

Supplement to Flood Hazard Area and River Corridor Rule General Permit Application
Independent Spent Fuel Storage Installation (ISFSI) Protected Area Project
Vermont Yankee Nuclear Power Station, Vernon, VT
June 28, 2017

Project Description:

The proposed security-modification Project to reduce the size of the Protected Area at VY Station entails the installation of new security facilities, which consist of a vehicle barrier system at the outer perimeter; inner and outer fences immediately surrounding the ISFSI storage pads; a paved isolation zone between the fences; security lighting, cameras, and intrusion-detection equipment; and a new 23' x 28' Central Alarm Station building (the "CAS Building"). This Project will reduce the size of the Protected Area from approximately 10.5 acres to approximately 1.3 acres.

All of the proposed improvements are located within the River Corridor area shown on the attached Exhibit ANR-REE-2 (created August 14, 2015 – Annotated by Entergy VY to label the existing Stack and show proposed CAS Building) that was originally produced by VT DEC during the permitting process for the second ISFSI pad at Vermont Yankee (Vermont Public Service Board Docket 8300). Please see also plan sheets 1 of 8 (Existing Conditions) and 2 of 8 (Proposed Conditions) for additional site details.

Applicability of VT DEC Flood Hazard Area and River Protection Procedure, Appendix A to Project:

The proposed CAS Building is located within the former "Low Level RAD Waste Storage Area" at the VY Station. This area consists of a large compacted gravel pad area that, until recently, had numerous concrete containment structures that were an important element in plant operations. Given this location, the proposed CAS Building is located between (and not closer to the river than) existing above-ground improvements, less than 300 feet apart as described in Appendix A referenced above. More specifically, the Project meets the Standard called for in Appendix A as the Project will not (i) increase the existing level of fluvial erosion hazard or (ii) result in an increase in the length of channel management or bank stabilization measures that may be sought to protect the existing improvements in the future (in the event such property is threatened by fluvial erosion).

June 28, 2017

Nancy S. Malmquist
nmalmquist@drm.com

Via Federal Express

Rob Evans, CFM, State Floodplain Manager
Vermont Department of Environmental Conservation - Rivers Program
One National Life Drive, Main 2
Montpelier, VT 05620-3522

Re: Entergy VY DFS River Corridor Permit Application

Dear Mr. Evans:

Attached on behalf of Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc. (collectively "Entergy VY") is a Vermont Flood Hazard Area & River Corridor Rule General Permit Application for development within the River Corridor (the "Permit") at the Vermont Yankee Nuclear Power Station ("VY Station").

This Permit application is being submitted in connection with Entergy VY's filing with the Vermont Public Service Board (the "Board") dated May 8, 2017 requesting an amendment to the Docket 8300 Certificate of Public Good ("CPG"). The amendment would allow the proposed security modification project (the "Project") to reduce the size of the Protected Area at the VY Station. The Board issued the CPG to Entergy VY on June 17, 2016, authorizing the construction of a second Independent Spent Fuel Storage Installation ("ISFSI") pad and a diesel generator at the VY Station. The Board has docketed the amendment request as Case No. 17-3276-PET. A description of the proposed Project is provided with the application materials listed below.

The attached application materials consist of the following:

- Signed application form
- Supplement to Flood Hazard Area and River Corridor Rule General Permit Application, providing a written description of project as required by Sections V(c)(1) and V(c)(2) of the General Permit
- Existing Conditions Plan for the Project
- Proposed Conditions Plan for the Project
- ANR-REE-2, originally filed in Board Docket 8300 (VT DEC River Corridor at VY Station) Annotated by Entergy VY to label the existing stack and show proposed Central Alarm Station building
- Vermont Natural Resources Atlas Location map of VY Station
- VY Station Project sketch plan on a 2014 Google Earth image
- List of abutting landowners, contractors and consultants as required by Section V(c)(2)(B) of the General Permit

As explained by Entergy VY in the application materials provided with this letter, a proposed new Central Alarm Station building is located between (and not closer to the river than) existing above-ground improvements, less than 300 feet apart, and the Project meets the standard called for in Appendix A of the Vermont Department of Environmental Conservation (“VT DEC”) Flood Hazard Area and River Corridor Protection Procedure. Additional details concerning the proposed construction may be found in Entergy VY’s amendment request filing with the Board dated May 8, 2017 referenced above.

By filing this application, Entergy VY is not waiving and expressly reserves all rights. In particular, Entergy VY reserves its objections to the application of the VT DEC River Corridor Protection Procedure and Vermont Flood Hazard Area and River Corridor General Permit to the proposed construction on the grounds that any denial or delay in the issuance of the Permit is preempted by the Atomic Energy Act (“AEA”). The federal government has “exclusive authority over [commercial nuclear] plant construction and operation.” *Pac. Gas & Elec. Co. v. State Energy Resources Conserv. & Dev. Comm’n*, 461 U.S. 190, 212 (1983) (“PG&E”), as well as “nuclear safety concerns,” *id.* Such exclusive authority extends to the nuclear phase of decommissioning. *See, e.g., Missouri v. Westinghouse Elec., LLC*, 487 F. Supp. 2d 1076 (E.D. Mo. 2007) (AEA preemption applies to decommissioning facilities); *Me. Yankee Atomic Power Co. v. Bonsey*, 107 F. Supp. 2d 47, 51 (D. Me. 2000) (state “authority to regulate [a nuclear power plant’s] decommissioning activities is preempted”); *see also Me. Yankee Atomic Power Co. v. Me. Pub. Utils. Comm’n*, 581 A.2d 799, 805-06 (Me. 1990) (finding preempted Maine’s attempt to regulate the decommissioning fund of the Maine Yankee Atomic Power Company). The same is true for the storage of spent nuclear fuel, as the NRC has “exclusive jurisdiction to license the transfer, delivery, receipt, acquisition, possession and use of nuclear materials,” and “[u]pon these subjects, no role was left for the states.” *PG&E*, 461 U.S. at 207 (citations omitted); *Skull Valley Band of Goshute Indians v. Nielson*, 376 F.3d 1223, 1250 (10th Cir. 2004) (“Under the federal licensing scheme . . . it is not the states but rather the NRC that is vested with the authority to decide under what conditions to license [a spent nuclear fuel] storage facility.”); *Bullcreek v. NRC*, 359 F.3d 536, 538 (D.C. Cir. 2004) (“[T]he AEA confers on the NRC authority to license and regulate the storage and disposal of [SNF].”); Docket 7082, *Pet. of Entergy VY for a CPG to construct a dry fuel storage facility at the VY Station*, Order of 4/26/06 at 15 (recognizing federal preemption of state-level regulation of spent nuclear fuel management). The NRC has also regulated specifically in the area of flood risk evaluation. 10 C.F.R. Part 50, Appendix A, Criterion 2 (“Structures, systems, and components important to safety shall be designed to withstand the effects of natural phenomena such as earthquakes, tornadoes, hurricanes, floods, tsunamis, and seiches without loss of capability to perform their safety functions.”).

In addition, Entergy VY reserves its objections on the grounds that the Agency has not met the requirements under the statute or its regulations. More specifically, the Agency did not properly delineate and map the River Corridor for the applicable portion of the Connecticut River in compliance with the requirements of 10 V.S.A. § 1427 and the Vermont Flood Area and River Corridor Protection Procedure, including determining the true meander belt and buffer components of the River Corridor and consulting with the Town of Vernon and regional

planning commission prior to and during the assessment leading to its development of the "CT River Corridor at Vernon, VT" (Exhibit ANR-REE-2 in Docket 8300).

Notwithstanding these objections, Entergy VY is applying for this Permit in an effort to facilitate the Agency's review of Entergy VY's amendment request. Accordingly, Entergy VY requests that the Vermont Department of Environmental Conservation expeditiously review the enclosed application for coverage of this Project under the Vermont Flood Hazard Area and River Corridor General Permit.

Once again, Entergy VY reserves all rights.

Very truly yours,
DOWNS RACHLIN MARTIN PLLC
Attorneys for Entergy Nuclear Vermont
Yankee, LLC and Entergy Nuclear
Operations, Inc.

By:


Nancy S. Malmquist
John H. Marshall

Enclosures

Cc: Service List
Susan Raimo, Esq. (via email)
Tim Ngau, Esq. (via email)
Mr. George Thomas (via email)

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Entergy VY DFS River Corridor Permit Application - Service List

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Individuals and Entities on Attached List of Adjoining Landowners

**List of Adjoining Landowners
Town of Vernon Grand List Dated 8/3/16**

<p>Parcel ID: 30-1-1</p> <p>John J. & Jessica R. Butterfield 349 Governor Hunt Road Vernon, VT 05354</p>	<p>Parcel ID: 36-1; 36-2; 36-27</p> <p>Town of Vernon 567 Governor Hunt Road Vernon, VT 05354</p>
<p>Parcel ID: 36-10</p> <p>Gary J. Shepard P.O. Box 12 Vernon, VT 05354-0012</p>	<p>Parcel ID: 36-14</p> <p>Stanley J. & Christine Jefferson P.O. Box 6 Vernon, VT 05354</p>
<p>Parcel ID: 36-23</p> <p>Frank A. LaFlam Jr. P.O. Box 256 Vernon, VT 05354-0256</p>	<p>Parcel ID: 36-24</p> <p>John & Diana McKay 110 Honey Brim Road Vernon, VT 05354</p>
<p>Parcel ID: 36-25</p> <p>Vernon School District 381 Governor Hunt Road Vernon, VT 05354</p>	<p>Parcel ID: 36-26</p> <p>Sandra W. Morrison Revocable Trust 67 Scott Road Vernon, VT 05354</p>
<p>Parcel ID: 36-5</p> <p>Keith D. & Tina Marie Franklin 1741 Ft. Bridgman Road Vernon, VT 05354</p>	<p>Parcel ID: 36-7</p> <p>Faith M. Jobin 612 Governor Hunt Road Vernon, VT 05354</p>
<p>Parcel ID: 36-8.1</p> <p>William T. and Karen L. Gilbert 546 Governor Hunt Road Vernon, VT 05354</p>	<p>Parcel ID: 36-6</p> <p>Peter D. & Angela D. Miller 1732 Ft. Bridgman Road Vernon, VT 05354 And Arthur J. & Judy A. Miller 1732 Ft. Bridgman Road Vernon, VT 05354</p>

<p>Parcel ID: 36-3</p> <p>Maria A. Webb 1793 Ft. Bridgman Road Vernon, VT 05354</p>	<p>Parcel ID: 29-1; 30-2; 30-14</p> <p>Great River Hydro LLC 2 Killeen Street North Walpole, NH 03609</p>
<p>Parcel ID: 30-1.2</p> <p>David and Deborah Parsons 341 Governor Hunt Road Vernon, VT 05354</p>	<p>Parcel ID: 30-1.3</p> <p>Deanna L. Macie 327 Governor Hunt Road Vernon, VT 05354</p>
<p>Parcel ID: 36-11</p> <p>Ryan R. & Dana R, McClelland 486 Governor Hunt Road Vernon, VT 05354</p>	<p>Parcel ID: 37-7 & 35-7</p> <p>Paul & Mary Miller LLC 5 Tyler Hill Road Vernon, VT 05354</p>

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