

assemblies and their locations and the locations of the individual rods. The licensee successfully located the two fuel rod pieces in the SFP and did core verifications. The NRC therefore concludes that as of July 13, 2004, Entergy has been in full compliance with regulatory requirements to account for all SNM in its possession. Therefore the Petitioner's request has in effect been granted. The licensee took the requested actions voluntarily obviating the need for an order. Furthermore, the licensee has updated its inventory of SNM, so there is no need for the NRC to prohibit fuel movement.

The Petitioner claimed to have no confidence that Entergy did not put leaking fuel or suspected leaking fuel assemblies back into the reactor core during the last refueling outage. The NRC inspectors verified that no leaking fuel assemblies were reloaded in the reactor core. The NRC has concluded that Entergy is now in compliance with regulatory requirements to account for all SNM. However in the special inspection report issued on December 2, 2004, the inspectors identified an apparent violation of 10 CFR 74.19, "Material Control and Accounting of Special Nuclear Material-Recordkeeping," related to the two spent fuel rod pieces. The NRC is considering escalated enforcement action for this finding.

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision in that time.

Dated at Rockville, Maryland, this 10th day of March 2005.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 72-17]

Notice of Issuance of Environmental Assessment and Finding of No Significant Impact Regarding a Proposed Exemption; Portland General Electric Company; Trojan Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of environmental assessment and finding of no significant impact.

FOR FURTHER INFORMATION CONTACT:

Christopher M. Regan, Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone: (301) 415-8500; fax number: (301) 415-8555; e-mail: cmr1@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Portland General Electric Company (PGE) is the licensee and holder of License No. SNM-2509 for the Trojan Independent Spent Fuel Storage Installation (Trojan ISFSI). In addition, PGE holds License No. NPF-1, pursuant to 10 CFR part 50, for the Trojan Nuclear Plant (TNP). The licensee will complete decommissioning of the Trojan Nuclear Plant and intends to terminate its part 50 license for the Trojan Nuclear Plant. The Trojan ISFSI contains the spent fuel removed from the Trojan Nuclear Plant.

Currently, the licensee provides financial assurance for the Trojan ISFSI pursuant to 10 CFR 72.30(c)(5), which allows a part 50 license holder to use the financial assurance provisions of part 50 to provide financial assurance for an ISFSI. The licensee maintains an external sinking fund for decommissioning funds pursuant to 10 CFR 50.75(e). However, when its part 50 license is terminated, it will no longer meet the condition of 10 CFR 72.30(c)(5) that allows it to use its existing external sinking fund to provide financial assurance for its ISFSI.

On April 29, 2004, PGE filed a request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5) that requires an ISFSI licensee to additionally hold a part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI.

II. Environmental Assessment

Identification of Proposed Action: Pursuant to the requirements of 10 CFR 72.7, PGE requested a partial exemption from the financial assurance requirements of 10 CFR 72.30(c)(5). The exemption request was "partial" because it would apply only to the requirement that the ISFSI licensee also hold a part 50 license to use an external sinking fund as its exclusive method of providing financial assurance for its ISFSI. The licensee will continue to provide financial assurance conforming to the requirements of 10 CFR 50.75(e) and (h), although it reserved the right to change to another method as provided in other sections of 10 CFR 72.30(c). The licensee pointed out that the wording of 10 CFR 72.30(c)(5) allowed an "electric utility" to use an external sinking fund as the exclusive method of providing financial assurance when its part 72 ISFSI license was first issued. However, the rule was amended effective on December 24, 2003, which resulted in the change of the condition from "electric utility" to "a Part 50 licensee." PGE stated that it will remain an electric utility after the termination of its part 50 license, hence it will continue to meet the intent of the rule as originally issued.

The proposed action before the Commission is whether to grant this exemption pursuant to 10 CFR 72.7.

Need for the Proposed Action: The applicant is undertaking decommissioning activities associated with the Trojan Nuclear Plant and has informed the NRC of its intent to terminate the TNP operating license (License No. NPF-1), issued pursuant to 10 CFR part 50. PGE's 2003 Annual Financial Statement (Form 10-K, submitted to the U.S. Securities and Exchange Commission (SEC) on March 19, 2004) stated that PGE will collect \$14 million annually, until 2011, from its customers to pay for decommissioning. Those collections will occur whether or not the exemption is granted. However, if the exemption is not granted, PGE will incur higher costs due to the expense of providing a second independent financial assurance instrument, which would lead to unnecessary additional costs. Therefore, the exemption is in the public interest. If PGE were to adhere to the financial assurance requirements of 10 CFR 72.30, without the granting of the partial exemption, an unnecessary financial burden and associated increased overall operating costs would be borne by the applicant. In addition, granting of the partial exemption to the requirements of 10 CFR 72.30(c)(5) will facilitate

completion of the decommissioning of the TNP site and eventual termination of the 10 CFR part 50 license.

Environmental Impacts of the Proposed Action: In 1999 the NRC issued a license to PGE to construct and operate the Trojan ISFSI. Prior to this action the NRC examined the environmental impacts of constructing, operating, and decommissioning of the Trojan ISFSI and determined that such impacts would be acceptably small. The staff's conclusions were documented in an environmental assessment and finding of no significant impact and published in the **Federal Register** (61 FR 64378) on December 4, 1996. On the basis that the proposed exemption deals with financial matters that will not affect the physical design or operation of the Trojan ISFSI, the staff finds that the proposed exemption will not have any significant environmental impact.

Alternative to the Proposed Action: As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the "no-action" alternative). Approval or denial of the exemption request would result in no change in the environmental impacts described in the staff's final EA. Therefore, the environmental impacts of the proposed action and the alternative action are similar.

Agencies and Persons Consulted: On March 3, 2005, Mr. Adam Bless of the Oregon Office of Energy, Energy Resources Division, was contacted regarding the environmental assessment for the proposed exemption and had no concerns. The NRC staff previously evaluated the environmental impacts of the Trojan ISFSI in the environmental assessment and finding of no significant impact published in the **Federal Register** (61 FR 64378) on December 4, 1996, and has determined that additional consultation under Section 7 of the Endangered Species Act is not required for this specific exemption which involves financial assurance mechanisms and will not affect listed species or critical habitat. The NRC staff has similarly determined that the proposed exemption is not a type of activity having the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The environmental impacts of the proposed action have been reviewed in accordance with the requirements set forth in 10 CFR part 51. Based upon the foregoing EA, the Commission finds that the proposed action of granting the partial exemption from 10 CFR

72.30(c)(5) that requires an ISFSI licensee to additionally hold a part 50 license in order to use an external sinking fund as the exclusive means of financial assurance for decommissioning costs of an ISFSI, will not significantly impact the quality of the human environment. Accordingly, the Commission has determined that a Finding of No Significant Impact is appropriate, and that an environmental impact statement for the proposed exemption is not necessary.

Supporting documentation, with respect to this exemption request, is available for inspection at NRC's Public Electronic Reading Room at <http://www.nrc.gov/reading-rm/ADAMS.html>. A copy of the PGE request for NRC approval of a partial exemption from the provision of 10 CFR 72.30(c)(5), dated April 29, 2004, can be found at this site using the Agencywide Documents Access and Management System (ADAMS) accession number ML041260470. Any questions should be referred to Christopher M. Regan, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555, Mailstop O 13D13, telephone (301) 415-8500, fax (301) 415-8555.

Dated in Rockville, Maryland, this 10th day of March, 2005.

For the Nuclear Regulatory Commission.

Christopher M. Regan,

Senior Project Manager, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[Docket No. 72-03]

Progress Energy Carolinas, Incorporated; Notice of Issuance of an Environmental Assessment and Finding of No Significant Impact for License Renewal of the H.B. Robinson Steam Electric Plant, Unit 2 Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment.

FOR FURTHER INFORMATION CONTACT: Christopher M. Regan, Senior Project Manager, Mail Stop O 13D13, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone:

(301) 415-1179; fax number: (301) 415-1179; e-mail: cmr1@nrc.gov.

SUPPLEMENTARY INFORMATION: The U.S. Nuclear Regulatory Commission (NRC or the Commission) is considering renewing Carolina Power and Light Company (CP&L) now doing business as Progress Energy Carolinas, Inc. (PEC's) (the applicant's) License No. SNM-2502 under the requirements of title 10 of the Code of Federal Regulations, part 72 (10 CFR part 72) authorizing the continued operation of the H.B. Robinson Steam Electric Plant, Unit 2 (HBRSEP) Independent Spent Fuel Storage Installation (ISFSI) located at the HBRSEP in Darlington County, South Carolina. The Commission's Office of Nuclear Material Safety and Safeguards has completed its review of the environmental report submitted by the applicant on February 27, 2004, in support of its application for a renewed materials license. The staff's "Environmental Assessment related to the renewal of the H.B. Robinson Independent Spent Fuel Storage Installation" has been issued in accordance with 10 CFR part 51.

I. Summary of Environmental Assessment (EA)

Description of the Proposed Action: The proposed licensing action would authorize the applicant to continue operating a dry storage ISFSI at the HBRSEP site. The purpose of the ISFSI is to allow for interim spent fuel storage and, indirectly, power generation capability, beyond the term of the current ISFSI license to meet future power generation needs. The current license will expire August 31, 2006. The renewed ISFSI license would permit 40 additional years of storage beyond the current license period. The current ISFSI employs the NUHOMS® system for horizontal, dry storage of irradiated fuel assemblies in concrete modules licensed for use at the HBRSEP ISFSI. Currently, the facility is licensed to store 56 spent fuel assemblies contained in 8 steel dry shielded canisters, 7 fuel assemblies to a canister, housed in 8 horizontal storage modules.

Need for the Proposed Action: The HBRSEP ISFSI is needed to provide continued spent fuel storage capacity so that the HBRSEP can continue to generate electricity. This renewal is needed to provide an option that allows for interim spent fuel storage and, indirectly, power generation capability, beyond the term of the current ISFSI license to meet future system generating needs. The renewed ISFSI license would permit 40 additional years of storage beyond the current license