

that several new entities would be interposed between (i) the Investment Funds and Management owners and (ii) Texas Genco LLC. This proposed restructuring is in anticipation of a proposed initial public offering of a minority interest in Texas Genco Inc. Texas Genco Inc., was incorporated on May 20, 2005, as a wholly-owned subsidiary of another new entity, Texas Genco Sponsor LLC. Immediately prior to the initial public offering, Texas Genco Sponsor LLC and Texas Genco Inc., will form a new limited liability company, Texas Genco Holdings LLC.

Following certain transactions described in the application, and following the initial public offering, Texas Genco Inc., will become the sole managing member of Texas Genco Holdings LLC, and Texas Genco Holdings LLC will become the sole owner of Texas Genco LLC and the indirect owner of licensee Texas Genco, which shall at all times continue to be a licensed owner of STP. According to the application, the Investment Funds and Management owners would control Texas Genco Inc., through their ownership of a majority of the voting power in Texas Genco Inc., and continue to ultimately control Texas Genco.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the transfer of a license, if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

Within 20 days from the date of publication of this notice, any person whose interest may be affected by the Commission's action on the application may request a hearing and, if not the applicant, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C, "Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer

Powers, and General Hearing Management for NRC Adjudicatory Hearings," of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309. Untimely requests and petitions may be denied, as provided in 10 CFR 2.309(c)(1), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.309(c)(1)(i)-(viii).

Requests for a hearing and petitions for leave to intervene should be served upon Mr. John E. Matthews, Morgan, Lewis, & Bockius, LLP, 1111 Pennsylvania Avenue, NW., Washington, DC 20004, attorney for STPNOC; Nicholas S. Reynolds, Winston & Strawn LLP, 1700 K Street, NW., Washington, DC 20006-3817, attorney for Texas Genco; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001 (e-mail address for filings regarding license transfer cases only: [OGCLT@NRC.gov](mailto:OGCLT@NRC.gov)); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.302 and 2.305.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice. For further details with respect to this action, see the application dated June 28, 2005, available for public inspection at the Commission's Public Document Room (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 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/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 at Rockville, Maryland this 18th day of July, 2005.

For the Nuclear Regulatory Commission.

**David H. Jaffe,**

*Senior Project Manager, Section 1, Project Directorate IV, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. E5-3942 Filed 7-22-05; 8:45 am]

**BILLING CODE 7590-01-P**

## **NUCLEAR REGULATORY COMMISSION**

[Docket No. 40-00017]

### **Environmental Assessment and Finding of No Significant Impact Related to Issuance of Amendment No. 11 to Materials License No. STB-527, the Dow Chemical Company (TDCC), Bay City, MI Site (TAC #L60463)**

**AGENCY:** U.S. Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

#### **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 U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to the Dow Chemical Company's (TDCC) Material License, No. STB-527. The amendment would allow an alternate method for conducting surveys, would add two plans to the license, and would expand the scope of onsite decommissioning activities.

NRC 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. Environmental Assessment

### *Background*

TDCC is the current holder of NRC radioactive source materials license STB-527 (NRC Docket 040-00017). The license authorizes TDCC, to possess and use licensed materials (materials contaminated with source material) during activities leading to their removal from the Bay City, MI site. License STB-527 continues in effect until the Commission notifies the licensee in writing that the license is terminated. The source material (radiological contamination) consists of thorium and its daughter products. The license authorizes the removal and transport of contaminated materials from the site in accordance with an approved decommissioning plan (DP). The DP for TDCC Bay City, MI site was approved in License Amendment No. 7 dated July 21, 1997 (See ADAMS ML050750212). The NRC is considering a license amendment (License Amendment No. 11) to approve the following:

1. An alternate method (AAR Method as described in Revision 2 to the Supplement to the DP) for conducting final status radiological surveys at its Bay City, MI site. (See ADAMS ML051040383), and

2. The addition of four structures and two small pieces of land adjacent to the property to the scope of decommissioning activities (See ADAMS ML051040383), and

3. The incorporation of the Groundwater Monitoring Plan (GMP) for TDCC Bay City site into the license (See ADAMS ML051040383), and

4. The incorporation of Revision 3 of TDCC Thorad Project Radiological Health and Safety Plan into the license (See ADAMS ML051290296).

The objective of decommissioning at TDCC's Bay City, MI site is to remediate radiological constituents, to the extent required, to allow the NRC to release the property for unrestricted use and terminate TDCC's license for the site (STB-527).

### *The Proposed Action*

The proposed action is to allow TDCC to more accurately determine the spatial distribution of the radiological contamination in the subsurface soil using an alternate surveying method (AAR Method) to that described in the

Final Survey Plan. The amendment would also incorporate a formal GMP and Revision 3 of the Radiological Health and Safety Plan into the license and add four structures and two small plots of land to the scope of decommissioning activities.

### *Purpose and Need for the Proposed Action*

Through the proposed action, the licensee believes the alternate survey method would more accurately characterize the radiological contamination in the subsurface soil. By more accurately characterizing the subsurface soil, the licensee believes that the volume of soil excavated would be reduced thus reducing the cost of decommissioning. The original DP did not address the four structures and two small plots of land in the scope of decommissioning activities. In order to release the whole site for unrestricted use, the four structures and two plots of land need to be formally addressed in the DP. The license has routinely collected ground water samples on-site without an approved GMP and the amendment would formally incorporate the GMP into the license. Revision 3 of the Radiological Health and Safety Plan addresses administrative issues that have arisen since its last revision.

### *Alternative to the Proposed Action*

The "no-action" alternative would be to require TDCC to continue to conduct surveys using the method described in License Amendment No. 7. This could result in the licensee unnecessarily excavating soil that exceeded the approved release criteria.

The inclusion of the GMP into the license is not required. However, inclusion does formally commit the licensee to all of the provisions of the GMP and may prevent misunderstandings between the NRC and TDCC regarding its implementation.

To release the entire site for unrestricted use, all buildings and plots of land must be surveyed and remediated to the levels required in License Amendment No. 7. The staff compares survey results to the release criteria before concluding that the site is suitable for license termination and can be released for unrestricted use. If the buildings and plots of land are not addressed in the DP and, therefore, not released for unrestricted use, TDCC would be required to maintain control of them in the license. This would place an unnecessary regulatory burden on TDCC.

### *The Affected Environment and Environmental Impacts*

An earlier and more extensive EA was prepared for License Amendment No. 7 (See ADAMS ML050750212). The amendment approved TDCC's unrestricted release criteria and final survey plan for the Bay City, MI site (See ADAMS ML050750212). The NRC staff determined that decommissioning of the site using the proposed release criteria and the final survey plan could be accomplished to demonstrate compliance with the NRC public and occupational dose limits, and effluent release limits. In addition, the staff concluded that the approval of the decommissioning activities at TDCC Bay City, MI site in accordance with the commitments in NRC license STB-527 Amendment No. 7, and employing the unrestricted release criteria and the final survey plan, would not result in a significant adverse impact on the environment. For more details on the facility description, operating history, radiological status, evaluation of decontamination, evaluation of decontamination of outdoor areas, radiation protection programs, and environmental impacts, refer to the EA prepared for License Amendment No. 7 (See ADAMS ML050750212).

Radiological and non-radiological impacts are discussed in detail in the EA prepared for the decommissioning of the site in License Amendment No. 7. Since the release criteria remains the same for soils and surfaces, changing the survey methodology and adding four buildings and two small plots of land to the scope of decommissioning activities will not cause an increase the level of radiological and non-radiological impacts. Compliance with the soil and surfaces release criteria ensures that the dose limit for the site will not be exceeded. Adding the GMP to the DP and revising the Health and Safety Plan are administrative issues that have no environmental impact.

### *Agencies and Persons Contacted*

NRC staff has consulted with Michigan Department of Environmental Quality (MDEQ), the U.S. Fish and Wildlife Service, and the Michigan State Historic Preservation Office in the preparation of this EA. The NRC staff has determined that Section 7 consultation is not required because listed/habitat are not present in the proposed action area, therefore the proposed action will not affect listed species or critical habitat. The NRC staff has determined that the proposed action is not a type of activity that has potential to cause effects on historic

properties because it is administrative/procedural action. Therefore no further consultation is required under Section 106 of the National Historic Preservation Act. The MDEQ had no comments on the proposed action.

#### List of References

- A. Nuclear Regulatory Commission, "Issuance of License Amendment to the Dow Chemical Company to Approve the Decommissioning Criteria and Final Survey Plan for the Decommissioning of Thorium Contaminated Slag Storage Piles at the Dow Chemical Company's Sites in Midland and Bay City, Michigan." July 21, 1997, (ML050750212).
- B. The Dow Chemical Company, "Revised RAIs and Revision 2 of Supplement to the Decommissioning Plan for the TDCC Bay City, MI, Site." April 13, 2005, (ML051040383).
- C. Nuclear Regulatory Commission, "Revised Radiological Health and Safety Plan for the TDCC Bay City, MI, Site." May 6, 2005, (ML051290296).
- D. Nuclear Regulatory Commission, "Method for Surveying and Averaging Concentrations of Thorium in Contaminated Subsurface Soil", February 1997.
- E. UREG-5849, Manual for Conducting Radiological Surveys in Support of License Termination. June 1992.
- F. NUREG-1757, Volume 1, Rev 1, Consolidated NMSS Decommissioning Guidance, Decommissioning Process for Materials Licensees, Final Report, September 2003.
- G. Title 10 Code of Federal Regulations, Part 20, Subpart E, "Radiological Criteria for License Termination."
- H. Title 10, Code of Federal Regulations, Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions."

#### III. Finding of No Significant Impact

Based upon the analysis in this EA and the EA prepared for License Amendment No. 7; the NRC staff has concluded that there will be no significant environmental impacts from the proposed action and has determined not to prepare an environmental impact statement for the proposed action.

#### IV. 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: ML050750212 for the July 21, 2005, letter issuing Amendment

No. 7; ML051040383 for the April 13, 2005, letter requesting a license amendment to incorporate Revision 2 of the Supplement to the DP into the license; ML051290296 for the May 2, 2005, letter providing Revision 3 of the TDCC Radiological Health and Safety Plan; and ML050110068 for the letter dated December 31, 2004, responding to a 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 at Rockville, Maryland this 15th day of July, 2005.

For the Nuclear Regulatory Commission.

**Kimberly Gruss,**

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

[FR Doc. E5-3940 Filed 7-22-05; 8:45 am]

**BILLING CODE 7590-01-P**

#### NUCLEAR REGULATORY COMMISSION

##### Sunshine Act Notice

**DATE:** Weeks of July 25, August 1, 8, 15, 22, 29, 2005.

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

**STATUS:** Public and closed.

**MATTERS TO BE CONSIDERED:**

##### Week of July 25, 2005

Thursday, July 28, 2005:

- 1:25 p.m. Affirmation Session (Public Meeting) (Tentative). a. (1) Exelon Generation Company, LLC Early Site Permit for Clinton ESP Site), Docket No. 52-007-ESP; (2) Dominion Nuclear North Anna, LLC (Early Site Permit for North Anna ESP Site), Docket No. 52-008-ESP; (3) System Energy Resources, Inc. (Early Site Permit for Grand Gulf ESP Site), Docket No. 52-009-ESP; (4) Louisiana Energy Services, L.P. (National Enrichment Facility), Docket No. 70-3103-ML; (5) USEC Inc. (American Centrifuge Plant), Docket No. 70-7004 (Tentative).

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).

##### Week of August 22, 2005—Tentative

There are no meetings scheduled for the week of August 22, 2005.

##### Week of August 29, 2005—Tentative

There are no meetings scheduled for the week of August 29, 2005.

\*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: David Gamberoni, (301) 415-1651.

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

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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.

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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