

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
Before the Atomic Safety and Licensing Board

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Wisconsin Electric Power Company
POINT BEACH NUCLEAR PLANT UNITS 1 & 2
DOCKET NOS. 50-266 AND 50-301
Operating License Amendment
(Steam Generator Tube Slewing Program)

DECADE'S REPLY TO LICENSEE'S RESPONSE
REGARDING DECADE'S MOTION TO COMPEL



By filing dated March 28, 1982, Wisconsin's Environmental Decade, Inc. ("Decade") submitted its Motion to Compel Licensee's Answer to First Interrogatories Relative to Full-Scale Slewing ("Motion"). By filing dated April 12, 1982, Wisconsin Electric Power Company ("Licensee") submitted its Response to Decade's Motion to Compel Licensee's Answer to First Interrogatories Relative to Full Scale Slewing ("Response"). This filing is to briefly reply to the Licensee's April 12 response.

I

INTERROGATORIES 1 TO 4

It is very important to note that nowhere does the Licensee dispute the substance of the serious safety implications of reactor vessel embrittlement. Instead, it devotes its defense to legal maneuvering intended to show that the issue belongs somewhere else.

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Too often in the past, the utilities have fended off serious

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citizen concerns by contending that the issue should be dealt with by the Nuclear Regulatory Commission("Commission") elsewhere in a different proceeding or under a different code section.

It is our opinion that the Commission has a solemn responsibility to protect the public from the hazards of nuclear power plants, and that, if a citizen concern is asserted to be raised in a wrong forum, it is incumbent on the Commission, not the citizen, to find its proper resting spot. Moreover, that proper forum must be one in which the matter is resolved in a timely manner which has not been the case with the generic format, according to every independent critique of the agency.

Therefore, even if, arguendo, this proceeding in the case at bar excluded consideration of embrittlement, the appropriate response would not be to dismiss the complaint, but rather to have the Commission expand the Licensing Board's jurisdiction.

Although the Licensee may have forgotten, the Licensing Board can never fail to remember that its task is not the exaltation of meaningless legalisms, but rather the protection of the public welfare. To the extent, arguendo, the agency's procedures do not permit it to perform its substantive functions, then its officials are gravely derelict in their responsibilities.

Beyond that, none of the particularized contentions of the Licensee are valid.

First, no matter how many times counsel repeats its claim, Response, at p. 3, it is incorrect to assert that the Licensing Board has already ruled on the relevancy of embrittlement in this phase of the proceeding involving full-scale sleeving. The Board

ruling to which counsel makes reference involved a Decade interrogatory "on the sleeving demonstration program", Decade's First Interrogatories and Request for Production of Documents to Licensee on the Demonstration Sleeving Program, dated October 24, 1981, at p. 1, and the order of the Licensing Board was limited to the phase of the proceeding involving "return to power with up to six degraded tubes sleeved rather than plugged", i.e. the sleeving demonstration program, Memorandum and Order, dated November 5, 1981, at p. 1. Therefore, no prior Board ruling controls this situation.

Second, any intended allusion to claim that the Decade's embrittlement concerns are being addressed elsewhere in some "high level investigation", Response, at p. 3, does not comport with any publicly available facts of which we are aware. The focus of the controverted interrogatories is on core refiguration at Point Beach undertaken to retard embrittlement and the impact of that reracking on the need for increased cooling--at the same time as sleeving failures may reduce cooling capability following a loss-of-coolant-accident("LOCA"). Whatever "high level" effort is going into loosening present safety standards so that brittle reactors can continue operating is irrelevant to the reconfiguration-type aspect of the embrittlement problem.

Third, it is similarly incorrect to assert, Response at p. 5, that the Decade has not provided any link between embrittlement and sleeving. The motion provides extensive elaboration accompanied by citation that shows that measures being taken to ameliorate embrittlement may increase cooling

requirements at the same time that reflood rates during LOCA may be reduced by the Board contention's statement that sleeved tubes may be unsafe and, rupture in an instantaneous pressure reversal.

II

INTERROGATORY 11

Counsel argues that intervenors must prove their case as a precondition to securing access to the very information that would prove their case. Response, at p. 9.

Such a legal precept might make an excellent candidate for a chapter in "Catch-22" or "The Trial", but it certainly would do little to serve the ends of justice.

In individual cases it might be appropriate to request an intervenor to provide some preliminary basis for pursuing a given issue. But it would be an absurdity to insist upon the Catch-22 situation championed by the Licensee.

Here the intervenor has provided a preliminary basis in the form of documented problems with transient jumpers in another plant performing the same repair operation and employing the same contracting firm. That cannot be properly characterized as an "unarticulated" and "generalized" claim: it is more than sufficient justification to pursue this matter in more detail through individual interviews.

Here, too, the critical and tangible importance of insuring the protection of the people of this state from a nuclear catastrophe that could ensue from improperly installed sleeves outweighs the Licensee's contrived and far fetched concern about an "invasion" of privacy.

III

INTERROGATORIES 15 AND 16

All of the general discussion in Part I, supra, applies with equal force to the Licensee's arguments against consideration of leaking plugs.

In addition and specifically with reference to plugging, the Licensee's sleeving proposal contemplates the removal of explosive plugs preparatory to sleeving. Memorandum and Order, dated November 5, 1981, at p. 21.

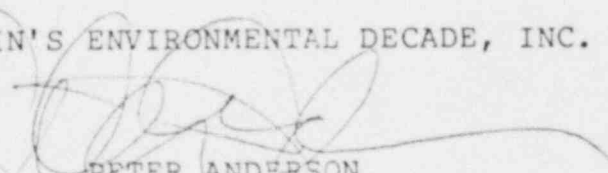
It is quite apparent that drilling out a previously exploded plug inside a narrow 7/8" diameter tube with a wall thickness of only five-hundredths of an inch in the radioactive confines of a steam generator channel head, followed by insertion of a sleeve, is an extraordinarily risky operation.

The fact that the Licensee desires to engage in such a maneuver, even though it has not chosen to present any testimony to show that plug removal is necessary to continue operation, strongly suggests that plant officials may be in possession of confidential information about extensive plug deterioration affecting the safety of the plant after returning to service with sleeves.

DATED at Madison, Wisconsin, this 16th day of April, 1982.

WISCONSIN'S ENVIRONMENTAL DECADE, INC.

by


PETER ANDERSON
Director of Public Affairs

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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

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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:

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Atomic Safety & Licensing Board
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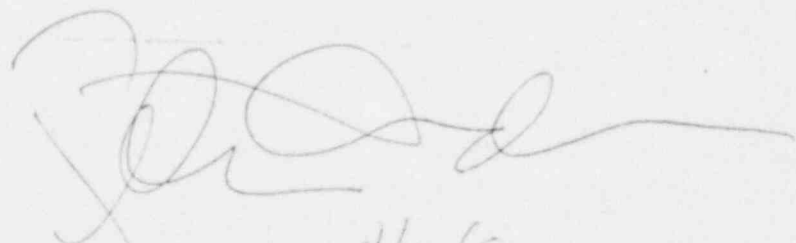
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