Nuclear Regulatory Commission Rubber Stamps Fermi 3 License
DTE Pursuit of Fermi 3 Based on Greed, Not Need

Fermi 3 Intervenors Vow to Appeal on Three Fronts
(Lack of Quality Assurance, Transmission Corridor EIS, and High-Level Radioactive Waste EIS), Resist Public Subsidies

Rockville, MD—Thursday morning the U.S. Nuclear Regulatory Commission’s (NRC) four Commissioners approved the Fermi 3 Combined Operating License (COL) to build and operate a new reactor at the Fermi site near Newport, Michigan. This is the third time a COL application has been issued under the agency’s Part 52 reactor licensing process (Vogtle 3 & 4, GA; Summer 2 & 3, SC; and now Fermi 3, MI).

DTE Electric Company (formerly Detroit Edison) has been granted permission to build and operate a General Electric-Hitachi (GEH) so-called “Economic Simplified Boiling Water Reactor” (ESBWR) at Fermi, adjacent to the company’s existing Fermi 2 reactor. DTE submitted its Fermi 3 COL application on Sept. 18, 2008.

“Now that all administrative remedies have been exhausted at NRC, we will appeal to the U.S. Court of Appeals for the District of Columbia Circuit, on multiple environmental and safety-related fronts,” said Terry Lodge, Toledo-based legal counsel for the intervening environmental coalition.

Lack of Quality Assurance (QA)

All told, the environmental coalition has alleged a “triple tier meltdown” of QA failures: at DTE on the COL application; GEH on the ESBWR reactor design; and at the NRC itself, according to an NRC Office of Inspector General report.

The NRC Commissioners denied Intervenors’ appeal on lack of Quality Assurance (QA). Arnold Gundersen, Chief Engineer at Fairewinds Associates, Inc., in Burlington, Vermont, serves as the environmental coalition’s expert witness on QA. Gundersen’s testimony at earlier ASLB hearings on the QA contention, held in Monroe, MI, stated that “Given Detroit Edison’s violations of quality assurance requirements, the geological borings and
soil samples are suspect. Fermi 3’s building structures would be very heavy, so the geotechnical data has to be verifiable, so that the atomic reactor’s foundations are rock solid, and seismically qualified.”

Lack of EIS on Transmission Corridor

Since 2012, NRC’s Atomic Safety and Licensing Board (ASLB) has warned NRC Staff that an Environmental Impact Statement (EIS) on the 29-mile-long electrical transmission corridor from the proposed Fermi 3 to Milan, MI is required. The ASLB has noted that the U.S. Fish and Wildlife Service (FWS) does not concur with NRC Staff’s decision to exclude the transmission corridor from its Final EIS (FEIS), given the potential for endangered species along the transmission corridor, as in fragile, forested wetland habitat. The ASLB, FWS, and U.S. Environmental Protection Agency (EPA) all concur that an EIS is needed, but NRC Staff has not conducted one. In July 2014, the ASLB requested permission from the NRC Commissioners to review the matter. But in January 2015, the NRC Commissioners rejected the ASLB’s request.

To date, there has been no “hard look” at the environmental impacts, as required by the National Environmental Policy Act (NEPA), conducted on the transmission corridor. The State of Michigan has acknowledged that Fermi 3’s impacts on Great Lakes shoreline wetlands would be the largest in the history of Michigan’s wetlands protection law. DTE, and now NRC, have segmented out the transmission corridor from the Fermi 3 proposal.

“In addition to ducking a transmission corridor EIS, DTE and NRC are attempting to duck the laws of physics,” said Michael Keegan of Don’t Waste MI in Monroe. “The corridor as currently configured will not meet NRC recommended design vulnerability protections, including its susceptibility to many single failure events that could remove all three lines from service. This is made significantly worse by being part of the same transmission corridor as Fermi 2, a Fukushima Daiichi twin-design,” Keegan said.

Please see the limited appearance testimony of Farouk D. Baxter PE to the ASLB: https://adamswebsearch2.nrc.gov/webSearch2/view?AccessionNumber=ML13294A355

Lack of EIS on High-Level Radioactive Waste

Since March 2009, the environmental coalition has challenged the fact that there is no place to put the High Level Radioactive Waste from Fermi 3, and that there has not been an Environmental Impact Statement and analysis required by National Environmental Policy Act (NEPA). The environmental coalition reasserted to the NRC Commissioners that it is party to the pending appeal of the Continued Storage of Spent Nuclear Fuel Rule and [Generic] EIS before the U.S. Court of Appeals for the D.C. Circuit in New York v. NRC. They seek to ensure that if the Court overturns the Rule and/or the GEIS, NRC licensing decisions that rely on them, as at Fermi 3, will also be overturned. While the Continued Spent Fuel Storage Rule states that the environmental impact determinations
in the Continued Spent Fuel Storage GEIS are ‘deemed incorporated’ into the Fermi 3 FEIS, in fact they are not incorporated: the NRC has taken no steps to ensure that the Fermi 3-specific FEIS cross-references or summarizes the Continued Spent Fuel Storage GEIS. This violates the National Environmental Policy Act (NEPA). Additional appeals are in process.  
(See: https://adamswebsearch2.nrc.gov/webSearch2/main.jsp?AccessionNumber=ML15028A115)

Resistance to Public Subsidies

In addition to appeals to the federal courts, as described above, groups resisting Fermi 3 will also work with environmental, public interest, ratepayer, taxpayer, and consumer advocacy allies across Michigan and nationwide to oppose any attempts by DTE to secure public subsidies for the construction of Fermi 3. Intervenors anticipate that DTE Energy could well seek many billions of dollars in federal loan guarantees from the U.S. Department of Energy’s (DOE) remaining $10.5 billion in funding earmarked for new atomic reactor construction. Intervenors anticipate that DTE Energy will also seek ratepayer financing during construction, or CWIP. Although the State of Michigan Public Service Commission (MPSC) some years ago denied DTE’s request for $30 million of ratepayer funding to subsidize licensing expenses at Fermi 3, DTE Energy has stated that Construction Work In Progress (CWIP) will be sought from the MPSC. “Any future attempts by DTE to exploit federal taxpayer subsidies, or Michigan ratepayer bailouts, to build Fermi 3, will be fiercely resisted at every opportunity,” said Kevin Kamps of Beyond Nuclear, based in Takoma Park, MD. Kamps added “DTE Energy’s pursuit of Fermi 3 is based on greed, not need.”

The environmental coalition member groups intervening against Fermi 3 include: Beyond Nuclear, Citizens for Alternatives to Chemical Contamination, Citizens Environment Alliance of Southwestern Ontario, Don’t Waste Michigan, and the Sierra Club Michigan Chapter. The coalition officially intervened against Fermi 3 before the NRC ASLB on March 9, 2009, and has since filed three-dozen separate contentions.