

December 13, 1978

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

In the Matter of)	Docket Nos. 50-266
)	50-301
WISCONSIN ELECTRIC POWER)	
COMPANY)	Amendment to License Nos.
)	DPR-24 and DPR-27
(Point Beach Nuclear Plant,)	(Increase Spent Fuel
Units 1 and 2))	Storage Capacity)

JOINT MOTION

Pursuant to published notice by the Commission, Lakeshore Citizens for Safe Energy ("Intervenor") filed a petition for leave to intervene in the above-captioned proceeding on the application of Wisconsin Electric Power Company ("WEPCO") for amendment of License Nos. DPR-24 and DPR-27 to permit expansion of the spent fuel pool capacity at the Point Beach Nuclear Plant. Intervenor was admitted as a party by Order of the Licensing Board dated July 31, 1978. No other petitions for leave to intervene were filed. The sole parties to the proceeding are WEPCO, Intervenor, and the NRC Regulatory Staff. The State of Wisconsin, through the Wisconsin Department of Justice, was granted leave to participate as an interested State pursuant to 10 C.F.R. Section 2.715(c).

WEPCO, Intervenor, and the NRC Regulatory Staff have entered into a settlement Agreement, attached hereto, and Intervenor has agreed to withdraw as a party to this proceeding.

Accordingly, pursuant to said Agreement among the parties, and in accordance with the provisions of Section 2.759 of the Commission's Rules of Practice:

1. Intervenor hereby requests the Licensing Board for leave to withdraw as a party to this proceeding; and

2. Intervenor, WEPCO, the NRC Staff, and the State of Wisconsin hereby move the Licensing Board to enter an order approving the withdrawal of Intervenor as a party to this proceeding; and

3. Intervenor, WEPCO, the NRC Staff, and the State of Wisconsin move the Licensing Board, upon the entry of such an order approving Intervenor's withdrawal from this proceeding, to enter an order dismissing this proceeding.

A Proposed Form of Order is attached hereto.

Respectfully submitted,

Dec 12, 1978

Sandra A. Bast
Sandra A. Bast, President, Lakeshore
Citizens for Safe Energy

Dec. 13, 1978

s/ Charles A. Barth
Charles A. Barth, Attorney for
NRC Regulatory Staff

December 8, 1978

Bruce W. Churchill
Bruce W. Churchill, Attorney for
Wisconsin Electric Power Company

December 11, 1978

Patrick W. Walsh
Patrick W. Walsh,
Assistant Attorney General,
State of Wisconsin

Dated: December 13, 1978

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AGREEMENT

Pursuant to Section 2.759 of the Commission's Rules of Practice, for the purpose of resolving concerns of Lakeshore Citizens for Safe Energy ("Intervenor") relating to the above-captioned proceeding before the U.S. Nuclear Regulatory Commission ("NRC") for the expansion of the spent fuel pool storage capacity at the Point Beach Nuclear Plant, for and in consideration of the mutual agreements contained herein, Wisconsin Electric Power Company ("WEPCO"), the NRC Regulatory Staff, and Intervenor stipulate and agree as follows:

1. Intervenor agrees to withdraw as a party to the above-described proceeding, and shall take all reasonable steps to secure the termination of said proceeding, including the filing of, or joinder in, appropriate motions before the Atomic Safety and Licensing Board to secure said withdrawal and termination.

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2. In the event that there should arise any contested issues between WEPCO and the NRC Regulatory Staff which are germane to Intervenor's contentions which have been admitted for consideration in this proceeding, and WEPCO requests a hearing on said contested issues, WEPCO will not oppose participation by Intervenor as a party to such a hearing with respect to said contested issues.

3. During the term of this Agreement, WEPCO will provide the following to Lakeshore Citizens for Safe Energy on a semiannual basis:

- a. A listing by nuclide of radioactive airborne effluents released from Point Beach Nuclear Plant during the semi-annual period;
- b. A comparison of the airborne effluent releases with quantities equivalent to the design objective doses set forth in Appendix I to 10 CFR Part 50;
- c. Occupational exposures at Point Beach Nuclear Plant presented in a format similar to that currently submitted to the NRC;
- d. The results of radioactivity analyses of spent fuel pool water presented in a format similar to that used for reporting radiological monitoring data to the NRC;
- e. The monitoring results for spent fuel pool liner leakage;
- f. The results of radioactivity analyses of ground-water samples obtained from the Point Beach

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Nuclear Plant well presented in a format similar to that used for reporting radiological monitoring data to the NRC;

- g. The results of radioactivity analyses of water samples obtained from Lake Michigan presented in a format similar to that used for reporting radiological monitoring data to the NRC; and
- h. The results of radioactivity analyses of water samples obtained from the Point Beach Nuclear Plant subsoil drainage system presented in a format similar to that used for reporting radiological monitoring data to the NRC.

4. WEPCO will provide Intervenor with each "Semiannual Monitoring Report" and "Annual Operating Report" which is submitted to the NRC during the term of this Agreement.

5. During the term of this Agreement, WEPCO will provide Intervenor with all "Licensee Event Reports" submitted to the NRC with respect to operation of the Point Beach Nuclear Plant, except for those reports containing information which the NRC determines should be withheld from public disclosure.

6. WEPCO will provide Intervenor, on an annual basis, a report of the number of fuel assemblies with broken rods detected when the assemblies are placed in the pool.

7. WEPCO currently contracts for, and intends to continue contracting for, the removal and disposal of low-level

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radioactive wastes at authorized low-level waste disposal facilities located off-site. WEPCO has never intended and does not intend to seek approval from the NRC to permanently dispose of such wastes at the Point Beach Nuclear Plant site.

8. WEPCO has never intended and does not intend the Point Beach site to become a permanent repository for spent fuel. WEPCO is actively seeking, and intends to continue to actively seek, arrangements for ultimate off-site disposition of spent fuel assemblies.

9. The above-required information will be provided to each of the following member-representatives of Intervenor. Intervenor will notify WEPCO of substitutions or address changes.

Sandra A. Bast, Lakeshore
Citizens for Safe Energy
1112 N. 11th Street
Manitowoc, Wisconsin 54220

William Cordaro
1412 New York Avenue
Manitowoc, Wisconsin 54220

10. During the term of this agreement, the NRC will inspect the spent fuel pool at least once every twelve calendar months, and at refueling. The NRC will send a copy of each inspection report of the Point Beach facility to Lakeshore Citizens, c/o Sandra A. Bast, 1112 N. 11th Street, Manitowoc, Wisconsin 54220, except for information which the NRC determines should be withheld from public disclosure.

Handwritten initials:
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11. This Agreement shall be filed with the Licensing Board and shall become effective upon the entry of the order or orders sought by the motions referred to in Paragraph 1. This Agreement shall remain in effect for so long as the Point Beach Nuclear Plant shall be licensed by the NRC for operation, storage of spent fuel, and/or storage of low level wastes, or until such earlier date when Intervenor may have disbanded or otherwise ceased to exist. Intervenor shall notify WEPCO prior to the time it disbands or otherwise ceases to exist.

Dec 12, 1978

Sandra A. Bast
Sandra A. Bast, President, Lakeshore
Citizens for Safe Energy

Dec 8, 1978

Barth W. Churchill
Barth W. Churchill, Attorney for
Wisconsin Electric Power Company

Dec 9, 1978

Charles A. Barth
Charles A. Barth, Attorney for
NRC Regulatory Staff

Dated: December 13, 1978

December 13, 1978

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PROPOSED FORM OF ORDER

In a joint motion dated December 13, 1978, Wisconsin Electric Power Company ("WEPCO"), Lakeshore Citizens for Safe Energy ("Intervenor"), the NRC Staff, and the State of Wisconsin moved this Board for an order approving the withdrawal of Intervenor from this proceeding in accordance with a settlement agreement entered into among Intervenor, WEPCO, and the NRC Regulatory Staff dated December 13, 1978. All parties and participants, including Intervenor, having moved for the Board's acceptance of Intervenor's withdrawal, the Board accordingly accepts the withdrawal of Intervenor as a party to this proceeding.

In the same motion, all three parties and the State of Wisconsin moved the Board for an order dismissing this proceeding. The withdrawal of the sole intervenor removes both the need and the occasion for further evidentiary hearings in this proceeding. There are no longer any matters in controversy

between the parties in this proceeding and, consequently, there is no issue to be heard by the Board.

Dismissal of this proceeding is consistent with the Commission's regulations which do not contemplate a hearing on an application for an operating license, or an amendment thereto, in the absence of any matters in controversy, 10 C.F.R. Sections 2.104, 2.105, 50.58(b), and 50.91, and is consistent with the general powers of the presiding officer in 10 C.F.R. Section 2.718. Moreover, dismissal of a proceeding pursuant to agreement of the parties is consistent with the general policy of administrative law favoring harmonious settlement of contested issues, and with the provisions of 10 C.F.R. Section 2.759 which specifically encourages the fair and reasonable settlement of outstanding issues in NRC licensing proceedings. The joint motion to dismiss the proceeding will, therefore, be granted, and the proceeding before this Board will be terminated.

Accordingly, IT IS ORDERED, that the proceeding before this Board, noticed in the Board's "Notice of Hearing on Amendments to Facility Operating Licenses, and of Special Pre-Hearing Conference," dated July 31, 1978, 43 Fed. Reg. 34849 (August 7, 1978), be, and it hereby is, dismissed.

ATOMIC SAFETY AND LICENSING BOARD


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CERTIFICATE OF SERVICE

I hereby certify that copies of "Joint Motion," dated December 13, 1978, with attached "Agreement," dated December 13, 1978, and "Proposed Form of Order," were served upon those persons on the attached Service List by deposit in the United States mail, postage prepaid, this 13th day of December, 1978.



Bruce W. Churchill

Dated: December 13, 1978

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SERVICE LIST

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