

September 29, 2005

Mr. P. Michael Whaley
Nuclear Reactor Manager
Kansas State University
112 Ward Hall
Manhattan, KS 66506-2506

SUBJECT: DETERMINATION OF ACCEPTABILITY AND SUFFICIENCY FOR DOCKETING
AND OPPORTUNITY FOR A HEARING REGARDING THE APPLICATION FROM
KANSAS STATE UNIVERSITY (KSU) FOR RENEWAL OF THE FACILITY
LICENSE FOR THE KANSAS STATE UNIVERSITY NUCLEAR REACTOR
FACILITY (TAC NO. MB6326)

Dear Mr. Whaley:

On September 12, 2002, the U.S. Nuclear Regulatory Commission (NRC) received the KSU application for renewal of Facility License No. R-88 for the KSU Research Reactor. Notice of receipt of this application was published in the *Federal Register* on October 11, 2002 (67 FR 63457).

The NRC staff has determined that KSU has submitted sufficient information that your application is acceptable for docketing, in accordance with 10 CFR 50.33 and 50.34. However, the staff's determination does not preclude requests for additional information as the review proceeds.

Enclosed is a copy of the notice relating to your license renewal application that is being sent to the Office of the Federal Register for publication. This notice provides the opportunity to request a hearing and to file a petition for leave to intervene.

If you have any questions on this matter, please contact either Mr. Daniel Hughes by telephone at 301-415-1128 or Mr. Kevin Witt by telephone at 301-415-4075. You may contact Mr. Hughes and Mr. Witt via electronic mail at deh3@nrc.gov or kmw@nrc.gov, respectively.

Sincerely,

/RA/

Brian E. Thomas, Section Chief
Research and Test Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation

Docket No. 50-188

Enclosure: Federal Register Notice

cc w/enclosure: See next page

Kansas State University

Docket No.: 50-188

Office of the Governor
State of Kansas
Topeka, KS 66612

Mayor of Manhattan
P.O. Box 748
Manhattan, KS 66502

Test, Research, and Training
Reactor Newsletter
202 Nuclear Sciences Center
University of Florida
Gainesville, FL 32611-8300

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OGC (O15-B18)

ADAMS ACCESSION NO.: ML051430315

TEMPLATE No.: NRC-102

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|--------|---------|--------|---------|-----------|--------|
| NAME | DHughes | KWitt | EHylton | BThomas | SUttal |
| DATE | 7/8/05 | 7/6/05 | 5/25/05 | 9/28/05 | 8/2/05 |

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UNITED STATES NUCLEAR REGULATORY COMMISSION

KANSAS STATE UNIVERSITY

NOTICE OF ACCEPTANCE FOR DOCKETING OF THE APPLICATION

AND NOTICE OF OPPORTUNITY FOR HEARING REGARDING RENEWAL OF

KANSAS STATE UNIVERSITY NUCLEAR REACTOR FACILITY

FACILITY LICENSE NO. R-88

FOR AN ADDITIONAL 20-YEAR PERIOD

DOCKET NO. 50-188

The Nuclear Regulatory Commission (NRC or the Commission) is considering an application for the renewal of Facility License No. R-88, which authorizes the Kansas State University (KSU) (the licensee) to operate the TRIGA Mark II Nuclear Reactor Facility at 1,250 kilowatts thermal power. The renewed license would authorize the applicant to operate the KSU Research Reactor for an additional 20-years beyond the period specified in the current license. The current license for the KSU Research Reactor expired on October 16, 2002.

On September 12, 2002, and supplemented on December 22, 2004 and July 6, 2005, the Commission's staff received an application from KSU filed pursuant to 10 CFR Part 50.51(a), to renew Facility License No. R-88 for the KSU Research Reactor. A Notice of Receipt and Availability of the license renewal application, "Notice of License Renewal Application for Facility Operating License; Kansas State University," was published in the *Federal Register* on October 11, 2002 (67 FR 63457). Because the license renewal application was timely filed under 10 CFR 2.109, the license will not be deemed to have expired until the license renewal application has been finally determined.

The Commission's staff has determined that KSU has submitted sufficient information in accordance with 10 CFR 50.33 and 50.34 that the application is acceptable for docketing. The current Docket No. 50-188 for Facility License No. R-88, will be retained. The docketing of the renewal application does not preclude requesting additional information as the review proceeds, nor does it predict whether the Commission will grant or deny the application. Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

Within thirty (30) days after the date of publication of this *Federal Register* Notice, the applicant may file a request for a hearing, and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene with respect to the renewal of the license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.309, which is available at the Commission's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland 20852 and is accessible from the Agency Public Electronic Reading Room on the Internet at the NRC Web site, <http://www.nrc.gov/reading-rm/doc-collections/cfr>. Persons who do not have access to the NRC web site or who encounter problems in accessing the documents located in the Electronic Reading Room should contact the NRC's PDR reference staff at 1-800-397-4209, or by email at pdr@nrc.gov. If a request for a hearing or a petition for leave to intervene is filed within the 30-day period, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order. In the event that no request for a hearing or

petition for leave to intervene is filed within the 30-day period, the NRC may, upon completion of its evaluations and upon making the findings required under 10 CFR parts 50 and 51, renew the license without further notice.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with the particular interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition must specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the requestor's/petitioner's right under the Atomic Energy Act to be made a party to the proceeding; (2) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the petitioner/requestor seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases of each contention and a concise statement of the alleged facts or the expert opinion that supports the contention on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the requestor/petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The requestor/petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact.¹ Contentions shall be limited to matters

¹To the extent that the applications contain attachments and supporting documents that are not publicly available because they are asserted to contain safeguards or proprietary information, petitioners desiring access to this information should contact the applicant or applicant's counsel and discuss the need for a protective order.

within the scope of the action under consideration. The contention must be one that, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Each contention shall be given a separate numeric or alpha designation within one of the following groups:

1. Technical - - primarily concerns/issues relating to technical and/or health and safety matters discussed or referenced in the applicant's safety analysis for the KSU Research Reactor license renewal application.
2. Environmental - - primarily concerns issues relating to matters discussed or referenced in the Environmental Report for the license renewal application.
3. Miscellaneous - - does not fall into one of the categories outlined above.

As specified in 10 CFR 2.309, if two or more requestors/petitioners seek to co-sponsor a contention, the requestors/petitioners shall jointly designate a representative who shall have the authority to act for the requestors/petitioners with respect to that contention. If a requestor/petitioner seeks to adopt the contention of another sponsoring requestor/petitioner, the requestor/petitioner who seeks to adopt the contention must either agree that the sponsoring requestor/petitioner shall act as the representative with respect to that contention, or jointly designate with the sponsoring requestor/petitioner a representative who shall have the authority to act for the requestors/petitioners with respect to that contention.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing. A request for a hearing or a petition for leave to intervene must be filed by: (1) first class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, Attention: Rulemaking and

Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff; (3) Email addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, HEARINGDOCKET@NRC.GOV; or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C., Attention: Rulemakings and Adjudications Staff at 301-415-1101, verification number is 301-415-1966. A copy of the request for hearing and petition for leave to intervene must also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to 301-415-3725 or by email to OGCMailCenter@nrc.gov. A copy of the request for hearing and petition for leave to intervene should also be sent to the licensee. The licensee's contact for this is Mr. P. Michael Whaley, Nuclear Reactor Manager, Kansas State University, 112 Ward Hall, Manhattan, KS 66506-2506.

Non-timely requests and/or petitions and contentions will not be entertained absent a determination by the Commission, the presiding officer, or the Atomic Safety and Licensing Board that the petition, request and/or contentions should be granted based on a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

Detailed guidance which the NRC uses to review applications for the renewal of non-power reactor licenses can be found in the document NUREG-1537, entitled "Guidelines for Preparing and Reviewing Applications for the Licensing of Non-Power Reactors," can be obtained from the Commission's PDR. The NRC maintains an Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The detailed review guidance (NUREG-1537) may be accessed through the NRC's Public Electronic Reading Room on the Internet at <http://www.nrc.gov/reading-rm/adams.html>

under ADAMS accession number ML042430055 for part one and ML042430048 for part two. Copies of the application to renew the facility license for the KSU Research Reactor are available for public inspection at the Commission's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, 20855-2738. The initial application also may be accessed through the NRC's Public Electronic Reading Room, at the address mentioned above, under ADAMS accession number ML022630083. The revised application may be accessed under ADAMS accession number ML052620181. Persons who do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, may contact the NRC Public Document Room Reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr@nrc.gov.

Dated at Rockville, Maryland, this 28th day of September 2005.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Brian E. Thomas, Section Chief
Research and Test Reactors Section
New, Research and Test Reactors Program
Division of Regulatory Improvement Programs
Office of Nuclear Reactor Regulation