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DELUCA,J.O. Washington Public Power Supply System
RECIP.NAME RECIPIENT AFFILIATION
SALTZMAN,J. Assistant Director for State & Licensee Relations

SUBJECT: Opines re nuclear liability site description.Limited site description would apply only during period fuel in storage & would be broadened to encompass contiguous WPPS property at time of fuel loading.

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**Washington Public Power Supply System**
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50-397

June 25, 1982

Mr. Jerome Saltzman
Assistant Director, State & Licensee Relations
Office of the State Programs
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Subject: WASHINGTON PUBLIC POWER SUPPLY SYSTEM
PROJECT NO. 2
NUCLEAR LIABILITY SITE DESCRIPTION

Dear Mr. Saltzman:

In recent months, there has been an on-going dialogue concerning the site description involving you, me, Ira Dinitz of your office, our broker Marsh & McLennan, and American Nuclear Insurers. The Supply System has asked that the Nuclear Liability Site Description implemented when fuel arrives at WNP-2 should have geographical boundaries that are the same as the present WNP-2 property boundaries. This would emcompass only Unit 2 and not the adjacent Units 1 and 4. These other two Units are physically separated by 3,000 feet and 4,000 feet, respectively, from WNP-2 and share no permanent, common systems.

A limited site description would apply only during the period of fuel in storage at WNP-2 and would be broadened to encompass all contiguous Supply System property at the time of fuel loading. The reasons for maintaining a limited site description are:

1. The Supply System operates under a project agreement with the Bonneville Power Administration (BPA) that specifically prohibits insurance from covering the three Units in Eastern Washington simultaneously. To alter these agreements or receive an interpretation allowing the coverage to apply to all these Units may take some time in educating the necessary personnel and approving the necessary changes.

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2. The fate of WNP-4, as well as WNP-5 in Western Washington, is still very uncertain. There is significant possibility this unit will be scrapped and all assets sold terminating the construction permit. This unit will probably have its future determined shortly after the Northwest Power Planning Council completes its Regional Load Forecast due in April 1983. Should the need for termination and liquidation of assets become necessary, the property may be razed and would probably be turned back over to the Department of Energy and not included in the broad site description when Unit 2 became operational.

We have reviewed 10 CFR 140, Section 140.96, Appendix F - Indemnity Locations, and find the present wording of this section to be consistent with our request.

Specifically, Paragraph (a)(1) states, "...the geographical boundaries of the indemnity location will include the entire construction area of the nuclear power reactor, as determined by the Commission. Such area will not necessarily be coextensive with the indemnity location which will be established at the time an operating license is issued for such additional nuclear power reactors..." Paragraph (a)(2) further states that for "...an existing nuclear power reactor...," (which I read to mean an operating reactor)"...the geographical boundaries...shall include the entire construction area of any additional nuclear power reactor..."

Once again, our intent is to place all contiguous Supply System property within the geographical boundaries for the broader site description when WNP-2 becomes operational. Mr. John Quatrocchi, Vice-President, Liability Underwriting, American Nuclear Insurers, has agreed to the above proposal and interpretation and will follow the decision of the Nuclear Regulatory Commission.

Should you have any questions, please let me know. I look forward to your reply.

Very truly yours,

Joseph O. DeLuca, Manager
Corporate Insurance

JOD:md

cc: Raymond S. Sheldon, Marsh & McLennan
Daniel J. Ashburn, Marsh & McLennan

required to do if the licensee were not such a state agency.

8. The obligations of the Commission under this agreement * except to the licensee for damage to property of the licensee, shall not be affected by any failure on the part of the licensee to fulfill its obligations under this agreement. Bankruptcy or insolvency of the licensee or any other person indemnified or of the estate of the licensee or any other person indemnified shall not relieve the Commission of any of its obligations hereunder.

ARTICLE IV

1. When the Commission determines that the United States will probably be required to make indemnity payments under the provisions of this agreement, the Commission shall have the right to collaborate with the licensee and other persons indemnified in the settlement and defense of any claim and shall have the right (a) to require the prior approval of the Commission for the settlement or payment of any claim or action asserted against the licensee or other person indemnified for public liability or damage to property of persons legally liable for the nuclear incident which claim or action the licensee or the Commission may be required to indemnify under this agreement; and (b) to appear through the Attorney General of the United States on behalf of the licensee or other person indemnified, take charge of such action and settle or defend any such action. If the settlement or defense of any such action or claim is undertaken by the Commission, the licensee shall furnish all reasonable assistance in effecting a settlement or asserting a defense.

2. Neither this agreement nor any interest therein nor claim thereunder may be assigned or transferred without the approval of the Commission.

ARTICLE V

The parties agree that they will enter into appropriate amendments of this agreement to the extent that such amendments are required pursuant to the Atomic Energy Act of 1954, as amended, or licenses, regulations or orders of the Commission.

ARTICLE VI

The licensee agrees to pay to the Commission such fees as are established by the Commission pursuant to regulations or orders of the Commission.

ARTICLE VII

The term of this agreement shall commence as of the date and time specified in Item 4 of the Attachment and shall terminate at the time of expiration of that license specified in Item 2 of the Attachment, which is the last to expire; provided that, except as may otherwise be provided in applicable regulations or orders of the Commission, the term of this agreement shall not terminate until all the radioactive material has been removed from the location and transportation of the radioactive material from the location has ended as defined in subparagraph 4 (b).* Article I. Termination of the term of this agreement shall not affect any obligation of the licensee or any obligation of the Commission under this agreement with respect to any nuclear incident occurring during the term of this agreement.

UNITED STATES NUCLEAR REGULATORY COMMISSION

Indemnity Agreement No. E- ----

ATTACHMENT

Item 1—Licensee ----------
Address ----------

* Amended 33 FR 15998.

Item 2—License number or numbers-------
Item 3—Location ----------
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Item 4—The indemnity agreement designated above, of which this Attachment is a part, is effective as of ------ m., on the ------ day of ----------, 19 --.

For the United States Nuclear Regulatory Commission.

By ----------
For the ----------
By ----------
(Name of licensee)

Dated at Bethesda, Md., the ------ day of ----------, 19 --.

27 FR 2884

## § 140.96 Appendix F—Indemnity locations.

(a) *Geographical boundaries of indemnity locations.* (1) In every indemnity agreement between the Commission and a licensee which affords indemnity protection for the preoperational storage of fuel at the site of a nuclear power reactor under construction, the geographical boundaries of the indemnity location will include the entire construction area of the nuclear power reactor, as determined by the Commission. Such area will not necessarily be coextensive with the indemnity location which will be established at the time an operating license is issued for such additional nuclear power reactors.

(2) In every indemnity agreement between the Commission and a licensee which affords indemnity protection for an existing nuclear power reactor, the geographical boundaries of the indemnity location shall include the entire construction area of any additional nuclear power reactor as determined by the Commission, built as part of the same power station by the same licensee. Such area will not necessarily be coextensive with the indemnity location which will be established at the time an operating license is issued for such additional nuclear power reactors.

(3) This section is effective May 1, 1973, as to construction permits issued prior to March 2, 1973, and, as to construction permits issued on or after March 2, 1973, the provisions of this section will apply no later than such time as a construction permit is issued authorizing construction of any additional nuclear power reactor.

38 FR 2983

## § 140.107 Appendix G—Form of indemnity agreement with licensees processing plutonium for use in plutonium processing and fuel fabrication plants and furnishing insurance policies as proof of financial protection.

This Indemnity Agreement No. ------ is entered into by and between ---------- (hereinafter referred to as the "licensee") and the United States Nuclear Regulatory Commission (hereinafter referred to as the "Commission") pursuant to subsection 170c of the Atomic Energy Act of 1954, as amended (hereinafter referred to as "the Act"), and Section 201 of the Energy Reorganization Act of 1974, as amended.

42 FR 46

ARTICLE I

As used in this agreement:

1. "Byproduct material," "person," "source material," "special nuclear material," and "extraordinary nuclear occurrence" shall have the meanings given them in the Atomic Energy Act of 1954, as amended, and the regulations issued by the Commission.

2. Except where otherwise specifically provided, "amount of financial protection" means the amount specified in Item 2a and b, of the Attachment annexed hereto as modified by paragraph 6, Article II, with respect to common occurrences.

3. (a) "Nuclear incident" means any occurrence including an extraordinary nuclear occurrence, or series of occurrences at the location or in the course of transportation causing bodily injury, sickness, disease, or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of the radioactive material.

(b) Any occurrence, including an extraordinary nuclear occurrence, or series of occurrences causing bodily injury, sickness, disease or death, or loss of or damage to property, or loss of use of property, arising out of or resulting from the radioactive, toxic, explosive, or other hazardous properties of:

i. The radioactive material discharged or dispersed from the location over a period of days, weeks, months or longer and also arising out of such properties of other material defined as "the radioactive material" in any other agreement or agreements entered into by the Commission under subsection 170c or k of the Act and so discharged or dispersed from "the location" as defined in any such other agreement, or

ii. The radioactive material in the course of transportation and also arising out of such properties of other material defined in any other agreement entered into by the Commission pursuant to subsection 170c or k of the Act as "the radioactive material" and which is in the course of transportation shall be deemed to be a common occurrence. A common occurrence shall be deemed to constitute a single nuclear incident.

42 FR 46

4. "In the course of transportation" means in the course of transportation within the United States, or in the course of transportation outside the United States and any other nation, including handling or temporary storage incidental thereto, of the radioactive material to the location or from the location provided that:

42 FR 20139

(a) With respect to transportation of the radioactive material to the location, such transportation is not by predetermination to be interrupted by the removal of the material from the transporting conveyance for any purpose other than the continuation of such transportation to the location or temporary storage incidental thereto;

(b) The transportation of the radioactive material from the location shall be deemed to end when the radioactive material is removed from the transporting conveyance for any purpose other than the continuation of transportation or temporary storage incidental thereto;

(c) "In the course of transportation" as used in this agreement shall not include transportation of the radioactive material to the location if the material is also "in the course of transportation" from any other "location" as defined in any other agreement entered into by the Commission pursuant to subsection 170c or k of the Act.

42 FR 46

5. "Person indemnified" means the licensee and any other person who may be liable for public liability.

6. "Public liability" means any legal liability arising out of or resulting from a nuclear incident, except (1) claims under State or Federal Workmen's Compensation Acts of employees of persons indemnified who are employed (a) at the location, or, if the nuclear incident occurs in the course of transportation of the radioactive material, on the transporting vehicle, and (b) in connection with the licensee's possession, use or transfer of the radioactive material; (2) claims arising out of an act of war; and (3) claims for loss of, or damage to, or loss of use of (a)