calvert Cliffs*, CLI-14-8, 80 NRC at 77.

³⁵ See, e.g., NUREG-1947, *Final Supplemental Environmental Impact Statement for Combined Licenses (COLs) for Vogtle Electric Generating Plant Units 3 and 4* (Mar. 2011) (ML11076A010); NUREG-1437, Supp. 30, Vols. 1 & 2, *Generic Environmental Impact Statement for License Renewal of Nuclear Plants: Regarding Vermont Yankee Nuclear Power Station* (Aug. 2007) (ML072050012 and ML072050013).

³⁶ See, e.g., Continued Storage GEIS § 4.3 (“The environmental analysis in [the Continued Storage] GEIS fulfills a small part of the NRC’s NEPA obligation with respect to the [initial license] or [license renewal review] of a nuclear reactor or spent fuel storage facility.”); *id.* § D.2.2.5 (“The [Continued Storage] GEIS and [Continued Storage] Rule will not be used to address the impacts of spent fuel storage during a proposed license term. The impacts of storage during a proposed license term ... would be subject to the safety and environmental review [that is] part of that review.”).

2014.³⁷ Such an analysis complies with our direction that “the results of the continued storage proceeding must be accounted for before finalizing individual licensing decisions.”³⁸ In recognition of our NEPA obligations, we expect the Staff, when considering continued storage in licensing reviews with previously-completed final environmental impact statements, to use a consistent and transparent process to ensure that all stakeholders are aware of how the environmental impacts of continued storage are considered in each licensing action affected by 10 C.F.R. § 51.23.

III. CONCLUSION

In light of these considerations, we *deny* the petition.

IT IS SO ORDERED.

For the Commission

NRC SEAL

/RA/

Annette L. Vietti-Cook
Secretary of the Commission

Dated at Rockville, Maryland,
this 23rd day of April, 2015

³⁷ Fermi 3 New Information Analysis.

³⁸ *Calvert Cliffs*, CLI-14-8, 80 NRC at 77.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)
)
LUMINANT GENERATION COMPANY, LLC) Docket Nos. 52-034-COL
) and 52-035-COL
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(Comanche Peak Nuclear Power Plant,)
Units 3 and 4))

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **COMMISSION MEMORANDUM AND ORDER (CLI-15-10)** have been served upon the following persons by Electronic Information Exchange.

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Comanche Peak Nuclear Power Plant, Units 3 and 4 - Docket Nos. 52-034-COL & 52-035-COL
COMMISSION MEMORANDUM AND ORDER (CLI-15-10)

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Dated at Rockville, Maryland,
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