

March 24, 2006

Mr. John T. Conway
Site Vice President
Monticello Nuclear Generating Plant
Nuclear Management Company, LLC
2807 West County Road 75
Monticello, MN 55362-9637

SUBJECT: MONTICELLO NUCLEAR GENERATION PLANT - NOTICE OF
CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY
OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING
OR HYBRID HEARING (TAC NO. MD0302)

Dear Mr. Conway:

Enclosed is a copy of the subject notice that relates to your application for amendment, dated March 7, 2006, to revise the Monticello Technical Specifications Section 4.3, "Fuel Storage," to allow for installation of an additional temporary 8 x 8 (64-cell) high-density spent fuel storage rack in the spent fuel pool to maintain full core off-load capability.

This notice has been forwarded to the Office of the *Federal Register* for publication.

Sincerely,

\RA\

Peter S. Tam, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Docket No. 50-263

Enclosure:
As stated

cc w/encl: See next page

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UNITED STATES NUCLEAR REGULATORY COMMISSION

NUCLEAR MANAGEMENT COMPANY

MONTICELLO NUCLEAR GENERATING PLANT

DOCKET NO. 50-263

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE, PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION, AND OPPORTUNITY FOR A HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-22, issued to the Nuclear Management Company, LLC (the licensee), for operation of Monticello Nuclear Generating Plant (MNGP), located in Wright and Sherburne Counties, Minnesota.

The proposed amendment would revise Section 4.3, "Fuel Storage," of the MNGP Technical Specifications to allow for installation of an additional temporary 8 x 8 (64-cell) high-density spent fuel storage rack in the spent fuel pool to maintain full core off-load capability.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff's own analysis, done in accordance with the standards of 10 CFR 50.92, is presented below:

- (1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

No. The temporary spent fuel rack would have essentially the same design purpose, function, standards, and quality as the permanent fuel racks already in place in the spent fuel pool. Other than a slight increase in storage capacity and the resultant slight increase in spent fuel heat generation, there is no other change to the original design and method of operation of the spent fuel pool. Since there is no other change to plant equipment or method of operation, there is no change in the probability of occurrence of an accident, and no change to the accident scenario previously analyzed for the MNGP licensing basis and previously evaluated by the NRC staff.

- (2) Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

No. The proposed amendment does not introduce new equipment operating modes, nor does it alter existing system and component design beyond the installation of the temporary spent fuel storagerack. Accordingly, the proposed amendment does not introduce new failure modes, nor does it alter the equipment required for accident mitigation. The postulated accident scenarios previously evaluated are not changed in any way. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

- (3) Does the proposed change involve a significant reduction in the margin of safety?

No. The proposed amendment would allow the licensee to install a temporary spent fuel storage rack in the spent fuel pool. Other than this change, which will be reviewed by the NRC staff, the licensee is proposing no other changes to other analytical models, assumptions, parameters, or acceptance criteria. Accordingly, the proposed amendment does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on its own analysis above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days of the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the *FEDERAL REGISTER* a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and should cite the publication date and page number of this *Federal Register* notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

Within 60 days after the date of publication of this notice, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license 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. 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 PDR, located at One White Flint North, Public File Area O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible 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/doc-collections/cfr/>. If a request for a hearing or petition for leave to intervene is filed by the above date, 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.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) the name, address and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be

entered in the proceeding on the requestors/petitioner's interest. The petition must also identify 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 petitioner/requestor shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner/requestor must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner/requestor who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

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.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the requested amendment involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the requested amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

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

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, DC 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) E-mail 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, DC, 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 should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 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 Jonathan Rogoff, Esquire, Vice President, Counsel & Secretary, Nuclear Management Company, LLC, 700 First Street, Hudson, WI 54016.

The Commission hereby provides notice that this is a proceeding on an application for a license amendment falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any party to the proceeding, must use hybrid hearing procedures with respect to “any matter which the Commission determines to be in controversy among the parties.”

The hybrid procedures in section 134 provide for oral argument on matters in controversy, preceded by discovery under the Commission's rules and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law, to be resolved in an adjudicatory hearing. Actual adjudicatory hearings are to be held on only those issues found to meet the criteria of section 134 and set for hearing after oral argument.

The Commission's rules implementing section 134 of the NWPA are found in 10 CFR Part 2, Subpart K, "Hybrid Hearing Procedures for Expansion of Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors." Under those rules, any party to the proceeding may invoke the hybrid hearing procedures by filing with the presiding officer a written request for oral argument under 10 CFR 2.1109. To be timely, the request must be filed together with a request for hearing/petition to intervene, filed in accordance with 10 CFR 2.309. If it is determined a hearing will be held, the presiding officer must grant a timely request for oral argument. The presiding officer may grant an untimely request for oral argument only upon a showing of good cause by the requesting party for the failure to file on time and after providing the other parties an opportunity to respond to the untimely request. If the presiding officer grants a request for oral argument, any hearing held on the application must be conducted in accordance with the hybrid hearing procedures. In essence, those procedures limit the time available for discovery and require that an oral argument be held to determine whether any contentions must be resolved in an adjudicatory hearing. If no party to the proceeding timely requests oral argument, and if all untimely requests for oral argument are denied, then the usual procedures in 10 CFR Part 2, Subpart L apply.

For further details with respect to this action, see the application for amendment dated March 7, 2006, which is available for public inspection at the Commission's PDR, located at One White Flint North, File Public Area O1 F21, 11555 Rockville Pike (first floor), Rockville,

Maryland. Publicly available records will be accessible 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.

Dated at Rockville, Maryland, this 24th day of March, 2006.

FOR THE NUCLEAR REGULATORY COMMISSION

\RA\

Peter S. Tam, Senior Project Manager
Plant Licensing Branch III-1
Division of Operating Reactor Licensing
Office of Nuclear Reactor Regulation

Monticello Nuclear Generating Plant

cc:

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November 2005