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**UNITED STATES
NUCLEAR REGULATORY COMMISSION**
WASHINGTON, D.C. 20555-0001

May 20, 2016

John B. Rhodes
President and CEO
New York State Energy Research
& Development Authority
17 Columbus Circle
Albany, NY 12223-6399

SUBJECT: REVIEW OF THE DRAFT ENVIRONMENTAL ASSESSMENT AND FINDING OF NO SIGNIFICANT IMPACT FOR THE JAMES FITZPATRICK INDEPENDENT SPENT FUEL STORAGE INSTALLATION DECOMMISSIONING FUNDING PLAN

Dear Mr. Rhodes:

By letters dated December 13, 2012, and December 17, 2015, Entergy Nuclear Operations (ENO) submitted decommissioning funding plans (DFP) for the James FitzPatrick Independent Spent Fuel Storage Installation (ISFSI), located in New York, for U.S. Nuclear Regulatory Commission (NRC) staff review and approval.

The NRC regulations at Title 10 of the *Code of Federal Regulations* (10 CFR) Part 72, "Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste," govern the storage of spent nuclear fuel (spent fuel) generated at commercial nuclear power reactors licensed by the NRC. Spent fuel that has been removed from the reactor's spent fuel pool is typically stored at a nuclear power plant's ISFSI.

The NRC requires its licensees to plan for the eventual decommissioning of their licensed facilities prior to license termination. On June 17, 2011, the NRC published a final rule amending its decommissioning planning regulations (76 *Federal Register* (FR) 35512). The final rule amended the NRC regulation, 10 CFR 72.30, which concerns financial assurance and decommissioning for ISFSIs. This regulation now requires each holder of, or applicant for, a license under 10 CFR Part 72 to submit, for NRC review and approval, a DFP. The purpose of the DFP is to demonstrate the licensee's financial assurance, *i.e.*, that funds will be available to decommission the ISFSI. The NRC staff is reviewing the information submitted by ENO. Specifically, the NRC must determine whether ENO DFP contains the information required by 10 CFR 72.30(b) and 10 CFR 72.30 (c) Tri-Annual Update and whether ENO has provided reasonable assurance that funds will be available to decommission the ISFSI.

The ENO ISFSI DFP is publicly available in the NRC's Agencywide Documents Access and Management System (ADAMS) accessible at <http://www.nrc.gov/reading-rm/adams.html>.

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J. Rhodes

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The ADAMS accession number for the application package is ML12352A126 for the 2012 submittal and ML15351A524 for the 2015 submittal.

In accordance with 10 CFR Part 51, the NRC regulations that implement the National Environmental Policy Act of 1969, as amended, the agency has prepared a draft environmental assessment (EA) for the proposed action (enclosed). We are providing your office with the opportunity to review the draft EA and comment on environmental issues prior to the public issuance and publication of the EA. We request that distribution and use of the enclosed draft EA be limited only to those staff involved in the review and comment process.

Please submit any comments within 30 days of the receipt of this letter to the U.S. Nuclear Regulatory Commission, Document Control Desk, ATTN: Steve Ruffin, Mail Stop:TWFN4E-04, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If you have any questions, please contact Mr. Richard Baum of my staff by telephone at 301-415-0018, or by e-mail at richard.baum@nrc.gov. The NRC staff will consider your timely comments and will revise the EA, as appropriate, before its final issuance and publication. Thank you for your assistance.

Sincerely,

/RA/

Steve Ruffin, Acting Chief
Spent Fuel Licensing Branch
Division of Spent Fuel Management
Office of Nuclear Material Safety
and Safeguards

Docket No.: 72-12
CAC No.: L24828

Enclosure:
Draft Environmental Assessment

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Draft Environmental Assessment

G:\SFST\72.30 Decommissioning Funding Plans\2015 Submission Part 70.30 (c)\James Fitzpatrick DFP Consultation Letter to State.docx
G:\SFST\72.30 Decommissioning Funding Plans\2015 Submission Part 70.30 (c)\James Fitzpatrick Draft EA for Consultation.docx

ADAMS P8 Accession No.: ML16145A324 Letter: ML16145A328 Enclosure: ML16145A330

OFC	DSFM		DSFM	DSFM		DSFM				
NAME	RBaum		WWheatley	SRuffin						
DATE	4/29/16		5/3/16	5/20/16						

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