

updates from the NEA Chairman and guest presentations.

Dated: October 3, 2019.

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NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-18 and 50-183; NRC-2019-0082]

GE Hitachi Nuclear Energy; Vallecitos Nuclear Center, Vallecitos Boiling Water Reactor and Empire State Atomic Development Agency; Vallecitos Experimental Superheat Reactor

AGENCY: Nuclear Regulatory Commission.

ACTION: Environmental assessment and finding of no significant impact; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an environmental assessment (EA) and finding of no significant impact (FONSI) regarding a partial site release for license Nos. DPR-1 (Vallecitos Boiling Water Reactor) and DR-10 (Empire State Atomic Development Agency Vallecitos Experimental Superheat Reactor), issued to GE Hitachi Nuclear Energy at the Vallecitos Nuclear Center in Sunol, California.

DATES: The EA and FONSI set forth in this document is available on October 9, 2019.

ADDRESSES: Please refer to Docket ID NRC-2019-0082 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov/> and search for Docket ID NRC-2019-0082. Address questions about NRC docket IDs in *Regulations.gov* to Jennifer Borges; telephone: 301-287-9127; email: Jennifer.Borges@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select

“*Begin Web-based ADAMS Search.*” For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by email to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jack Parrott, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-00001; telephone: 301-415-6634; email: Jack.Parrott@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received, by letter dated December 14, 2018 (ADAMS Accession No. ML18348A425), a request from GE Hitachi Nuclear Energy (GEH or licensee) to approve a partial site release of a non-impacted portion of its Vallecitos Nuclear Center (VNC) site located at 6705 Vallecitos Road, Sunol, California. The December 14, 2018 letter transmitted a report, entitled “Evaluation for Unconditional Release of Route 84 Frontage of VNC Site,” prepared by GEH evaluating the proposed release. The information in the request letter was supplemented by information provided in a letter dated February 26, 2019 (ADAMS Accession No. ML19057A466).

The VNC site contains two shutdown power reactor units licensed under part 50, “Domestic Licensing of Production and Utilization Facilities,” of title 10 of the *Code of Federal Regulations* (10 CFR). These two units are the Vallecitos Boiling Water Reactor (VBWR), NRC License DPR-1, Docket 50-18, and the Empire State Atomic Development Agency Vallecitos Experimental Superheat Reactor (EVESR), NRC License DR-10, Docket 50-183. In accordance with 10 CFR 50.4(b)(8)-(9), the licensee has certified, pursuant to 10 CFR 50.82(a)(1), that both units have permanently ceased operation and that all nuclear fuel has been removed from the respective reactor vessels of both units. These units are presently in “SAFSTOR”¹ status awaiting the

termination of the power reactor licenses.

In accordance with 10 CFR 50.83, “Release of Part of a Power Reactor Facility or Site for Unrestricted Use,” the licensee requested release from the NRC licenses, for unrestricted use, an approximately 2.8-hectare (7-acre) irregularly shaped parcel along the southern edge of the VNC site. The licensee is declaring the parcel as a “non-impacted area,” which is defined in 10 CFR 50.2 to mean an area “with no reasonable potential for residual radioactivity in excess of natural background or fallout levels.” If approved, the 2.8-hectare (7-acre) parcel will no longer be considered part of the licensed site and thus, no longer under NRC jurisdiction. Once released, the 2.8-hectare (7-acre) parcel will be available for unrestricted use. In this regard, GEH intends to make this irregularly shaped parcel a construction easement along State Route 84 (Vallecitos Road) available to Alameda County Transportation Commission (ACTC) to support road development and widening of Vallecitos Road.

The NRC is considering approval of the requested partial site release for the VBWR and EVESR licenses at the VNC site. Therefore, in compliance with the National Environmental Policy Act, as amended, 42 U.S.C. 4321 *et seq.* (NEPA), and its NEPA implementing regulations in 10 CFR part 51, the NRC has prepared this environmental assessment (EA). In accordance with 10 CFR 50.83(b)(5), if an environmental impact statement (EIS) had been previously prepared, then the licensee would have been required to discuss whether the environmental impacts associated with the proposed partial site release were bounded by a previous EIS. If those impacts were bounded, then the preparation of an EA would not be necessary. However, because the VNC site was licensed prior to the enactment of NEPA, no EIS was prepared when the VNC site was first licensed, and there is no other appropriate EIS that could bound these impacts. Therefore, the NRC has prepared an EA for this proposed action. Based on the results of the EA that follows, the NRC has determined not to prepare an EIS for the partial site release and is issuing a finding of no significant impact (FONSI).

II. Environmental Assessment

Description of the Proposed Action

The proposed action would approve the release of a 2.8-hectare (7-acre), non-impacted parcel, located along the southern boundary of the VNC site, for

¹ SAFSTOR is the decommissioning method in which a nuclear facility is placed and maintained in a condition that allows the safe storage of radioactive components of the nuclear plant and subsequent decontamination to levels that permit license termination.

unrestricted use. Once released, the 2.8-hectare (7-acre) parcel would no longer be part of the licensed site and thus, no longer under NRC jurisdiction.² Under the applicable NRC regulation, 10 CFR 50.83(b), a licensee may submit a written request for the release of non-impacted land if a license amendment is not otherwise required. Pursuant to 10 CFR 50.83(c), upon determining that the licensee's submittal is adequate, the NRC shall inform the licensee in writing that a partial release of non-impacted land for unrestricted use is approved.

Need for the Proposed Action

The licensee has requested the release of the 2.8-hectare (7-acre), non-impacted parcel as the VNC property is entirely on the north side of Vallecitos Road which is a two to four-lane paved highway currently being improved and widened under a California Department of Transportation project in cooperation with the ACTC. According to the licensee, the property proposed to be released is an area that has never been used for licensed activity. The land is undeveloped grassland serving as road frontage with a small area landscaped to provide an aesthetic entrance to VNC. The licensee plans to release this property as soon as approval is received from the NRC. The property will then be expediently afforded to the ACTC.

VNC Site

VNC is located near the center of the Pleasanton quadrangle of Alameda County, California. The site is east of San Francisco Bay, approximately 56 air kilometers (35 air miles) east-southeast of San Francisco and 32 air kilometers (20 air miles) north of San Jose. The properties surrounding the site are primarily used for agriculture and cattle raising, with some residences, which are mostly to the west of the property. The nearest sizeable towns are Pleasanton located 6.6 kilometers (4.1 miles) to the north-northwest and Livermore located 10 kilometers (6.2 miles) to the northeast.

The VNC site is on the north side of Vallecitos Road, which is a two and four-lane paved highway. A Union Pacific railroad line lies about three kilometers (2 miles) west of the site. There is light industrial activity within a 16-kilometer (10-mile) radius of the

plant. San Jose (32 kilometers (20 miles) south), Oakland (48 kilometers (30 miles) northwest) and San Francisco (56 kilometers (35 miles) northwest) are major industrial centers. The property boundary, which has not changed since the original property purchase in 1956, is fenced and posted "No Trespassing." A security gate at the entrance to the developed area of the VNC provides access control to the active area of the site. The GEH provided evaluation reports provide additional information about the site (ADAMS Accession Nos. ML18348A425 and ML19057A466).

Safety Evaluation of the Proposed Action

The NRC staff evaluated the safety impacts of the proposed action and concludes that the requirements of 10 CFR 50.83, 10 CFR 50.59, and other applicable NRC regulations have been met (ADAMS Accession No. ML19249C554).

Environmental Impacts of the Proposed Action

The NRC staff evaluated the environmental impacts of the proposed action and concludes that the release of the 2.8-hectare (7-acre) parcel will not have any adverse environmental impacts. The 2.8-hectare (7-acre) parcel is along the southern boundary of the site. This parcel is mostly undeveloped grassland road frontage with a small area landscaped to provide an aesthetic entrance to the VNC. There is no evidence of pre-existing industrial structures indicative of radiological work. The power reactors at the site have permanently ceased operations and are being maintained in a possession-only SAFSTOR status. The release of the 2.8-hectare (7-acre) parcel will not impact the shutdown reactors.

The licensee notes that the 2.8-hectare (7-acre) parcel has never been used for licensed activity. The licensee conducted an evaluation of the parcel based on guidance for doing historical site assessments in NUREG-1575, "Multi-Agency Radiation Survey and Site Investigation Manual (MARSSIM)" (NUREG-1575, Revision 1) <https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1575/r1/#pub-info> and relied on visual inspection, historical records, process knowledge, and the results of sentinel measurements to conclude that the parcel is non-impacted. None of the reviews indicate that radioactive material was ever used in VNC property fronting Vallecitos Road or that the area was contaminated with radioactive material because of NRC licensed

activities. The area is characterized as non-impacted per NUREG-1575.

A Hazardous Materials Soil

Investigation was conducted by Baseline Environmental Consulting for this area (ADAMS Accession No. ML19057A466). Baseline Environmental Consulting collected soil samples from 16 locations along Vallecitos Road at depths between 0 and 15 centimeters (0 and 6 inches) and analyzed them for gross alpha and gross beta activity. These locations were selected because they are local low points where contamination might be expected to consolidate.

Based on the results of this investigation the licensee concluded that the soils in the parcel do not appear to be affected by radiological materials associated with operation of the GEH facility and would not be expected to pose a health risk to construction workers or the environment and that there is no evidence of any radiological impact on the 2.8-hectare (7-acre) parcel.

The NRC verified that the area to be released was not radiologically impacted by licensed site activities through an independent confirmatory survey by the Oak Ridge Institute for Science and Education (ORISE). ORISE performed independent assessment activities during the period of February 5-6, 2019. The results of the ORISE independent assessment is in a report to NRC dated August 13, 2019 (ADAMS Accession No. ML19239A118). Confirmatory survey activities included gamma walkover scanning, gamma direct measurements, and soil sampling in the applicable land area. Elevated direct gamma radiation levels above background were identified in the landscaped area near the road leading into the site. The elevated counts were attributed to naturally occurring radioactive material in the lava rocks used in the landscaping. A total of 20 soil samples were collected throughout the land area: 13 random samples, one judgmental sample, and six additional confirmatory samples. Comparison of naturally occurring radionuclide concentrations showed that the Vallecitos Road frontage soils results were consistent with the non-impacted determination.

The NRC staff reviewed the request and concluded that the environmental impacts associated with this request remain bounded by the environmental impacts evaluated in the previously issued "Final Generic Environmental Impact Statement on Decommissioning of Nuclear Facilities," NUREG-0586, Supplement 1, Volume 1 (<http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0586/s1/v1/>

² Under the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2011 *et seq.* (AEA), the NRC's jurisdiction is limited to matters of radiological health and safety, for both members of the public and occupational workers, and of physical security for NRC licensed facilities and radioactive materials possessed by NRC licensees. The NRC holds no property interest in licensee owned or controlled lands nor does the NRC have any land or natural resources management authority.

index.html). NUREG-0586 evaluated the environmental impacts of the decommissioning of entire power reactor sites and facilities that have been impacted by operations. The release of a part of a power reactor site that has been demonstrated to not have been impacted by operations is within the scope of the evaluation performed in NUREG-0586. The NRC staff concludes that the proposed release of the 2.8-hectare (7-acre) parcel is bounded by NUREG-0586.

The NRC has determined that the proposed release of the 2.8-hectare (7-acre) parcel is wholly procedural and administrative in nature, that the parcel is radiologically non-impacted, and that the licensee has no safety, physical security, or emergency preparedness need to retain the parcel. The environmental impacts associated with the shutdown power reactors will not change as a result of the proposed release of the 2.8-hectare (7-acre) parcel. The proposed release will not result in public or environmental exposure to radioactive contamination. There are no known records of any spills, leaks, or uncontrolled release of radioactive material on the 2.8-hectare (7-acre) parcel. The 2.8-hectare (7-acre) parcel was not used for any activities that could have contaminated the property. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed release of the 2.8-hectare (7-acre) parcel from NRC jurisdiction does not involve or authorize any construction activities, renovation of buildings or structures, ground disturbing activities or other alteration to land. The proposed release of the 2.8-hectare (7-acre) parcel will not result in any change to current licensed activities on that portion of the site that will remain under NRC jurisdiction and therefore, will not result in any changes to the workforce or vehicular traffic on the licensed portion of the site. Furthermore, as the NRC has determined that the proposed release of the 2.8-hectare (7-acre) parcel is an administrative action, it is not a type of activity that has the potential to cause effects on historic properties or cultural resources, including traditional cultural properties and will have no effect on listed species or critical habitat. In addition, the proposed release of the 2.8-hectare (7-acre) parcel will not result in any change to non-radiological plant effluents and thus, will have no impact on either air or water quality. Therefore, there are no significant non-radiological environmental impacts associated with

the proposed release of the 2.8-hectare (7-acre) parcel.

Accordingly, the NRC staff concludes that there are no significant environmental impacts associated with the proposed action.

Connected Action

The California Department of Transportation and the ACTC determined that the California State Route 84 Expressway Widening Project would have no significant impact on the human environment. The Final Environmental Impact Report/Environmental Assessment with Finding of No Significant Impact, dated April 2018, is available at (<https://dot.ca.gov/caltrans-near-me/district-4>).

Environmental Impacts of the Alternatives to the Proposed Action

As an alternative to the proposed action, the NRC staff considered denial of the proposed release of the 2.8-hectare (7-acre) parcel (*i.e.*, the “no-action” alternative). Denial of the request would result in the 2.8-hectare (7-acre) parcel remaining part of the licensed site and subject to NRC jurisdiction. As the licensee has no need for the parcel, its current use as undeveloped grassland and for site entrance landscaping would most likely continue. As there is no policy or regulatory reason for the NRC to require a licensee to retain land that is not radiologically impacted and for which the licensee has no further operational need, the no-action alternative is not further considered.

Conclusion

The NRC staff has concluded that the proposed action will not significantly impact the quality of the human environment, and that the proposed action is the preferred alternative.

Agencies and Persons Consulted

A public meeting to obtain comments on the release approval request was announced on the NRC public meeting website on March 18, 2019 (ADAMS Accession No. ML19077A149). A notice of GEH’s request to release the 2.8-hectare (7-acre) parcel and the public meeting, including a request for comment, was also published in “The Independent,” Livermore, CA on March 21, 2019. The NRC staff published a notice of the receipt of GEH’s request, including a request for comment, in the **Federal Register** on March 27, 2019 (84 FR 11578). The NRC staff conducted the public meeting in Dublin, CA on March 28, 2019. A summary of the public meeting, which includes copies of the presentations made and a copy of the

transcript of the meeting, is available in ADAMS at Accession No.

ML19239A043. No comments were made on the Federal Rulemaking website, or were received by mail or email, and all questions asked at the meeting were answered in the meeting.

The NRC contacted the California Department of Public Health on September 4, 2019 (ADAMS Accession No. ML19275D493) concerning this request. There were no comments, concerns or objections from the State official.

III. Finding of No Significant Impact

The NRC staff has prepared this EA as part of its review of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of EIS is not warranted. Accordingly, the NRC has determined that a FONSI is appropriate. In accordance with 10 CFR 51.32(a)(4), this FONSI incorporates the EA set forth in this notice by reference.

Dated at Rockville, Maryland, this 3rd day of October, 2019.

For the Nuclear Regulatory Commission.

Bruce A. Watson,

*Chief, Reactor Decommissioning Branch,
Division of Decommissioning, Uranium
Recovery, and Waste Programs, Office of
Nuclear Material Safety and Safeguards.*

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-87210; File No. SR-CBOE-2019-068]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Move the Rules in Chapter XVII, Which Governs Exchange Disciplinary Procedures, of the Current Rulebook to Proposed Chapter 13 of the Shell Rulebook

October 3, 2019.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on September 26, 2019, Cboe Exchange, Inc. (the “Exchange” or “Cboe Options”) filed with the Securities and Exchange Commission (the “Commission”) the proposed rule change as described in Items I and II below, which Items have been prepared

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.