

effectiveness of antitrust enforcement by consent decree.<sup>5</sup>

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. "[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.'" <sup>6</sup>

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and the Act does not authorize the Court to "construct [its] own hypothetical case and then evaluate the decree against that case." *Microsoft*, 56 F.3d at 1459. Since "[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place," it follows that the court "is only authorized to review the decree itself," and not to "effectively redraft the complaint" to inquire into other matters that the United States might have but did not pursue. *Id.*

#### VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America

Dated: July 23, 1999.

Respectfully submitted,

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<sup>5</sup> *United States v. Bechtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); see *United States v. BNS Inc.*, 858 F.2d at 463; *United States v. National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. See also *United States v. American Cyanamid Co.*, 719 F.2d 558, 565 (2d Cir. 1983).

<sup>6</sup> *United States v. American Tel. & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982) (citations omitted), *aff'd sub nom. Maryland v. United States*, 460 U.S. 1001 (1983), quoting *Gillette*, 406 F. Supp. at 716; *United States v. Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

## NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289]

### GPU Nuclear, Inc.; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by GPU Nuclear, Inc., (licensee) for an amendment to Facility Operating License No. DPR-50 issued to the licensee for operation of the Three Mile Island Nuclear Station, Unit 1, located in Dauphin County, PA.

The purpose of the portion of the licensee's amendment request that is denied was to seek approval from the Commission to allow the licensee to ignore the low temperature overpressure protection provisions related to high pressure injection pumps start and running restrictions during an emergency cooldown without having to invoke 10 CFR 50.54(x).

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated August 6, 1999.

By September 13, 1999, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1997, as supplemented June 3, 1998, and July 13, 1998, and (2) the Commission's letter to the licensee dated August 6, 1999.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/

Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 6th day of August 1999.

For the Nuclear Regulatory Commission.

**Elinor G. Adensam,**

*Director, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

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## NUCLEAR REGULATORY COMMISSION

[Docket No. 40-8584]

### Kennecott Uranium Company

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final finding of no significant impact; notice of opportunity for hearing.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) proposes to renew NRC Source Material License SUA-1350 to authorize the licensee, Kennecott Uranium Company (KUC), to resume commercial milling operations at the Sweetwater facility, and to approve the plan for future reclamation of the mill facility, existing and proposed new tailings impoundment, and the proposed evaporation ponds, according to the 1997 Reclamation Plan, as amended. The Sweetwater uranium mill site is located in Sweetwater County, approximately 40 miles (64 kilometers) northwest of the town of Rawlins, Wyoming. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of KUC's license renewal for operation and the amendment request, in accordance with the requirements of 10 CFR Part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

**FOR FURTHER INFORMATION CONTACT:** Ms. Elaine Brummett, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7-J9, Washington, D.C. 20555. Telephone 301/415-6606.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Sweetwater uranium mill site presently is licensed by the NRC under Materials License SUA-1350 to possess