

November 14, 2002 (2:14PM)

UNITED STATES
NUCLEAR REGULATORY COMMISSION

OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

)	
In the Matter of:)	DOCKET NO. 030-03754-MLA
)	
ABB PROSPECTS, INC.)	ASLBP NO. 02-799-01-MLA
(COMBUSTION ENGINEERING)	LICENSE NO. 06-00217-06
WINDSOR, CONNECTICUT SITE))	
)	
)	

MOTION TO APPROVE

The parties to the above captioned proceeding request the approval by Administrative Judge Young of a resolution to this matter. The agreement of the parties in memorialized in the attached proposed Order.

RESPECTFULLY SUBMITTED

ARTHUR J. ROCQUE, JR.
COMMISSIONER OF
DEPARTMENT OF
ENVIRONMENTAL
PROTECTION

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing "MOTION TO APPROVE" have been served upon the following persons by E-mail and U.S. Mail, first class, and/or via facsimile this 7th day of NOVEMBER, 2002.

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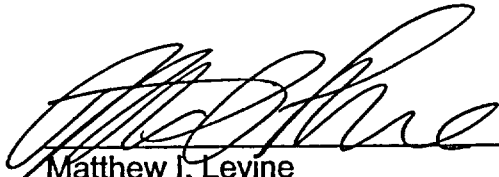
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**UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
ATOMIC SAFETY AND LICENSING BOARD PANEL**

BEFORE ADMINISTRATIVE JUDGES:
ANN MARSHALL YOUNG, PRESIDING OFFICER
LESTER S. RUBENSTEIN, SPECIAL ASSISTANT

In the Matter of:)	DOCKET NO. 030-03754-MLA
)	
ABB PROSPECTS, INC.)	ASLBP NO. 02-799-01-MLA
(Combustion Engineering,)	
Windsor, Connecticut, Site))	LICENSE NO. 06-00217-06
)	

ORDER

(Addressing Final Disposition Of Proceeding By Agreement)

1. The above-referenced matter commenced with a hearing request and petition to intervene filed on May 8, 2002 by the State of Connecticut Department of Environmental Protection (CDEP) in response to Nuclear Regulatory Commission (NRC) notice, published in the Federal Register (67 Fed. Reg. 17472, April 10, 2002), of receipt of and offer a hearing on an application for license amendment and decommissioning plan approval filed by ABB Prospects, Inc. (ABB) for certain facilities at the Combustion Engineering site located in Windsor, Connecticut.

2. On October 17, 2002, the NRC acted on ABB's license amendment application by approving it as amended by an August 9, 2002 request of ABB. Specifically, by amendment No. 53 NRC "approved [the ABB] license amendment request to deconstruct the buildings of Building Complexes 2, 5 and 17 down to the building slabs/foundation at grade level only. No work may be performed on the slabs/foundation or soil without prior approval by the U.S. Nuclear Regulatory Commission."

3. On October 25, 2002, the CDEP filed a withdrawal of its hearing request and petition for hearing without prejudice. Owing to the lack of pertinent agency rules or precedent available regarding a conditional withdrawal, and having due regard for the mutual interest expressed by the parties to this proceeding in achieving an outcome that will obviate the need for further proceedings on the issues raised by CDEP's pending Hearing Request and Petition, it is,

therefore, appropriate to enter an order memorializing and approving the agreement of the parties.

4. Accordingly, I find as follows: License amendment No. 53, the action taken by the NRC on October 17, 2002 on ABB's license amendment request originally noticed in the Federal Register (67 Fed. Reg. 17472, April 10, 2002), moots the issues of the CDEP's request for hearing and petition to intervene and concludes action on the ABB amendment request noticed in the Federal Register on April 10, 2002. The parties agree that any further work performed on the slabs or foundations or soil associated with Building Complexes 2, 5 and 17, which are addressed in license amendment No. 53, will be the subject of a license amendment request on the part of ABB, notice of which will be published in the Federal Register along with notice of an opportunity for a hearing with regard to it, consistent with the provisions of 10 C.F.R. Part 2, and that if any such work is performed without a license amendment request, a request for action pursuant to 10 CFR §2.206 may be filed requesting the NRC Staff to issue an enforcement letter for violation of the restrictions of the limitations of the license amendment No. 53.

5. In accordance with the provisions of 10 C.F.R. § 2.1241 and Paragraph 4 hereof, the proposed agreement of the parties is hereby approved, and this proceeding is concluded.

It is so ORDERED,

BY THE PRESIDING OFFICER

Ann Marshall Young
ADMINISTRATIVE JUDGE

Rockville, Maryland
November 13, 2002