

August 9, 1999

MEMORANDUM TO: David L. Meyer, Chief  
Rules and Directives Branch  
Division of Administrative Services  
Office of Administration

FROM: Larry W. Camper, Chief [Original signed by:]  
Decommissioning Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

SUBJECT: NOTICE OF ISSUANCE OF ENVIRONMENTAL ASSESSMENT,  
FINDING OF NO SIGNIFICANT IMPACT, AND OPPORTUNITY FOR  
HEARING FOR MICHIGAN DEPARTMENT OF NATURAL RESOURCES  
LICENSE AT TOBICO MARSH SITE

Attached please find one signed original of the subject Federal Register notice for your  
transmittal to the Office of the Federal Register for publication. Also, attached are five copies of  
the signed notice and a 3.5" diskette with the notice in WordPerfect.

Docket No: 40-9015  
License No: SUC-1581

Attachments: As stated

Contact: Sherry W. Lewis, NMSS/DWM  
(301) 415-6619

TICKET: N/A  
TAC NO. L51675

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**\*SEE PREVIOUS CONCURRENCE**

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OFC	DCB *	DCB *	RIII	OGC	DCB	DCB
NAME	SW Lewis/cv	JCopeland	EKulzer <sup>via email</sup>	STreby	TCJohnson	LCamper
DATE	4/12/99	4/14/99	7/8/99	7/12/99	7/29/99	8/9/99

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A/22

**From:** Edward Kulzer  
**To:** Sherry Lewis  
**Date:** Thursday, July 08, 1999 9:05:15 AM  
**Subject:** Re: Concurrence for MDNR final EA on license

yes

>>> Sherry Lewis 07/07 3:18 PM >>>  
Ed,

Am I understanding you correctly that you concur on the final EA of MDNR?

Thanks,  
Sherry

>>> Edward Kulzer 7/7/1999 4:05:51 PM >>>  
Sherry,  
The section **Need for Proposed Action** mentions U-238. The ORISE has been reviewed by Dr. Lee and is below our release criteria of 25 millirem per year or 35 picocuries per gram. The rest looks good.

>>> Sherry Lewis 07/06 10:00 AM >>>  
Ed,

I've attached the Federal Register Notice (FRN) that includes the final Environmental Assessment (EA) for the licensing of Michigan Department of Natural Resources Tobico Marsh site. You've reviewed and concurred on the draft EA on April 22, 1999. Please concur or provide me your comments on the FRN with the final EA. Since I would like to get this out as soon as possible so that we can issue the license, may you respond by July 9? If you can't, please let me know.

Thanks,  
Sherry



UNITED STATES  
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

August 9, 1999

MEMORANDUM TO: David L. Meyer, Chief  
Rules and Directives Branch  
Division of Administrative Services  
Office of Administration

FROM: Larry W. Camper, Chief  
Decommissioning Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards

A handwritten signature in black ink, reading "Larry W. Camper", is written over the text of the "FROM:" field.

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Docket No: 40-9015  
License No: SUC-1581

Attachments: As stated

Contact: Sherry W. Lewis, NMSS/DWM  
(301) 415-6619

[Docket No. 40-9015]

AGENCY: Nuclear Regulatory Commission

ACTION: Notice of Issuance of Environmental Assessment, Finding of No Significant Impact, and Opportunity for Hearing for Michigan Department of Natural Resources License at Tobico Marsh Site

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The U.S. Nuclear Regulatory Commission is considering issuance of a license to Michigan Department of Natural Resources (MDNR) to possess thorium (Th) and uranium (U) at the state-owned portion of the former Hartley and Hartley Landfill (Tobico Marsh site) in Kawkawlin, Michigan. The license application was submitted on September 5, 1997, as supplemented on July 27, 1998, and March 8, 1999. The Th and U currently exist at the MDNR Tobico Marsh site in the form of magnesium-Th slag, contaminated soil, and other material and debris contaminated above background levels. MDNR also requested to include possession of sealed sources for instrument calibration on a license.

## ENVIRONMENTAL ASSESSMENT

### Introduction:

MDNR submitted a source material license application to possess Th and U at the Tobico Marsh site. The site is located at 2301 Two Mile and Beaver Roads, Kawkawlin Township, Kawkawlin, Bay County, Michigan, northeast of Bay City, Michigan. The Tobico Marsh site covers approximately 3 acres (1.2 hectare) adjacent to the former Hartley and Hartley Landfill that is currently owned by SCA Services, Inc. (SCA). The SCA site is being decommissioned under NRC License No. SUC-1565. In 1962, it was discovered that the entire property, owned by the Hartley and Hartley waste handling company, was being used as a landfill.

In 1972, the State of Michigan acquired in trade a portion of the Hartley and Hartley Landfill. Waste disposal activity on the state-owned portion of the site ended by 1972, but the

Hartley and Hartley organization continued to operate the site until 1978 when operations at the landfill ceased.

In 1980, the State of Michigan conducted an aerial radiological survey of the landfill because State authorities were concerned that radioactive material from another facility in Michigan may have been disposed at the landfill. The survey indicated an excess of Thallium-208, a progeny of Thorium-232 (Th-232), over the landfill. In May 1983, the State of Michigan, Division of Radiological Health, informed NRC Region III that radioactive material was found in the Tobico Marsh site. Contamination was also found on the adjacent property owned by SCA.

The State of Michigan requested input from the NRC on whether the encapsulation measures being taken for the non-radiological hazardous wastes also would provide protection for the radioactive hazard. In response to this request, NRC staff agreed to perform a radiological survey of the Tobico Marsh site.

In July 1984, Oak Ridge Associated Universities undertook a radiological survey of the Tobico Marsh site. The survey included surface radiation scans, measurements of direct radiation levels, and analyses of radionuclide concentrations in soil, sediment, and water samples. The results of this survey indicated a 0.15 to 0.20-meter (m) (0.5 to 0.7 feet (ft)) thick layer of Th contaminated slag near the surface. The contaminated slag appeared to be distributed in a 10 to 20-m (33 to 66-ft) wide strip near the center of the property, extending almost the entire north/south length of the site.

NRC and State of Michigan staff concluded, on the basis of the radiological survey, that the Th contamination exceeded the Option 1 level (0.37 Becquerel per gram (Bq/g) (10 picoCurie per gram (pCi/g)) of Thorium-232 + Thorium-228) of the 1981 Branch Technical Position (BTP) entitled, "Disposal or Onsite Storage of Thorium or Uranium Wastes From Past Operations" (46 FR 52061). They also concluded that the mixture of non-radiological hazardous and radioactive waste would make the wastes unacceptable at a chemical or

radioactive waste disposal site (other than an authorized mixed waste disposal facility) and agreed to implement a monitoring program and to place a restriction on the deed prohibiting intrusion. NRC agreed that these measures would likely make the encapsulation of the Th contamination acceptable for the short term.

In 1984, MDNR undertook encapsulation measures at the Tobico Marsh site to isolate and prevent the migration of the non-radiological hazardous wastes. Encapsulation measures included the installation of a 1.5-m-thick (5-ft) clay cap and 0.9-m-thick (3-ft) bentonite slurry walls.

In 1985 and 1986, ABB Environmental Services, Inc. (formerly E.C. Jordan Company) performed an investigation to assess the nature and extent of environmental contamination around the encapsulation area. The investigation indicated that the level of leachate inside the encapsulation was approximately 0.9 m (3 ft) higher than the level of the surrounding area and that volatile organic chemicals were detected in the soils and groundwater outside the encapsulation.

In 1987 and 1988, GZA/Donohue performed a feasibility study of the Tobico Marsh site. The study recommended that site access be restricted by fencing, that monuments be installed stating the nature of the contaminants, that the clay cap be repaired where erosion had occurred, that hydraulic isolation be maintained by withdrawal of leachate from inside the encapsulated area, and that the leachate be treated and disposed.

In March 1990, the MDNR Tobico Marsh site was added to NRC's Site Management Decommissioning Plan (SDMP) list because of the quantity of Th-contaminated materials, the potential for mixed waste, and the fact that MDNR did not have a license. The purpose of the SDMP is to ensure safe and timely remediation of nonroutine decommissioning sites.

In 1991, design of the Leachate Collection and Treatment System (LCTS) and preliminary design of the pretreatment system was completed. In 1993 and 1994, the LCTS, treatment building, and the force main were installed. However, the LCTS has not operated for

several reasons. They include possible presence of low-level radioactive materials in the leachate, insoluble radioactive material less than or equal to one  $\mu\text{m}$  ( $3.3 \mu\text{ft}$ ) in diameter in the treated effluent, no holding tanks to verify effluent quality before discharge to the waste water treatment plant, and potential metal concentrations that are unacceptable for the waste water treatment plant.

Proposed Action:

The primary purpose for issuing Source Material License No. SUC-1581, is to authorize MDNR to possess source material Th and U and sealed sources at the Tobico Marsh site in order to control the material to ensure the protection of the public health and safety and the environment. The license covers all source material Th and U present in concentrations exceeding natural background. This license also authorized possession of sealed sources at the site for instrument calibration. The sealed sources allow proper calibration of instruments for the radiation types to be encountered at the site.

MDNR proposes to sample Th and U material during site characterization activities. The proposed site characterization is intended to characterize the concentration, lateral extent, and volume of radiologically contaminated material at the Tobico Marsh site. The decommissioning alternatives for this site will depend on the information obtained from the site characterization.

At a later date, MDNR will provide proposal(s) for the disposition of any Th and U material found at the site in a Decommissioning Plan (DP). The DP will describe remediation alternatives and the proposed procedures for site remediation, final survey, and license termination.

The Need for the Proposed Action:

Th and U exist on the Tobico Marsh site in concentrations that pose a long-term risk to the public and the environment. Before encapsulation measures were taken in 1984, Th-232

and Th-228 had been identified in the soil in concentrations up to 20.8 Bq/g (561 pCi/g) and 9.5 Bq/g (527 pCi/g), respectively. U-238 concentrations were elevated in samples with elevated Th levels.

MDNR applied for a specific license to possess, use, or transfer Th and U during site characterization activities because U-238, Th-228, and Th-232 activity levels may result in doses substantially in excess of the unrestricted release requirements in 10 CFR Part 20. The issuance of License No. SUC-1581 would ensure that the radioactive material at the Tobico Marsh site is possessed, used, or transferred in accordance with NRC regulations, and that MDNR will have a structured regulatory program in place to protect public health and safety.

#### Alternatives to the Proposed Action:

NRC staff considered no action as an alternative to the proposed action. The no-action alternative would result in no specific license and would not ensure MDNR will have a structured regulatory program in place to protect public health and safety.

#### Environmental Impacts of the Proposed Action:

The activities that NRC staff proposes to authorize through the issuance of License No. SUC-1581 are expected to have an insignificant impact on the environment. In fact, the activities are anticipated to improve control of the Th and U-contaminated material. The control of the Th and U-contaminated material under license will reduce the potential for the release of radiological contamination to the environment.

During the proposed site characterization, the primary potential radiological impact on the environment would be the release of radioactive material during excavation and handling of contaminated materials. No waste water that is contaminated with radionuclides above the 10 CFR Part 20, Appendix B limits, will be allowed to be discharged to sewers and drains from the site.



The proposed activities that would be licensed at this site are for the purpose of controlling and characterizing the radiologically contaminated material. Because MDNR has committed to comply with NRC requirements, has adequate radiation protection procedures and capabilities, and will implement an acceptable as low as is reasonably achievable (ALARA) program, the proposed actions are not anticipated to result in a dose to workers or the public in excess of 10 CFR Part 20 limits. Past experiences with site characterization activities at sites similar to the MDNR Tobico Marsh site indicate that public and worker exposure will be far below the limits found in 10 CFR Part 20.

The proposed action will result in the irreversible use of energy resources during excavation and handling of contaminated material. There are no reasonable alternatives to these resource uses and there are no unresolved conflicts concerning alternative uses of available resources.

Agencies and Individuals Consulted:

This environmental assessment (EA) was prepared entirely by NRC staff. The staff from the State of Michigan Department of Environmental Quality (MDEQ) and MDNR reviewed a draft of this EA. MDEQ had no comments. MDNR has suggested editorial corrections and noted that the presence of U-238 has not been unequivocally proven at the Tobico Marsh site in the Need for Proposed Action section. Their comments have been incorporated in this version. No other sources were used beyond those referenced in this EA.

Conclusions:

Issuance of Source Material License No. SUC-1581 to authorize the possession and control of source material located on the MDNR Tobico Marsh site will have an insignificant impact on the environment. Proposed activities at the site are designed to improve control and reduce the potential for release of radiological contamination to the environment. In addition,

based on information to be gathered at the site, the licensee will develop a plan for the cleanup of radiological contamination at the site.

#### FINDING OF NO SIGNIFICANT IMPACT

NRC has prepared this EA related to the proposed license application by MDNR for the Tobico Marsh site. On the basis of the EA, NRC has concluded that this licensing action would not significantly affect the quality of the environment and has determined not to prepare an environmental impact statement for the proposed action.

#### OPPORTUNITY FOR A HEARING

NRC hereby provides notice that this is a proceeding on an application for a license falling within the scope of Subpart L, "Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings," of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to §2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with §2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of the publication of this Federal Register notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to Secretary, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, between 7:45 am and 4:15 pm, Federal workdays; or
2. By mail or telegram addressed to Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff.

In addition to meeting other applicable requirements of 10 CFR Part 2 of NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;
2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in §2.1205(h);
3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and
4. The circumstance establishing that the request for a hearing is timely in accordance with §2.1205(d).

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Michigan Department of Natural Resources, P.O. Box 30028, Lansing, MI 48909, Attention: Ms. Kelli Sobel; and
2. The NRC staff, by delivery to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852-2738, between 7:45 am and 4:15 pm, Federal workdays, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

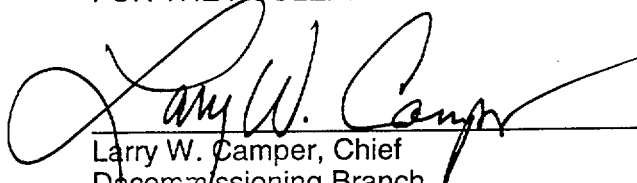
For further details with respect to this action, copies of the license application dated September 5, 1997, the complete EA, and supporting documentation are available for inspection at NRC's Public Document Room, 2120 L Street N.W., Washington, DC 20555-0001.

FOR FURTHER INFORMATION CONTACT:

Ms. Sherry W. Lewis, General Engineer, Facilities Decommissioning Section,  
Decommissioning Branch, Division of Waste Management, Office of Nuclear Materials Safety  
and Safeguards. Telephone: (301) 415-6619.

Dated at Rockville, Maryland, this 9<sup>th</sup> day of August 1999.

FOR THE NUCLEAR REGULATORY COMMISSION

  
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Larry W. Camper, Chief  
Decommissioning Branch  
Division of Waste Management  
Office of Nuclear Material Safety  
and Safeguards