

# BOARD

|                     |                     |
|---------------------|---------------------|
| Nicholas Seay       | CHAIRMAN            |
| Kenneth Opin        | SECRETARY           |
| Vincent Holness     | TREASURER           |
| Peter Anderson      | EX OFFICIO          |
| Kathleen M. Falk    | EX OFFICIO          |
| Prof. George Becker | Prof. John Neess    |
| Mary deGozzaldi     | Douglas Nelson      |
| Richard Lehmann     | Richard Presnell    |
| Judith Lindsay      | Thomas Van Alvea    |
| Kurt Lundke         | Dr. Victoria Watson |
| Dr. Linda McIsaac   |                     |



## Wisconsin's Environmental Decade

114 North Carroll Street, Suite 208  
Madison, Wisconsin 53703  
(608) 251-7020

MILWAUKEE OFFICE  
230 West Wells Street, Suite 307  
Milwaukee, Wisconsin 53203  
(414) 224-6045

# STAFF

Prof. John Neess, DIRECTOR  
Peter Anderson, DIRECTOR OF PUBLIC AFFAIRS  
Spencer Black, PROJECTS COORDINATOR  
Jane I. Burns, NETWORK COORDINATOR  
Mary deGozzaldi, EDUCATION DRIVE COORDINATOR  
Kathleen M. Falk, DIRECTOR OF LEGAL AFFAIRS  
Hatheway Hasler, CONTROLLER  
Dorothy Lagerroos, ECO-BULLETIN EDITOR  
Richelle Lisse, GROUNDWATER COORDINATOR  
Carol Pfefferkorn, OFFICE MANAGER  
Jamey Potter, EDUCATION DRIVE ASSOCIATE  
Jane Reynolds, ADMINISTRATIVE ASSISTANT  
Michael Soika, MILWAUKEE REGION COORDINATOR

May 20, 1982

Mr. Peter B. Bloch, Chairman  
Atomic Safety & Licensing Board  
Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. Jerry R. Kline  
Atomic Safety & Licensing Board  
Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. Hugh C. Paxton  
Atomic Safety & Licensing Board  
1229 - 41<sup>st</sup> Street  
Los Alamos, New Mexico 87544

Re: Wisconsin Electric Power Company  
Point Beach Nuclear Plant  
Dockets 50-256 and 50-301(OLA)  
(Full Scale Sleeving Proceeding)

Gentlemen:

Reference is made to our letter dated March 28, 1982, in which we requested permission to undertake discovery on the Staff after the time for discovery had expired, on the grounds that new facts had arisen.

In succeeding conversations with Staff Counsel, we were informed that the Staff would be notifying the Board and parties of relevant matters at other plants on a continuing basis, and that this routine notification practice might obviate the need for discovery.

Based upon that representation, by letter dated April 18, 1982, we asked the Board to hold our request for discovery on Staff temporarily in abeyance to determine whether this practice would meet our need for discovery.

Subsequent to that time, we received from our subscription library--not from the Staff--a copy of the NRC Weekly Information Report for the Week Ending March 26, 1982, in which it was stated that three sleeved tubes at San Onofre have been identified as leakers based upon a hydrostatic test.

It is our opinion that this information, which the Staff did not provide to the Board and parties, is fundamentally integral to this proceeding. Also, the possibility exists that other directly relevant information, of which we are not aware, is

8205260141 6

DS03  
5  
1/1

similarly being withheld.

By letter dated April 30, 1982, we informed Staff Counsel "unless you can suggest some means to insure that we will not be kept in the dark about relevant developments, I will have to press the matter with the Board in order to adequately protect the Decade's interests."

In a telephone conversation with Staff Counsel today, we were informed that the Staff position is that it is providing everything that is relevant and that it disagrees with our opinion that things such as leaking sleeves at San Onofre should be brought to the attention of the Board and the parties. Staff Counsel advised that, if we desire to receive more information than is being provided, we will have to seek an order from the Board.

This letter is to, first, seek such an order. At the outset, we would note that, in this particular case, the requirements of 10 C.F.R. §2.720(h)(2)(ii) do not apply to such a request, because the fact of discovery on Staff has already been provided for by prior agreement. See NRC Staff Memorandum, dated October 19, 1981, at p. 5. The only requirement that is not met is the requirement for first round discovery to have been filed on an earlier date.

We believe that the completion of the Staff investigation of the recent tube related accident at Ginna, the recently discovered new form of tube corrosion at Three Mile Island, and the recently observed leaking tubes at San Onofre--all of which followed the time for first round discovery--conclusively demonstrate new relevant facts not previously available to justify late filed discovery.

Even if, arguendo, 10 C.F.R. §2.720(h)(2)(ii) did apply, the same circumstances also meet the "necessary to a proper decision" and "not reasonably obtainable from any other source" tests. The fact of sleeves leaking, for example, is clearly necessary to resolve for a proper decision, and the details of these events are not obtainable by us from the operating utilities.

Second, Staff Counsel has asked that we enumerate the specific areas of inquiry that we wish to pursue in discovery. The following enumeration indicates the areas of interest in which we wish to be kept informed on a continuing basis:

(1) All information concerning operating experience and inspection results of the steam generators at the San Onofre Nuclear Plant Unit 1 subsequent to installation of sleeves.

(2) All information concerning the details of primary side steam generator tube corrosion at Three Mile Island Nuclear Plant Unit 1.

(3) All information concerning new forms of steam generator


tube degradation at any pressurized water reactor.

(4) All information concerning any evaluation of the relationship between steam generator tube failures and reactor vessel embrittlement growing out of the January 25, 1982 Ginna tube rupture or elsewhere subsequent to the first round discovery.

Third, in the event second round discovery is completed on the Licensee prior to the Board's ruling on this request for discovery on Staff, this is to request that the time for filing a motion concerning litigable issues be extended to toll from either the denial of this request or the completion of discovery on Staff. See Transcript p. 891. Similarly, this is to extend the same request to delay the tolling of time to file the motion on litigable issues for completion of the Board's consideration of further discovery on the Licensee with respect to its LER 82-007. See Letter from Decade to the Board, dated May 13, 1982.

Sincerely,  
WISCONSIN'S ENVIRONMENTAL DECADE, INC.

by

  
PETER ANDERSON  
Director of Public Affairs

PA/mt-P3:50266NRC.L41  
cc:Richard G. Bachmann, Esq.  
Bruce W. Churchill, Esq.

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Wisconsin Electric Power Company  
POINT BEACH NUCLEAR PLANT UNITS 1 & 2  
Docket Nos. 50-266 and 50-301  
CERTIFICATE OF SERVICE

'02 MAY 24 82:33

*WETH*

I certify that true and correct copies of the foregoing document will be served this day by depositing copies of the same in the first class mails, postage pre-paid and correctly addressed, to the following:

Peter B. Bloch, Chairman  
Atomic Safety & Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Dr. Hugh C. Paxton  
1229 -41st Street  
Los Alamos, New Mexico 87544

Dr. Jerry R. Kline  
Atomic Safety & Licensing Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Docketing & Service  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Mr. Richard Bachmann  
Office of Executive Legal Director  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

Mr. Bruce W. Churchill  
Shaw Pittman Potts and Towbridge  
1800 M. Street N.W.  
Washington, D. C. 20036

Barton Cowan  
42nd Floor  
600 Grant Street  
Pittsburgh, PA 15219

*Carol Pfefferkorn*  
\_\_\_\_\_  
Carol Pfefferkorn

Date: 5-21-82