

News from Beyond Nuclear
For Immediate Release, January 31, 2013

Contacts:

Kevin Kamps, Beyond Nuclear, (240) 462-3216

Michael Keegan, Don't Waste Michigan, (734) 770-1441

Terry Lodge, environmental coalition attorney, (419) 205-7084

Eastern Fox Snake endangered species to get its day in court

NRC licensing board rejects DTE bid for dismissal of environmental contention against proposed Fermi 3 reactor

Monroe, MI—An environmental coalition opposing Detroit Edison's (DTE) proposed Fermi 3 new atomic reactor won a victory yesterday. The U.S. Nuclear Regulatory Commission (NRC) Atomic Safety and Licensing Board (ASLB) ruled in favor of the environmental interveners and granted an evidentiary hearing on the risks to the endangered Eastern Fox Snake from the construction of Fermi 3. The hearing will be held in southeast Michigan this fall.

Additional hearings, on the lack of quality assurance (QA) undergirding Fermi 3's design and construction, will follow completion of the National Environmental Policy Act (NEPA) portion of the hearings. The interveners anticipate filing additional contentions in response to NRC's Final Environmental Impact Statement (FEIS), which was released January 18, 2013.

Referring to the FEIS, the ASLB ruled yesterday "[T]he review team concludes that the impacts from construction and preconstruction activities for Fermi 3 on terrestrial resources on the Fermi site and transmission line corridor would be SMALL to MODERATE . . . The potential for MODERATE impacts is limited to possible adverse effects on the eastern fox snake. The [NRC] staff's evaluation of the potential impacts on the eastern fox snake recognizes the potential for mitigation measures proposed by Detroit Edison . . . and approved by the MDNR [Michigan Department of Natural Resources] to significantly reduce impacts on that species, thereby leading to SMALL impacts, *but acknowledges the possibility of MODERATE impacts if proposed mitigation is not implemented as described in their plan. Thus, the Staff at least implicitly acknowledges that mitigation may not occur and that impacts to the snake will increase (to moderate) if it does not.*" (ASLB's Jan. 30th ruling, page 5, emphasis added)

"Speaking in defense of the Eastern Fox Snake, and several other species Fermi 3 would endanger, we state 'Don't Tread on Me, DTE!'" said Michael Keegan of Don't Waste Michigan in Monroe. "No irradiation without representation!" he added.

The ASLB has itself previously quoted an earlier admission by MDNR, which stated “Going forward with the construction would not only kill snakes but destroy the habitat in which they live and possibly exterminate the species from the area...”

Regarding MDNR enforcement, the coalition’s attorney, Terry Lodge of Ohio, said “There are no satisfactory enforcement measures in place, given the austere governance of Michigan.”

“MDNR has abandoned the regulatory mission of reviewing environmental permit requests, as no funding has been provided by the State of Michigan. The lack of staffing at the MDNR leaves the public bereft of a means of guaranteeing that the environmental impacts of Fermi 3 on the Eastern Fox Snake will be mitigated,” Lodge added.

“MDNR and DTE are guilty of merely cosmetic permitting and mitigation plans,” said Kevin Kamps of national watchdog group Beyond Nuclear in Takoma Park, Maryland. “A shallow, check-the-box review could very well lead to the extinction of the Eastern Fox Snake in southeastern Michigan,” he added.

The State of Michigan has acknowledged that Fermi 3’s impacts on Great Lakes shoreline wetlands, prime Eastern Fox Snake habitat, would be the largest in the history of Michigan’s wetlands protection law.

Fermi 3’s proposed 300-foot-wide transmission line corridor would cross nearly 11 miles, or more than 1,000 acres, of previously undeveloped land, including wetlands, grasslands, and forests that Eastern Fox Snakes likely also call home. However, there is no mitigation plan whatsoever for this habitat loss.

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.

Yesterday’s ASLB ruling has been posted on Beyond Nuclear’s website. “Additional Background on the Eastern Fox Snake and Other Contentions,” as well as the environmental coalition’s defense of its Eastern Fox Snake contention (such as submitted on Nov. 29 and July 2, 2012), and DTE’s unsuccessful Motion for Reconsideration (Nov. 19, 2012) have also been posted there. See: <http://www.beyondnuclear.org/new-reactors/2013/1/30/eastern-fox-snake-contention-against-fermi-3-moves-to-eviden.html>