

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-33635, License No. 45-15200-04, EA-04-103]

In the Matter of: ATTN: Mr. David F. Johns, President, Soil Consultants, Inc., 9393 Center Street, Manassas, VA 20110-5547; Confirmatory Order Modifying License (Effective Immediately)

I

Soil Consultants, Inc. (SCI or Licensee) is the holder of Materials License No. 45-15200-04 issued by the Nuclear Regulatory Commission (NRC or Commission) on October 6, 2004, Amendment No. 03. The license authorizes the Licensee to use sealed source(s) contained in portable gauging devices (registered pursuant to 10 CFR 32.320 or equivalent Agreement State regulation) for measuring properties of materials in accordance with the conditions specified therein.

II

An investigation of the Licensee's activities was completed on February 11, 2004. The results of this investigation and the NRC's further consideration of this matter, including a predecisional enforcement conference held with you on August 12, 2004, indicated that the Licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty (Notice) was served upon the Licensee by letter dated October 6, 2004. The Notice states the nature of violation, the provision of the NRC's requirements that the Licensee had violated, and the amount of the civil penalty proposed for the violation. The licensee responded in letters dated November 5, 2004, and December 5, 2004, and denied a violation occurred. An Order Imposing a civil penalty was served upon the Licensee by letter dated February 1, 2005. The February 1st letter offered SCI the opportunity either to pay the civil penalty, request a hearing, or request alternative dispute resolution (ADR) in which a neutral mediator with no decision-making authority would facilitate discussions between the NRC and SCI and, if possible, assist the NRC and SCI in reaching an agreement on resolving the concern. SCI chose to participate in ADR. On March 16, 2005, the NRC and SCI met at NRC Headquarters in Rockville, Maryland in an ADR session mediated by a professional mediator, arranged through

Cornell University's Institute on Conflict Resolution.

III

By letter dated April 8, 2005, the Licensee has agreed that in addition to the corrective actions outlined in their letters to the NRC dated November 5, 2004, and December 2, 2004, SCI would take certain additional measures to emphasize the importance of a Safety Conscious Work Environment at their facility. The Licensee agreed to:

1. Hire an outside consultant to:
 - a. Provide insight and develop an initial training module addressing a safety conscious work environment (SCWE) and 10 CFR 30.7, Employee protection," by no later than five months from the date of issuance of the Confirmatory Order,
 - b. Conduct initial training for managers and employees of SCI using the module by no later than six months from the date of issuance of the Confirmatory Order, and
 - c. Develop a refresher training module addressing SCWE and 10 CFR 30.7 for the managers and employees of SCI by no later than six months from the date of issuance of the Confirmatory Order.
2. By no later than six months from the date of issuance of the Confirmatory Order, SCI shall revise its training program requirements to conduct refresher training of SCWE and 10 CFR 30.7 at a frequency consistent with SCI's general employee training.
3. By no later than six months from the date of issuance of the Confirmatory Order, SCI shall revise its training program requirements to conduct SCWE and 10 CFR 30.7 training for new managers and employees of SCI, within sixty days of their assumption of duties.
4. Pay a civil penalty in the amount of \$1,200 for a violation of 10 CFR 30.7, "Employee protection," requirements within thirty days of the date of issuance of the Confirmatory Order.

On April 18, 2005, SCI consented to the NRC issuing this Confirmatory Order, as described in Section IV below. SCI further agreed in its April 18, 2005, letter that this Confirmatory Order is to be effective upon issuance and that it has waived its right to a hearing. The NRC has concluded that its concerns can be resolved through effective implementation of SCI's commitments.

I find that the Licensee's commitments as set forth in Section IV are acceptable and necessary and conclude that with these commitments the public health and safety are reasonably assured. In view of the foregoing, I have determined that the public health and safety require that SCI's commitments be confirmed by this

Order. Based on the above and SCI's consent, this Order is immediately effective upon issuance. SCI is required to provide the NRC with a letter summarizing its actions when all of the Section IV requirements have been completed.

IV

Accordingly, pursuant to Sections 81, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 30, *it is hereby ordered, effective immediately, that* License No. 45-15200-04 is modified as follows:

1. The Licensee shall hire an outside consultant to:
 - a. Provide insight and develop an initial training module addressing a safety conscious work environment (SCWE) and 10 CFR 30.7, Employee protection," by no later than five months from the date of issuance of the Confirmatory Order,
 - b. Conduct initial training for managers and employees of SCI using the module by no later than six months from the date of issuance of the Confirmatory Order, and
 - c. Develop a refresher training module addressing SCWE and 10 CFR 30.7 for the managers and employees of SCI by no later than six months from the date of issuance of the Confirmatory Order.
2. The Licensee shall revise its training program requirements to conduct refresher training of SCWE and 10 CFR 30.7 at a frequency consistent with SCI's general employee training, by no later than six months from the date of issuance of the Confirmatory Order.
3. By no later than six months from the date of issuance of the Confirmatory Order, the Licensee shall revise its training program requirements to conduct SCWE and 10 CFR 30.7 training for new managers and employees of SCI, within sixty days of their assumption of duties.
4. Pay a civil penalty in the amount of \$1,200 for a violation of 10 CFR 30.7, "Employee protection," requirements within thirty days of the date of issuance of the Confirmatory Order.

The Director, Office of Enforcement, may relax or rescind, in writing, any of the above conditions upon a showing by SCI of good cause.

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V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time

must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Assistant General Counsel for Materials Litigation and Enforcement at the same address, to the Regional Administrator, NRC Region I, 475 Allendale Road, King of Prussia, PA 19406-1415, and to the Licensee. Because of continuing disruptions in delivery of mail to United States Government offices, it is requested that answers and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301-415-1101 or by e-mail to hearingdocket@nrc.gov and also to the Office of the General Counsel either by means of facsimile transmission to 301-415-3725 or by e-mail to OGCMailCenter@nrc.gov. If a person other than the licensee requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 27th day of April, 2005.

For the Nuclear Regulatory Commission.

Frank J. Congel,

Director, Office of Enforcement.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-315 and 50-316]

Indiana Michigan Power Company and Donald C. Cook Nuclear Plant, Units 1 and 2; Notice of Availability of the Final Supplement 20 to the Generic Environmental Impact Statement for the License Renewal of Donald C. Cook Nuclear Plant, Units 1 and 2

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission) has published a final plant-specific supplement to the "Generic Environmental Impact Statement (GEIS), NUREG-1437," regarding the renewal of operating licenses DPR-58 and DPR-74 for an additional 20 years of operation at Donald C. Cook Nuclear Plant, Units 1 and 2 (CNP). CNP is located in Berrien County, Michigan, about 55 miles east of Chicago, Illinois. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources.

In Section 9.3 of the final Supplement 20 to the GEIS, the staff concludes that based on: (1) The analysis and findings in the GEIS; (2) the environmental report submitted by Indiana Michigan Power Company; (3) consultation with Federal, State, and local agencies; (4) the staff's own independent review; and (5) the staff's consideration of public comments, the recommendation of the staff is that the Commission determine that the adverse environmental impacts of license renewal for CNP Units 1 and 2 are not so great that preserving the option of license renewal for energy-planning decision makers would be unreasonable.

The final Supplement 20 to the GEIS is available for public inspection in the NRC Public Document Room (PDR) located at One White Flint North, 11555 Rockville Pike, Rockville, Maryland, or from the Publicly Available Records (PARS) component of NRC's Agencywide Documents Access and Management System (ADAMS). ADAMS is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> (the Public Electronic Reading Room). Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the PDR reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov. In addition, the Bridgman Public Library, 4460 Lake Street, Bridgman, Michigan and the Maud Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan, have agreed to make the final

plant-specific supplement to the GEIS available for public inspection.

FOR FURTHER INFORMATION, CONTACT: Mr. William Dam, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Mr. Dam may be contacted at 301-415-4014 or via e-mail WLD@nrc.gov.

Dated at Rockville, Maryland, this 22nd day of April, 2005.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Program Director, License Renewal and Environmental Impacts Program, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket Number 030-04781]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Pharmacia and Upjohn Company, Kalamzoo, MI

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Dr. Peter J. Lee, Decommissioning Branch, Division of Nuclear Materials Safety, U.S. Nuclear Regulatory Commission, Region III, 2443 Warrenton Road, Lisle, Illinois 60532-4352. Telephone: 630-829-9870; fax number: 630-515-1259; e-mail: pjl2@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering issuing a license amendment of Material License No. 21-00182-03 issued to Pharmacia & Upjohn Company (the licensee), to authorize release of its Henrietta Street and Jasper Street facilities for unrestricted use.

The NRC staff has prepared an Environmental Assessment (EA) in support of this amendment in accordance with the requirements of 10 CFR Part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

II. EA Summary

The purpose of the proposed action is to amend the licensee's byproduct