

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.*

[FR Doc. E5-3680 Filed 7-11-05; 8:45 am]

BILLING CODE 7590-01-P

## 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

issued Source Material License No. SUC-1581 to MDNR authorizing possession of the thorium-bearing slag and decommissioning of the site. Prior to 1999, the site had never been licensed.

On April 2, 2003, MDNR submitted a DP for the site. The DP outlined decommissioning activities including the removal of the building, the adjacent concrete pad and the above-grade components of the LCTS. Following those activities, the site would be released for unrestricted use as specified in 10 CFR 20.1402 and the radioactive materials license would be terminated. The NRC staff determined that the submittal was incomplete, and on January 30, 2004, MDNR submitted a revised and updated DP (Revision 1). On August 27, 2004, the NRC staff transmitted a letter to MDNR requesting additional information (RAI) related to Revision 1. In a December 20, 2004, letter, MDNR responded to the RAIs and provided supplemental information to the Revision 1 DP that indicated the on-site building, concrete pad and above-grade components of the LCTS would not be removed but would remain intact.

#### *The Proposed Action*

The proposed action is to amend Source Materials License No. SUC-1581 to incorporate the revised DP into the license. The revised DP proposes that the on-site building, adjacent concrete pad and LCTS remain in place and intact and all residual radioactivity be contained within the on-site engineered cell. With regard to the radiological materials, the site will be released for unrestricted use.

#### *Need for the Proposed Action*

The proposed action is to amend Source Materials License No. SUC-1581 to conduct activities on-site that would lead to the release of the MDNR Tobico Marsh State Game Area site located at 2301 Two Mile Road, Bay County, Michigan, for unrestricted use. The licensee's action of leaving the radiological material (the thorium-bearing slag) in place within the cell conforms with the NRC regulation that the dose to the average member of the critical group is below the requirements in 10 CFR 20 Subpart E for unrestricted release before license termination. The licensee needs the license amendment to incorporate the revised DP into the license. NRC is fulfilling its responsibilities under the Atomic Energy Act to make a decision on a proposed license amendment for incorporation of a revised DP into the license and to ensure the protection of

public health and safety and the environment.

#### *Alternatives to the Proposed Action*

The NRC staff and MDNR considered four alternatives for the decommissioning plan: (1) Complete removal of the waste cell contents (both radiological and chemical materials); (2) removal of only the radiological material from the waste cell; (3) leaving the radiological material in the waste cell, leaving the on-site building, adjacent concrete pad and LCTS on site, terminating the license, and releasing the site for unrestricted use; and (4) taking no remedial action and retaining the site license ("No Action Alternative"). The preferred alternative, No. 3, is described, in detail, in Revision 1 the DP as supplemented by the December 20, 2004, letter from MDNR.

The MDNR site contains radiological as well as chemical materials. The chemical materials are regulated by the MDEQ under Part 201 of Michigan regulations. The radiological and chemical materials are all contained within an on-site engineered waste cell that has slurry walls and a clay cap.

Alternatives 1 and 2 would cause the contents of the waste cell to be disturbed, leading to a potential release of the materials to the surrounding environment. Specifically, excavation of the waste cell would expose workers and visitors to hazardous materials within the cell. Hazardous materials could be released via effluents or transmission in the air potentially contaminating the surrounding environs. Shipping the materials off-site for disposal could also expose workers and others to the materials before, during, and after shipment to the disposal site. The environmental impact presented by these two alternatives could potentially put workers and the surrounding environment at risk and are, therefore, not environmentally sound options.

Alternative 3 is the preferred alternative, because the alternative has little, if any, impact on the environment. Based on an independent dose assessment, the NRC staff concluded that, if the radiological material in the cell, the building, the concrete pad, and the LCTS are left in place, no additional actions are needed at the MDNR site for it to be released for unrestricted use per 10 CFR 20.1402.

The "No Action Alternative" (Alternative 4) is not acceptable because retaining a license would impose an unnecessary regulatory burden on MDNR. Since no additional actions are needed at the MDNR site for it to be released for unrestricted use per 10 CFR

20.1402, there is no longer any need for requiring that the licensee maintain security at the site and/or maintain the site's materials license.

#### *Environmental Impacts of the Proposed Action*

The Affected Environment at the MDNR site includes the above grade components of the LCTS; the 3-acre landfill encapsulated with slurry walls and a clay cover; the shallow groundwater below the site; and, the potentially impacted offsite groundwater and surface water.

The residual radioactivity at this site consists of two components. The primary source term consists of the magnesium-thorium slag materials buried within the waste cell and secondary source term consists of contamination on surfaces. Site characterization surveys found no evidence that the clay cap, the building or the concrete pad surfaces were contaminated. However, the clay cap could have been contaminated if magnesium-thorium slag materials have been brought to the surface of the cap during site characterization and the contamination could have spread to the building and pad surfaces. Boreholes were drilled through the clay cap during site characterization and samples were collected from within the cell. The concrete pad was also used to process the samples and may have been contaminated during processing. Waste generated during the sampling activities was placed in a 55 gallon drum and stored in the building. The 55 gallon drum could have leaked and contaminated the interior surfaces of the building. The clay cap and all of the building and pad surfaces will be surveyed during the final status surveys.

The radionuclide composition of the primary and secondary source terms are assumed to be the same, because the secondary source terms are essentially derived from the primary source term in the waste cell. The isotopic composition for Th-230 and Th-232 and their progeny is: (1) Pb-210—0.5%, (2) Ra-226—1.1%, (3) Ra-228—16.1%, (4) Th-228—16.1%, (5) Th-230—50.0%, and (6) Th-232—16.1%.

The non-radiological contamination at this site is contained within the encapsulated waste cell. The non-radiological contamination includes organic chemicals which are regulated by the MDEQ, not by the NRC. The non-radiological contamination will be present after NRC license termination. Approval of the proposed action does not absolve the licensee of any other responsibilities it may have under Federal, State, or local statutes or

regulations regarding the non-radiological contamination.

The site and much of the immediate area, except for the adjacent former Hartley & Hartley landfill, is marsh land. The site itself is a small portion of the Tobico Marsh State Game Area. The shallow groundwater on-site is non-potable and there is no surface water.

The environmental impacts of the licensee's requested action were evaluated by reviewing the results of MDNR's dose assessments. Those assessments assume that the radiological contaminants remain within the waste cell and the surfaces of the building and the concrete pad do not exceed the derived concentration guideline levels (DCGLs). The licensee used computer codes RESRAD and DandD to demonstrate that doses from residual radioactivity did not exceed the regulatory limit (25 mrem/yr). RESRAD and DandD used both probabilistic and deterministic procedures for each source term. Since the site will remain a controlled landfill, the most realistic use for the land is infrequent hunting and/or fishing.

Therefore, composite recreational scenario parameters were used by RESRAD to calculate potential on-site doses. The DandD code used all but one default parameters to calculate on-site dose. The "time in the building" parameter was adjusted, however, to more realistically describe the potential exposure from the surface radioactivity on the building and the concrete pad. The NRC staff performed independent analyses of the licensee's dose assessments and was in agreement with MDNR's methods and results.

For the residual radioactivity in the waste cell, the licensee assumed that the activity of thorium in the slag was its specific activity and used that activity to generate a dose for the composite recreational use scenario. Even with this very conservative estimate of thorium activity, the estimated potential dose was much less than 25 mrem/yr and no DCGLs were reported for the waste cell.

For the residual radioactivity on the clay cap, the licensee calculated the dose to a recreational user to be much less than 25 mrem/yr. Although there is no evidence that the clay cap is contaminated, the licensee developed gross DCGLs for the clay cap. The gross DCGLs are directly related to the activity of Th-232, a surrogate for the mixture of radionuclides present in the surface contamination. MDNR used the composite recreational scenario to calculate gross DCGLs, even though, MDNR believes that the likelihood of the presence of thorium contaminated

materials on the clay cover is extremely low.

For contamination on the surfaces of the building and the concrete pad, the licensee calculated the dose to the average member of the critical group to be much less than 25 mrem/yr. Although there is no evidence that the surfaces of the building and the concrete pad are contaminated, the licensee developed a gross DCGLs for those surfaces. The licensee developed the gross DCGL based upon a light-industrial building use scenario assuming a person spent limited time in the building. Again, NRC staff's independent analyses of the licensee's dose assessments was in agreement with MDNR's.

The NRC staff evaluated the potential radiological exposure to an offsite receptor resulting from groundwater seepage through the slurry walls. This potential radiological exposure is very low due to the following reasons:

1. Any seepage of radiological contaminated groundwater through the slurry walls will be dispersed and diluted as the groundwater slowly travels to Saginaw Bay of Lake Huron.

2. The travel time for groundwater to reach Saginaw Bay from the site is long (several thousand years) because of the distance (2.24 kilometers) between the two locations and because of the low hydraulic gradient (0.0002 ft/ft) of the water table.

3. Thorium's solubility in groundwater is very low (Appendix I, MDNR, 2004).

4. The concentration of the radiological contaminated groundwater will become highly diluted if it is discharged into the much larger surface water volume of Saginaw Bay.

5. There are no receptors along the groundwater pathway between the site and Saginaw Bay.

The NRC staff also evaluated whether there would be any adverse radiological consequences from the operation of the LCTS and a hypothetical leak from the LCTS. Based on the following consideration, the staff concluded that there would be no adverse consequences. MDNR collected samples of leachate to determine if thorium in the slag had migrated into the leachate. The sampling results provided evidence that the slag was highly insoluble and would not readily migrate within the cell. In addition, there is no evidence that the liquid level within the cell would rise to the point that the LCTS would need to be operated to reduce it. Additionally, to receive any measurable dose, an individual would have to be directly exposed to leachate that had leaked from the LCTS during operation.

The probability of a hypothetical leak of contaminated liquid from the operation of the LCTS in sufficient quantities to result in measurable dose to an average member of the critical group is very low. Thus, consideration of possible adverse radiological consequences from leaving the LCTS in place were determined not to be necessary.

The revised DP provides that the radiological contaminants within the waste cell would remain in place and the building and the concrete pad would be decontaminated, if necessary, to meet the DCGLs. The total dose for the site from the radiological material in the waste cell and the surface contamination on the clay cap and the surfaces of the building and concrete pad will not exceed 25mrem/yr.

The NRC staff reviewed the Environmental Impacts of the licensee's requested action to leaving the site "as is" and release it for unrestricted use (Alternative 3). Based on the staff's review of the DP, the staff determined that the radiological environmental impacts associated with the licensee's proposed action are bounded by the impacts evaluated in NUREG-1496, "Generic Environmental Impact Statement of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities."

#### *Agencies and Persons Consulted*

This Environmental Assessment was prepared entirely by the NRC staff. The Michigan State Historic Preservation Office and the U. S. Fish and Wildlife Service were contacted regarding this action and neither had concerns regarding this licensing action. No remedial actions are planned for the site, therefore, the release of the MDNR site for unrestricted use would not affect historical or cultural resources, nor will it affect threatened or endangered species. No other sources of information were used beyond those referenced in this EA.

NRC provided a draft of its Environmental Assessment to the State of Michigan Department of Environmental Quality (MDEQ) for its review. MDEQ agreed with the conclusions in the EA.

#### *Conclusions and Finding of No Significant Impact*

Based on its review, the NRC staff concludes that the proposed action complies with 10 CFR Part 20 Subpart E. NRC has prepared this EA in support of the proposed license amendment to approve the DP. On the basis of the EA, NRC has concluded that the environmental impacts from the

proposed action are expected to be insignificant and has determined that preparation of an Environmental Impact Statement is not needed for the proposed action.

#### Sources Used

1. NRC License No. 06-03754-01 inspection and licensing records.
2. MDNR, Package dated January 30, 2004, "License Amendment for the Tobico Marsh State Game Site and Submission of a Revised Decommissioning Plan." [ADAMS Accession No. ML040790356]
3. NRC, Letter dated August 27, 2004, "NRC Request for Additional Information (RAI) with Regard to the Decommissioning Plan, Revision 1, for the Michigan Department of Natural Resources' Tobico Marsh State Game Area Site, Kawawlin, Michigan." [ADAMS Accession No. ML042290619]
4. MDNR, Letter dated December 20, 2004, Response to RAI—August 27, 2004, Tobico Marsh State Game Area Site and Submission of Additional Information Relative to the Decommissioning Plan Docket No. 40-9015, License SUC-1581. [ADAMS Accession No. ML050100126]
5. NUREG-1748, Environmental Review Guidance for Licensing Actions Associated with NMSS Programs, August 2003.
6. NUREG-1757, Volume 1, Rev 1, Consolidated NMSS Decommissioning Guidance, Decommissioning Process for Materials Licensees, Final Report, September 2003.
7. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination."
8. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."
9. MDEQ, E-Mail, "MDNR Draft EA dated 3/24/05."
10. NUREG-1496, Generic Environmental Impact Statement of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities, July 1997.

### III. Further Information

Documents related to this action, including the application for amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the document related to this notice are: ML042320524 for the August 26, 1999, letter issuing the license, ML032790494 for the April 2, 2003, letter requesting license amendment to incorporate the DP into the license, ML040790356 for the January 30, 2004, letter revising the DP

(Revision 1), and ML050100126 for the letter dated December 20, 2004, response to the NRC request for additional information. If you do not have access to ADAMS or if there are problems accessing the documents located in ADAMS, contact the NRC's Public Document Room (PDR) Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

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

For the Nuclear Regulatory Commission.

#### Daniel M. Gillen,

Deputy Director, Office of Nuclear Material Safety and Safeguards, Division of Waste Management and Environmental Protection, Decommissioning Directorate.

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BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETINGS:** Nuclear Regulatory Commission.

**DATE:** Weeks of July 11, 18, 25, August 1, 8, 15, 2005.

**PLACE:** Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

**STATUS:** Public and Closed.

**MATTERS TO BE CONSIDERED:**

#### Week of July 11, 2005

There are no meetings scheduled for the week of July 11, 2005.

#### Week of July 18, 2005—Tentative

There are no meetings scheduled for the week of July 18, 2005.

#### Week of July 25, 2005—Tentative

Thursday, July 28, 2005

1:30 p.m.—Discussion of Security Issues (Closed—Ex. 1).

#### Week of August 1, 2005—Tentative

There are no meetings scheduled for the week of August 1, 2005.

#### Week of August 8, 2005—Tentative

There are no meetings scheduled for the week of August 8, 2005.

### Week of August 15, 2005—Tentative

Tuesday, August 16, 2005

10 a.m.—Meeting with the Organization of Agreement States (OAS) and the Conference of Radiation Control Program Directors (CRCPD) (Public Meeting). (Contact: Shawn Smith, (301) 415-2620.)

This meeting will be webcast live at the Web address. <http://www.nrc.gov>.

1 p.m.—Discussion of Security Issues (Closed—Ex. 1).

\* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415-1292. Contact person for more information: Michelle Schroll, (301) 415-1662.

The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/what-we-do/policy-making/schedule.html>.

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g., braille, large print), please notify the NRC's Disability Program Coordinator, August Spector, at (301) 415-7080, TDD: (301) 415-2100, or by e-mail at [aks@nrc.gov](mailto:aks@nrc.gov). Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

This notice is distributed by mail to several hundred subscribers: if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301) 415-1969. In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to [dkw@nrc.gov](mailto:dkw@nrc.gov).

Dated: July 11, 2005.

#### R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 05-13722 Filed 7-8-05; 9:58 am]

BILLING CODE 7590-01-M

## NUCLEAR REGULATORY COMMISSION

### Notice of Availability of Interim Staff Guidance Documents for Spent Fuel Storage Casks

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.