

June 6, 1985

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of
ILLINOIS POWER COMPANY, et al.
(Clinton Power Station, Unit 2)

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Docket No. 50-462 OL*85 JUN 10 A11:57

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NRC STAFF'S RESPONSE TO APPLICANT'S
MOTION TO TERMINATE PROCEEDING

On May 17, 1985, Applicant Illinois Power Company filed a "Motion to Terminate Proceeding" ("Motion"), in which it requested that the Licensing Board enter an Order (1) finding that this proceeding is moot, (2) authorizing the Director of the Office of Nuclear Reactor Regulation to rescind Construction Permit No. CPPR-138, and (3) terminating this proceeding without prejudice (Motion, at 2). ^{1/} The NRC Staff ("Staff") herewith submits its response to Applicant's Motion.

DISCUSSION

As noted by the Applicant, Unit 2 of the Clinton Power Station has been cancelled, and the Applicant has requested that its operating license application be withdrawn and that its construction permit be

^{1/} Pursuant to 10 C.F.R. §2.107, "withdrawal of an application after the issuance of a notice of hearing shall be on such terms as the presiding officer may prescribe." See, e.g., Public Service Co. of Oklahoma (Black Fox Station, Units 1 and 2), LBP-83-10, 17 NRC 410 (1983).

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rescinded (see Exhibit 2 to Applicant's Motion). In light of the cancellation of Unit 2, the Staff concurs with the Applicant that this adjudicatory proceeding has been rendered moot, and we agree that the Applicant's Motion should be granted. On this basis, Counsel for the Staff has previously authorized the Applicant to represent that the Staff does not object to the grant of Applicant's Motion. At the same time, the Staff wishes to place on the record of this proceeding our views as to certain conditions for environmental redress of the Unit 2 site, which we believe should be required by the Board as conditions for the dismissal of this proceeding.

As set forth in the Affidavit of Germain LaRoche, attached hereto, following the Staff's receipt in April 1985 of Applicant's request that its application be withdrawn and its construction permit rescinded, the Staff performed a review to determine whether any provisions for the protection of the environment should be required (Affidavit, at 2). The Staff reviewed the present environmental conditions of the site, as well as relevant portions of the Final Safety Analysis Report, the Environmental Report, and the draft Environmental Protection Plan for Unit 1 which was submitted for Staff review on May 14, 1985 (Id.).

The Unit 2 site lies entirely within the Unit 1 exclusion area, on property owned by the Applicants, and is not visible to persons located outside the exclusion area. The site excavation, in overall dimensions, is approximately 40 feet in depth, 350 feet in width, and 1350 feet in length (including the elongated area at the south end of the site in which a gravelled access road, approximately 450 feet long, descends to the bottom of the excavation). The bottom of the excavation is approxi-

mately 900 feet in length and 280 feet in width. One side of the excavation abuts the radwaste, control and diesel buildings for Unit 1. Portions of the north and south sides of the excavation are covered by a revetment composed of a grout intrusion blanket. The remaining portions of the north and south sides and the east side of the excavation are sloped and are stabilized by herbaceous vegetation. A drain at the bottom of the excavation empties into the cooling pond; the elevation of the cooling pond is 690 feet above MSL, while the elevation at the bottom of the drain is 695 feet above MSL. There is a flap gate in the drain to prevent backflow into the excavation from the cooling pond (Id., at 2-3).

The Unit 1 Applicants have committed to construct a three-foot high berm on the three exposed sides of the Unit 2 excavation, in order to prevent any flood waters from entering the excavation (FSAR § 2.5.4.14.4). The Applicants have not yet informed the Staff whether the berm will be constructed of earth or concrete, or both. However, if the berm is to be constructed in whole or in part of earth, the Staff will require the Applicants to stabilize the berm with vegetation in order to prevent soil erosion (Id., at 3).

With the cancellation of Clinton Unit 2, the Unit 2 excavation will be considered as part of the Unit 1 site. As a condition to the licensing of Unit 1, the Applicants are required to submit an Environmental Protection Plan (EPP) for review and approval by the Staff; upon approval, the EPP will be appended as Appendix B to the Unit 1 operating license. The EPP is to include a statement consistent with the following provision contained in the draft EPP which was submitted for Staff review

on May 14, 1985:

If harmful effects or evidence of trends towards irreversible damage to the environment are observed, the licensee shall provide a detailed analysis of the data and a proposed course of action to alleviate the problem.

(Id., at 3-4). In addition, the EPP will provide, as does the draft EPP, that before engaging in additional construction or operational activities which may affect the environment, the licensee must prepare an environmental evaluation of such activity, if the activity has measurable environmental effects which are not confined to on-site areas previously disturbed during site preparation and plant construction. When the evaluation indicates that the activity involves an unreviewed environmental question, prior approval of the activity must be obtained from the Director of NRR. When such an activity involves a change in the EPP, the activity and change to the EPP may be implemented only in accordance with an appropriate license amendment. The Staff considers that these provisions in the EPP provide an acceptable mechanism for addressing any unforeseen detrimental impacts as may occur in the future (Id., at 4).

The Staff is satisfied that the Unit 2 site is presently stabilized and does not present any significant adverse environmental impacts, and that the cancellation of Unit 2 does not pose any immediate detrimental environmental impacts. The Staff has concluded that the Applicants' commitment to construct a berm around the Unit 2 excavation provides a satisfactory means for ensuring the continued environmental acceptability of the site, provided that the berm is stabilized with vegetation, if

necessary, to prevent soil erosion. The Staff does not perceive any immediate need to fill the Unit 2 excavation and is satisfied, at least as of now, that the ultimate disposition of the Unit 2 excavation may be deferred for future consideration. If it should later appear that the excavation requires further redress, such action may be required by the Staff pursuant to the provisions contained in the Environmental Protection Plan for Unit 1 (Id., at 4-5).

In sum, the Staff is satisfied that no significant adverse environmental impacts are likely to result in the foreseeable future from the cancellation of Clinton Unit 2, and no further conditions for site redress are presently required except as described in the attached Affidavit (Id., at 5), which conditions are summarized below. ^{2/}

CONCLUSION

For the reasons set forth above and in the attached Affidavit, the Staff does not oppose the grant of Applicant's Motion, subject to the following site redress conditions:

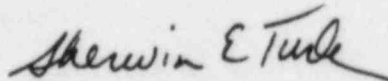
^{2/} The Staff notes that on May 29, 1985, the People of the State of Illinois (represented by the Illinois Attorney General) filed an "Answer to Applicant's Motion to Terminate Proceeding", in which they requested the Board to require that "a detailed environmental, safety and cost assessment be conducted of Applicant's proposed method for remediating the Unit 2 excavation area, before that method is approved" (Answer, at 2). In view of the Staff's conclusions that no significant adverse environmental impacts are likely to result in the foreseeable future from the cancellation of Unit 2, and that the conditions for site redress set forth herein provide a satisfactory means for ensuring the environmental acceptability of the site, the Staff considers that the study requested by the People is not required at this time.

1. The Applicant shall construct a berm around the Unit 2 excavation, in accordance with its FSAR commitments. The Applicant shall stabilize the berm with vegetation if necessary to prevent soil erosion.

2. The Unit 2 excavation will henceforth be considered as part of the Unit 1 site. The Environmental Protection Plan for Unit 1 shall be construed to apply to the Unit 2 excavation.

In accordance with 10 C.F.R. § 2.107, the Staff recommends that the two conditions set forth above be made conditions of the Board's Order dismissing this proceeding.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Sherwin E. Turk". The signature is fluid and cursive, with a long horizontal stroke at the end.

Sherwin E. Turk
Deputy Assistant Chief
Hearing Counsel

Dated at Bethesda, Maryland
this 6th day of June, 1985