

January 31, 1991

Docket No. 50-305

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Mr. Ken H. Evers
Manager - Nuclear Power
Wisconsin Public Service
Corporation
P. O. Box 19002
Green Bay, Wisconsin 54037-9002

Dear Mr. Evers:

SUBJECT: KEWAUNEE NUCLEAR POWER PLANT (TAC NO. 79510)

Enclosed is a "Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing" concerning your application for amendment dated January 28, 1991, to allow for the receipt of new neutron flux detectors at the Kewaunee Plant.

Sincerely,

original signed by

Michael J. Davis, Project Manager
Project Directorate III-3
Division of Reactor Projects III/IV/V
Office of Nuclear Reactor Regulation

Enclosure:
As stated

cc: See next page

DOCUMENT NAME: 79510 FRN

LA:PD33:DRP345

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PM:PD33:DRP345

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JHannon

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Mr. Ken H. Evers
Wisconsin Public Service Corporation

Kewaunee Nuclear Power Plant

cc:

David Baker, Esquire
Foley and Lardner
P. O. Box 2193
Orlando, Florida 32082

Glen Kunesh, Chairman
Town of Carlton
Route 1
Kewaunee, Wisconsin 54216

Mr. Harold Reckelberg, Chairman
Kewaunee County Board
Kewaunee County Courthouse
Kewaunee, Wisconsin 54216

Chairman
Public Service Commission of Wisconsin
Hill Farms State Office Building
Madison, Wisconsin 53702

Attorney General
114 East, State Capitol
Madison, Wisconsin 53702

U.S. Nuclear Regulatory Commission
Resident Inspectors Office
Route #1, Box 999
Kewaunee, Wisconsin 54216

Regional Administrator - Region III
U.S. Nuclear Regulatory Commission
799 Roosevelt Road
Glen Ellyn, Illinois 60137

Mr. Robert S. Cullen
Chief Engineer
Wisconsin Public Service Commission
P.O. Box 7854
Madison, Wisconsin 53707

UNITED STATES NUCLEAR REGULATORY COMMISSIONWISCONSIN PUBLIC SERVICE CORPORATIONDOCKET NO. 50-305NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO
FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS
CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-43, issued to Wisconsin Public Service Corporation (WPSC) (the licensee), for operation of the Kewaunee Nuclear Power Plant located in Kewaunee, Wisconsin.

The amendment would delete Technical Specification (TS) 5.3.a.6 to allow for the receipt of new neutron flux detectors at the Kewaunee Nuclear Power Plant. In WPSC's response to NRC Regulatory Guide 1.97, a commitment was made to install new flux detectors during the 1991 refueling outage.

The need for this exigent change could not be avoided because the conflict with Technical Specification 5.3.a.6 was not discovered until the second level review of the design change to install the flux detectors was performed. That review was completed January 24, 1991. The NRR Project Manager for KNPP was promptly notified of this conflict and preparation of this exigent TS amendment request began immediately thereafter.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has provided the following no significant hazards consideration determinations as required by 10 CFR 50.91(a):

- 1) The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The amount of fissionable material in the detectors is insignificant when compared to the entire core, and therefore will not introduce additional criticality concerns. Also, the fissionable material used in a neutron flux detector is inside the sealed detector chamber and therefore inaccessible. An increase in the amount of fissionable material inside sealed flux detectors will not change the purpose or function of the detector as it is used for monitoring plant operations and therefore would not affect any accident analysis performed.
- 2) The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The amount of fissionable material in a detector is negligible when compared to the amounts considered in design basis accidents. Also, fissionable material in a detector is stored within a sealed chamber. Changing the amount of fissionable material in sealed flux detectors would not physically alter any plant configurations, setpoints, operating parameters, or plant performance.
- 3) The proposed change does not involve a significant reduction in a margin of safety. Fissionable material sealed inside a flux detector is considered a sealed source as defined by 10 CFR 70.4. This material is therefore inaccessible. It does not affect any plant systems since it is internal to the detectors. The limits and controls for special nuclear material of moderate strategic significance will subsequently

be limited by, and controlled in accordance with 10 CFR Parts 30, 40 and 70. This will ensure that adequate control and accounting procedures will be implemented when required. Increasing the amount of fissionable material inside a flux detector and on site, within the limits of the operating license, will not reduce the margin of safety at KNPP.

Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within fifteen (15) days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U. S. Nuclear Regulatory Commission, Washington, D.C. 20555, and should cite the publication date and page number of this FEDERAL REGISTER notice.

Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By March 7, 1991, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for

leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C. 20555 and at the Local Public Document Room located at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding

as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first pre-hearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene, which must include a list of the contentions that are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of 30-days, the Commission will make a final determination on the issue of no significant hazards considerations. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves a no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards considerations. The final determination will consider all public and State comments received.

Should the Commission take this action, it will publish in the FEDERAL REGISTER a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1 (800) 325-6000 (in Missouri 1 (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to John N. Hannon: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this FEDERAL REGISTER notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to David Baker, Esq., Foley and Lardner, Post Office Box 2193, Orlando, Florida 31082, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 28, 1991, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, N.W., Washington, D. C. 20555, and at the local public document room located at the University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Dated at Rockville, Maryland, this 31st day of January 1991.

FOR THE NUCLEAR REGULATORY COMMISSION

A handwritten signature in cursive script, reading "Michael J. Davis".

Michael J. Davis, Project Manager
Project Directorate III-3
Division of Reactor Projects III/IV/V
Office of Nuclear Reactor Regulation