

News from Beyond Nuclear
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“Don't Tread on Me, Fermi 3!”

Environmentalists Criticize DTE's Mitigation Plans, MDNR's Enforcement for New Atomic Reactor's Impacts on Threatened Eastern Fox Snake

Monroe, MI—In response to a motion for summary disposition filed by Detroit Edison (DTE) against its intervention contention, an environmental coalition opposing the new Fermi 3 atomic reactor has criticized the nuclear utility's proposed mitigation plans for impacts on the Eastern Fox Snake, as well as the State of Michigan Department of Natural Resources (MDNR) for its own failures to protect this threatened indigenous constrictor species against extinction. The environmentalists point out that DTE's proposed replacement habitat, immediately adjacent to the Monroe Power Plant, is itself almost certainly contaminated with “acidity, carcinogenic and toxic byproducts, such as mercury, radiation, and other chemicals,” after decades of large-scale coal burning next door. The coalition also accuses MDNR of failing its statutory obligation, having neither staff nor funding to enforce threatened and endangered species protections.

“In keeping with the Independence Day spirit, and seeing as someone has to speak on behalf of the Eastern Fox Snake and other species Fermi 3 would endanger, we say ‘Don't Tread on Me, DTE!’” said Michael Keegan of Don't Waste Michigan in Monroe. “No irradiation without representation!” he added.

In addition to Don't Waste Michigan, the coalition includes Beyond Nuclear, Citizens for Alternatives to Chemical Contamination, Citizens Environmental Alliance of Southwestern Ontario, and the Sierra Club Michigan Chapter, as well as numerous concerned citizens who live within 50 miles of the Fermi nuclear power plant. The coalition has cited previous statements and rulings by government authorities to bolster its case. The coalition is represented by Toledo-based attorney Terry Lodge.

The U.S. Nuclear Regulatory Commission (NRC) Atomic Safety and Licensing Board (ASLB) presiding over the Fermi 3 licensing proceeding has itself quoted an earlier submission 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...”

In a June 21st ASLB ruling on the environmentalists' response to NRC's Draft Environmental Impact Statement (DEIS), the panel agreed, regarding Fermi 3's proposed new, 29.4-mile-long, 300-foot-wide (about 1,000 acres impacted) transmission line corridor, that "substantial construction will take place in undeveloped wetlands, forests, and grasslands" impacting threatened and endangered species, such as the Eastern Fox Snake. The ASLB also agreed with the coalition that, even after construction, maintenance (application of pesticides, tree trimming, etc.) of the transmission line corridor would continue to impact wetlands and endangered species indefinitely into the future.

As the transmission lines are directly connected to the Fermi 3 proposal, the ASLB has cautioned NRC staff that it must address the issue in its Final EIS. To not do so would be to improperly "segment" the issue, a violation of the National Environmental Policy Act (NEPA). Despite its own mandate to protect public health and safety and the environment, NRC has officially opposed the environmental coalition's intervention at every turn in this proceeding, in effect supporting the Fermi 3 proposal.

The D.C. Circuit Court of Appeals recently ruled that NRC had violated NEPA in regards to long-term, on-site storage of high-level radioactive waste, and ordered it to carry out an environmental assessment of the risks. The environmental coalition has cited that ruling to call for a postponement of any final licensing decision at Fermi 3 until the environmental assessment of its inevitable high-level radioactive waste risks is resolved.

Regarding DTE's proposed mitigation, the intervenors have pointed out that no plans whatsoever are in place for protecting Eastern Fox Snakes along the proposed transmission line corridor. They have also questioned whether the 107 acre, likely contaminated, former "agricultural field on the southern border of the Monroe Power Plant Site" is suitable habitat, with an adequate food supply, for Eastern Fox Snakes, and whether or not it would even be ready in time to accept transplanted Eastern Fox Snakes, once Fermi 3 construction was underway.

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."

DTE filed Fermi 3's combined Construction and Operating License Application (COLA) to NRC in September 2008. Meeting a "strict by design" deadline, the environmental coalition submitted numerous contentions on March 9, 2009. Regarding the Eastern Fox Snake threatened species contention, the ASLB granted a hearing on the merits July 31, 2009. Despite this, the intervenors have yet to receive their day in court, three years later.