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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:  
Hugh K. Clark, Chairman  
Dr. George A. Ferguson  
Dr. Oscar H. Paris

SERVED JUL 12 1985

In the Matter of  
ILLINOIS POWER COMPANY, et al.  
(Clinton Power Station, Unit No. 2)

Docket No. 50-462-0L

DOCKETED  
USNRC

July 11, 1985

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OFFICE OF SECRETARY  
DOCKETING & SERVICE  
BRANCH

MEMORANDUM AND ORDER  
(Terminating Proceeding)

INTRODUCTION

On May 17, 1985 Illinois Power Company (IPC) filed a Motion to Terminate Proceeding (Motion) on the grounds of mootness and requested this Board to authorize the Director, Office of Nuclear Reactor Regulation (NRR), to rescind the construction permit, CPPR-138, issued for Clinton Power Station (CPS) Unit 2. On May 29, 1985 the People of the State of Illinois (State) filed an answer to IPC's Motion (State Response), stating that it did not object to the termination of the proceeding, per se, but requesting the Board to order an environmental, safety, and cost assessment of IPC's proposed method for remediation of the Unit 2 excavation area. On June 6, 1985 the NRC Staff (Staff) responded to IPC's Motion (Staff Response) stating that it had concluded, largely on the basis of photographs, that IPC need not fill the Unit 2 excavation at this time, but Staff set forth certain actions

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for environmental protection that it proposed to require of IPC as a condition to the licensing of CPS Unit 1.

On June 11, 1985 the Board issued a Memorandum and Order (Requesting Additional Information on Unit 2 Excavation) indicating that it wanted additional information about the Unit 2 excavation before rendering a decision on IPC's Motion and that it believed the information needed could be obtained from the photographs discussed in the Staff Response. The Board had concerns about possible safety matters associated with the unfilled excavation and noted that the Staff Response did not address safety matters. Therefore the Board ordered the Staff to provide it with copies of the photographs and indicated that copies should be made available, also, to any party that wished to examine them.

Subsequently Staff advised the Board that the photographs were made with a Polaroid camera, and consequently negatives, from which copies could readily be made, were not available. Therefore the Board decided to examine the original photographs in a round-robin fashion. It issued a Memorandum and Order (Concerning Request for Photographs) on June 13, 1985 stating that it would make the photographs available for inspection by the parties upon request, provided that such request were filed with the Board by July 1, 1985. No request to inspect the photographs having been received, we shall now render our decision on IPC's Motion.

#### BACKGROUND

The U. S. Nuclear Regulatory Commission (NRC) received an application for operating licenses for CPS Units 1 and 2, two boiling

water nuclear reactors located in Harp Township, DeWitt County, approximately six miles east of Clinton, Illinois, on September 8, 1980. The application for Unit 1 was filed by Illinois Power Company on behalf of itself and Soyland Power Cooperative, Inc. and Western Illinois Power Cooperative, Inc. (Applicants), but IPC is the sole owner and applicant of CPS Unit 2. Unit 1 was originally scheduled for completion in 1983, and Unit 2 was scheduled for completion in 1995.

Petitions requesting a hearing and the right to intervene were filed on October 27, 1980 by the Prairie Alliance and by the Illinois Attorney General on behalf of the People of the State of Illinois. This Atomic Safety and Licensing Board was established by order issued November 7, 1980. On May 29, 1981 the Board issued an order admitting PA as an Intervenor and the State as an Interested State pursuant to 10 CFR 2.715(c).

On November 13, 1981 the Board granted an unopposed motion by the Applicants for Severance and Stay of proceeding as to Unit 2 (Docket No. 50-462 OL), and by order dated February 14, 1985 the proceeding for Unit 1 (Docket No. 50-461 OL) was terminated. On October 18, 1983 IPC notified the Board and parties by letter that CPS Unit 2 had been cancelled, and subsequently there was no further activity in that Docket. On April 9, 1985 IPC wrote to the Director, NRR, formally verifying the prior notice of cancellation of Unit 2, withdrawing its application for Unit 2, and requesting that the Director cancel the construction permit for Unit 2.

## DISCUSSION

In the Staff Response to IPC's Motion, Staff indicated that it had conducted a review to determine whether any provisions for the protection of the environment should be required at the Unit 2 site and concluded that certain conditions for environmental redress of the site should be required by this Board as conditions for the dismissal of this proceeding. Staff did not, however, address the question of whether there were any safety concerns associated with the Unit 2 excavation, a matter of concern to the State and to this Board. In the discussion to follow, we deal first with the safety issue, and then return to consider environmental redress.

The Unit 2 site lies entirely within the CPS Unit 1 exclusion area on property owned by the Applicants and is not visible to persons located outside the exclusion area. The excavation is approximately 40 feet deep, 350 feet wide, and 1350 feet long at the top, and approximately 280 feet wide and 900 feet long at the bottom. 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. (See Affidavit of Germain Laroche (Laroche Affidavit) dated June 6, 1985 and attached to the Staff Response, at 2-3).

The Board was concerned that a person might be injured by accidentally falling into the excavation. The photographs sent to us by

the Staff, however, clearly show that the slope of the excavation's sides is everywhere less than  $45^{\circ}$  and hence not steep enough to constitute a significant hazard. There is a road running along the east rim of the excavation, and presumably a vehicle accidentally going over the rim could turn over and perhaps roll on the slope, but Applicants have committed to construct a three-foot high berm on the three exposed sides of the excavation; this structure should prevent such a vehicular accident. On the basis of the foregoing, we conclude that the excavation, if left unfilled, will present no significant hazard to the health and safety of the public or of plant personnel.

We turn now to environmental considerations. The elevation of the bottom of the excavation is 695 feet above MSL. A drain at the bottom empties into the cooling pond, which has an elevation of 690 feet above MSL. A flap gate in the drain prevents backflow into the excavation from the cooling pond. Applicants plan to include provisions relating to effluent discharges from the excavation drain in their NPDES permit renewal before the end of 1985. (Laroche Affidavit, at 3).

As we have mentioned, Applicants have committed to construct a three-foot high berm on the three exposed sides of the excavation to prevent flood waters from entering the excavation. At the time of the filing of the Staff Response, Staff did not yet know whether IPC was going to construct the berm of earth or of concrete. Staff indicated that if the berm is to be constructed in whole or in part of earth, Staff will require Applicants to stabilize the berm with vegetation in order to prevent soil erosion. (Ibid).

Because of the cancellation of Unit 2, the Unit 2 excavation will be considered part of the Unit 1 site. As a licensing condition of Unit 1, the Applicants will be required to submit an Environmental Protection Plan (EPP) which, upon approval, will be appended as Appendix B to the Unit 1 operating license. The EPP will require the licensee to provide the Staff with a detailed analysis of data and proposed course of action to alleviate the problem should harmful effects or evidence of trends towards irreversible damage to the environment be observed. Additionally, the EPP will require the licensee to prepare an environmental evaluation before engaging in any additional construction or operational activities which may have measurable environmental effects that are not confined to on-site areas previously disturbed during site preparation and plant construction. If the evaluation indicates that the activity involves an unreviewed environmental question, prior approval of the activity must be obtained from the Director of NRR. If the activity involves a change in the EPP, the activity and change in the EPP will require an appropriate license amendment. (Id. at 4).

The Unit 2 site is presently stabilized and presents no significant environmental impacts. The construction of the berm around the excavation will provide a satisfactory means of ensuring continued environmental acceptability and also will provide protection against a vehicular accident at the excavation. Staff sees no immediate need to fill the excavation and believes that the ultimate disposition of the excavation can be deferred for future consideration. Should the



excavation later require further redress, such action can be required pursuant to the EPP for Unit 1. (Id. at 4-5).

#### CONCLUSIONS

Considering the Applicants' commitment to construct a berm around the excavation and Staff's requirements with respect to the berm, we conclude that the Unit 2 excavation will present no significant safety risks. Further, we conclude that the measures already taken to stabilize the excavation plus the additional measures committed to by Applicants and those to be required by the Staff are adequate to ensure the continued environmental acceptability of the site.

#### ORDER

Upon consideration of the foregoing and the entire record in this matter, pursuant to 10 CFR 2.107(a) it is this 11th day of July 1985

#### ORDERED

1. That IPC's Motion to Terminate Proceeding for an operating license of Clinton Power Station Unit 2 is granted, subject to the conditions that:

- (a) The Unit 2 excavation shall be considered a part of the Unit 1 site and subject to licensing conditions imposed by the NRC Staff;
- (b) The Staff shall require licensee to conform to the monitoring and reporting procedures described in paragraph 8 of the Affidavit of Germain Laroch dated June 6, 1985.

2. That the Director of Nuclear Reactor Regulation is authorized to rescind Construction Permit CPPR-138 issued for Clinton Power Station Unit 2.

THE ATOMIC SAFETY  
AND LICENSING BOARD

Hugh K. Clark (by OHP)

Hugh K. Clark, Chairman  
ADMINISTRATIVE JUDGE

George A. Ferguson

George A. Ferguson  
ADMINISTRATIVE JUDGE

Oscar H. Paris

Oscar H. Paris  
ADMINISTRATIVE JUDGE

Bethesda, Maryland