

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
Dairyland Power Cooperative)	Docket Nos.: 50-409 and 72-046
)	License No.: DPR-45
La Crosse Boiling Water Reactor)	
)	

ORDER APPROVING THE TRANSFER OF LICENSE
AND CONFORMING AMENDMENT

I.

Dairyland Power Cooperative (DPC) is the holder of Possession Only License No. DPR-45, which authorizes the possession and maintenance of the La Crosse Boiling Water Reactor (LACBWR). LACBWR permanently ceased operations on April 30, 1987, and reactor defueling was completed on June 11, 1987. In a letter dated August 4, 1987, the U.S. Nuclear Regulatory Commission (NRC) terminated DPC's authority to operate LACBWR under Provisional Operating License No. DPR-45, and a possess but not operate status was granted. By letter dated August 18, 1988, the NRC amended DPC's Provisional Operating License No. DPR-45 to Possession Only License No. DPR-45 to reflect the permanently defueled configuration at LACBWR. The NRC issued an Order to authorize decommissioning of LACBWR and approve the proposed Decommissioning Plan on August 7, 1991. Therefore, pursuant to the provisions of Section 50.82(a)(1)(iii) and Section 50.82(a)(2) of Title 10 of the *Code of Federal Regulations* (10 CFR), operations at LACBWR are no longer authorized under the 10 CFR Part 50 license, and DPC is licensed to possess, but not use or operate, LACBWR under Possession Only License No. DPR-45, subject to the conditions specified therein. The facility is located on the east bank of the Mississippi River in Vernon County, Wisconsin.

II.

By letter dated October 8, 2015 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML15307A310), as supplemented by letter dated December 15, 2015 (ADAMS Accession No. ML16004A147), DPC submitted an application, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (AEA), and 10 CFR 50.80, "Transfer of Licenses," requesting NRC approval for the direct transfer of DPC's Possession Only License No. DPR-45 for LACBWR to *LaCrosseSolutions*, LLC (LS).

DPC intends to transfer its licensed possession, maintenance, and decommissioning authorities to LS in order to implement expedited decommissioning at LACBWR. DPC will remain the licensed owner of LACBWR and hold title to and ownership of the real estate and lease hold interests, title to and ownership of the spent nuclear fuel, and title to and ownership of all improvements at the LACBWR site. LS will lease the above-ground LACBWR structures (other than the LACBWR independent spent fuel storage installation (ISFSI)) and will assume responsibility for all licensed activities at LACBWR, including responsibilities for decommissioning. LS will assume responsibility for the maintenance and security of the ISFSI site, while DPC will provide for operation, maintenance, and security of the ISFSI site under a Company Services Agreement with LS. DPC will retain financial responsibility for operation, maintenance, and security of the ISFSI and other related costs. LS was expressly created for the purpose of decommissioning LACBWR and releasing the site for unrestricted use, except for the ISFSI. After the transfer, LS will complete the decommissioning of the LACBWR facility.

Upon issuance of a license amendment providing for termination of the facility operating license, except for the ISFSI site, and upon receipt of a future NRC license transfer approval, LS will transfer responsibility for the LACBWR license back to DPC. Thereafter, DPC will maintain the ISFSI, and the ultimate disposition of the spent nuclear fuel will be provided for under the terms of DPC's Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Waste with the U.S. Department of Energy. DPC will also continue to maintain its nuclear decommissioning trust, a grantor trust in which funds are segregated from its assets and outside its administrative control, in accordance with the requirements of 10 CFR 50.75(e)(1).

The application also requested approval of a conforming amendment to the license pursuant to 10 CFR 50.80 and 10 CFR 50.90. No physical or operational changes to the facility were requested beyond those encompassed in the LACBWR Post Shutdown Decommissioning Activities Report.

Notice of the application was published in the *Federal Register* (FR) on March 18, 2016 (81 FR 14898). The December 15, 2015, letter contained clarifying information, did not expand the application beyond the scope of the original notice, and did not affect the applicability of the NRC's generic no significant hazards consideration determination. No requests for hearing or comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that

LS is qualified to be the holder of the license, and that the transfer of the license to LS, as described in the application, is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto, subject to the condition set forth below.

Upon review of the application for a conforming amendment to the LACBWR license to reflect the transfer to LS, the NRC staff determined the following:

- (1) The application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I.
- (2) There is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public, and that such activities will be conducted in compliance with the Commission's regulations.
- (3) The issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public.
- (4) The issuance of the proposed license amendment is in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC safety evaluation dated May 20, 2016, which is available at ADAMS Accession No. ML16123A074.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the license, as described herein, to LS is approved, subject to the following condition:

Prior to the closing of the license transfer from DPC to LS, LS shall provide the Directors of NRC's Office of Nuclear Material Safety and Safeguards (NMSS) and Office of Nuclear Reactor Regulation (NRR) satisfactory documentary evidence that it has obtained the appropriate amount of insurance required of a licensee under 10 CFR 140.12 and 10 CFR 50.54(w) of the Commission's regulations, consistent with the exemptions issued to LACBWR on June 26, 1986.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

IT IS FURTHER ORDERED that LS shall inform the Directors of NMSS and NRR in writing of the date of closing of the transfer of the DPC interests in LACBWR, at least 1 business day prior to closing. Should the transfer of the license not be completed within 1 year of this Order's date of issuance, this Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order.

This Order is effective upon issuance.

For further details with respect to this Order, see the initial application dated October 8, 2015, as supplemented by letter dated December 15, 2015, and the associated NRC safety evaluation dated May 20, 2016, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01-F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents are accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who encounter problems with ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this 20th day of May 2016.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

Scott Moore, Acting Director,
Office of Nuclear Material
Safety and Safeguards.