

Dated in Rockville, Maryland, this 30th day of June, 2005.

For the Nuclear Regulatory Commission.

**Jill S. Caverly,**

*Project Manager, Licensing Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.*

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## NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-260 and 50-296]

### Tennessee Valley Authority; Browns Ferry Nuclear Plant, Units 2 and 3; Notice of Consideration of Issuance of Amendments to Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering issuance of amendments to Facility Operating Licenses No. DPR-52 and DPR-68, issued to Tennessee Valley Authority (the licensees), for operation of the Browns Ferry Nuclear Plant (BFN) Units 2 and 3 located in Limestone County, Alabama.

The proposed amendments would change the BFN, Units 2 and 3 operating licenses to increase the maximum authorized power level from 3458 megawatts thermal (MWt) to 3952 MWt. This change represents an increase of approximately 15 percent above the current maximum authorized power level. The proposed amendments would also change the BFN, Units 2 and 3 licensing bases and any associated technical specifications for containment overpressure.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult current copies of 10 CFR 2.309, 2.304, and 2.305, which are available at the Commission's Public Document Room (PDR), located at One White Flint

North, Public File Area 01F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System's (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. If a request for a hearing and petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner/requestor in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also identify the specific contentions which the petitioner/requestor seeks to have litigated in the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment

under consideration. The contention must be one which, if proven, would entitle the petitioner/requestor to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

Nontimely requests and petitions and contentions will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board that the petition, request and/or the contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(a)(1)(i)-(viii).

A request for a hearing and petition for leave to intervene must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, or expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@NRC.GOV](mailto:HEARINGDOCKET@NRC.GOV); or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemakings and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966. A request for hearing and petition for leave to intervene need not comply with 10 CFR 2.304(b), (c) and (d) if an original and two copies otherwise complying with the requirements of that section are mailed within two (2) days after filing by e-mail or facsimile transmission to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff. A copy of the request for hearing and petition for leave to intervene should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the request for hearing and petition for leave to intervene should also be sent to General Counsel, Tennessee Valley Authority, ET 11A, 400 West

Summit Hill Drive, Knoxville, Tennessee, 37902, attorney for the licensee.

For further details with respect to this action, see the application for amendments dated June 25, 2004, and supplements dated February 23 and April 25, 2005, which are available for public inspection at the Commission's PDR, located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the ADAMS Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/adams.html>. Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

Dated in Rockville, Maryland, this 1st day of July, 2005.

For the Nuclear Regulatory Commission.

**Eva A. Brown,**

*Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-09015]

### Environmental Assessment and Finding of No Significant Impact Related to Incorporating the Decommissioning Plan for the Michigan Department of Natural Resources (Mdnr) Bay City, MI, Tobico Marsh Site Into the License

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Environmental Assessment and Finding of No Significant Impact.

**FOR FURTHER INFORMATION CONTACT:** David Nelson, Project Manager, Materials Decommissioning Section, Decommissioning Directorate, Division of Waste Management and Environmental Protection, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7E18, Washington, DC 20555. Telephone: 301-415-6626; fax number: 301-415-5397; e-mail: [dwn@nrc.gov](mailto:dwn@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

## I. Introduction

The Nuclear Regulatory Commission (NRC) is considering issuing a license amendment to Material License No. SUC-1581 issued to the Michigan Department of Natural Resources (MDNR), to incorporate the Tobico Marsh State Game Area Decommissioning Plan (DP) for the MDNR, Bay City, Michigan, Tobico Marsh site into the License. SUC-1581 was issued in 1999 authorizing MDNR to possess on-site radioactive materials related to the decommissioning of the MDNR Tobico Marsh site. In a letter dated April 2, 2003, MDNR requested that the Tobico Marsh State Game Area DP be incorporated into the licensee. On January 30, 2004, MDNR submitted a revised DP (Revision 1) and in a letter dated December 20, 2004, MDNR proposed additional changes to Revision 1. The license will be amended to include all of the revisions and changes described in the January 30, 2004, and December 20, 2004, letters.

If the NRC approves the amendment, the DP will be incorporated into the MDNR License. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Part 10 of the Code of Federal Regulations (10 CFR) Part 51. Based on the EA, the NRC has determined that a Finding of No Significant Impact (FONSI) is appropriate.

## II. Environmental Assessment

### Background

The site is a small part of the former (now closed) industrial waste disposal area locally known as the Hartley & Hartley Landfill. The industrial waste disposal facility, which opened in the mid-1950's, was originally operated by the Hartley family and is estimated to have received 18,000 barrels of spent solvents, oils, and other liquid and solid wastes for disposal during the 1960's and early 1970's. Foundry waste containing low levels of naturally occurring radioactivity in the form of magnesium-thorium slag was also disposed of at the site beginning in 1970. By 1973, disposal activities on site had ceased.

Currently, the Hartley & Hartley Landfill industrial disposal site is treated as two separate sites (the MDNR site and the SC Holdings, Inc site) after having been subdivided. In a formal land exchange concluded in 1973, the Hartleys conveyed land to the State of Michigan that included approximately three acres where waste disposal had previously occurred in return for lands bordering their industrial waste site.

The 3-acre portion, now known as the MDNR site, is part of the State of Michigan property which is known as the Tobico Marsh State Game Area.

The 3-acre portion was an area where the Hartley's mined (excavated) a former beach-ridge sand deposit. The excavation resulted in surface depressions flooded with surface water and near-surface ground water. Industrial wastes, including drums, spent solvents, oils and other liquid and solid wastes were disposed of in the excavations. In addition to these materials, magnesium-thorium slag containing naturally occurring thorium (Th) was also disposed of in the excavations beginning in 1970. The slag, thought to have been generated by Wellman Dynamics at a site within Bay City, Michigan, was a byproduct of casting and foundry operations involving magnesium-thorium alloys.

In 1984, to contain the chemical wastes and preclude the potential migration of chemical (non-radioactive) contaminants beyond those areas already impacted by the disposal, a bentonite slurry wall was placed around the disposal area and covered with a 1.5 m (5 ft) thick clay cap. The slurry walls and cap formed a cell which contained the chemical wastes, as well as the slag containing magnesium-thorium alloys.

A small building and adjacent concrete pad, which are still in place, were constructed on-site after the slurry walls and clay cover were installed. A leachate collection and treatment system (LCTS) was installed within the cell and slurry walls. The small building was designed to house the LCTS controls. The building has been used to stage survey equipment and temporarily store potentially radiologically contaminated waste generated during previous on-site surveying activities. The LCTS was designed by the Michigan Department of Environmental Quality (MDEQ) to withdraw liquid non-radiological contaminants (leachate) from the waste cell to prevent hydrostatic pressure in the cell from building to a point that chemical contaminants would leak from the cell. In the past, there was no noticeable buildup of pressure within the cell. The LCTS was never operated and, MDNR believes that liquid levels within the cell will not build to the point where operation of the LCTS is needed.

The primary radioactive source term within the cell is comprised of pockets of vitreous, thorium-bearing slag that lie in a lens that is approximately 5 to 6 feet below the ground surface. A clay cover (approximately 5 feet thick at the center of the cell) overlays the ground surface. On August 26, 1999, the NRC