

May 8, 2008

Mr. William L. Berg  
President and Chief Executive Officer  
Dairyland Power Cooperative  
3200 East Avenue South  
P.O. Box 817  
La Crosse, WI 54602-0817

SUBJECT: PLANNING FOR AN INDEPENDENT SPENT FUEL STORAGE INSTALLATION  
AT THE LA CROSSE BOILING WATER REACTOR SITE

Dear Mr. Berg:

We have reviewed your letter, dated March 10, 2008, and its Exhibits A-G, regarding the geographical area included within the U.S. Nuclear Regulatory Commission (NRC) 10 CFR Part 50 license (Possession Only License DPR-45) for the La Crosse Boiling Water Reactor (LACBWR). For the reasons discussed below, the NRC staff agrees that the LACBWR site is the entire 163.5 acres owned or otherwise controlled by Dairyland Power Cooperative (DPC). Accordingly, the NRC staff finds that DPC's preferred site (Alternative site #3) for its proposed independent spent fuel storage installation (ISFSI), located in the area of Lots 6 and 7, is part of the NRC-licensed site under License DPR-45.

Exhibit B, labeled as a DPC "Property Map" for LACBWR, shows Lots 6 and 7 as part of an 80.8-acre parcel purchased in 1962. The Atomic Energy Commission (AEC) subsequently issued a construction authorization for the LACBWR in 1963. Early licensing documents, such as DPC's Environmental Report (ER) dated September 30, 1972 (Section 2.1 of which you submitted as Exhibit E), use the terms "plant site," the "LACBWR site" and the "DPC property" in describing the 163.5-acre site. Figure 2.1-2 (page 2-7 of Exhibit E), labeled as the "LACBWR Property Map," again shows Lots 6 and 7 as being part of the licensed site. Additionally, the ER's description of the property (page 2-1 of Exhibit E) states that the 163.5-acre site includes the existing coal-fired plant and all of Lots 6 and 7.

The 1980 NRC staff final environmental impact statement (Final Environmental Statement Related to Operation of La Crosse Boiling Water Reactor, Dairyland Power Cooperative, Docket No. 50-409, NUREG-0191, NRC, April 1980 (FES)) does not specifically discuss the issue. However, the FES depicts Lots 6 and 7 as part of the licensed site in its Figure 2.1-1 (Exhibit F), labeled by the staff as the "LACBWR Site Map." This indicates agreement between DPC and the NRC staff regarding the extent of the LACBWR site.

Note that your reliance on the 10 CFR 20.1003 definition of "site boundary" (March 10, 2008 letter, at 1) is misplaced. The definition of "site boundary" ("that line beyond which the land or property is not owned, leased, or otherwise controlled by the licensee") was incorporated into 10 CFR Part 20 to support the concept of a controlled area. The terms "site" and "site boundary" are used in a number of contexts by licensees and in the NRC regulations. The partial site release rule in 10 CFR 50.83 discussed "the site" in terms of what the NRC's license termination criteria should apply to. The Statement of Considerations for this rule states that the "site

boundary” definition in 10 CFR 20.1003 is not used for determining what area the license termination criteria apply to. Rather, the emphasis is placed on what constitutes the NRC licensed site:

“‘Site boundary,’ as defined in 10 CFR 20.1003 is not the area to be considered in demonstrating compliance with the radiological release criteria for all licensees.”

“... [for the purpose of describing the site area which must be considered in demonstrating compliance with the release criteria], the focus is on the current and historic licensed site, meaning the site area as described in the original NRC license application, plus any acquisition of property outside the originally licensed site boundary added for the purpose of receiving, possessing, or using licensed material at any time during the term of the license.” (68 FR 19714, April 22, 2003).

Bear in mind that DPC, when it later comes time to terminate License DPR-45, will need to apply the NRC’s license termination criteria to the entire licensed site. As reflected above, this will include the land where the existing coal-fired plant is located and the proposed ISFSI site in the area of Lots 6 and 7.

Sincerely,

**/RA/**

Kristina L. Banovac, Project Manager  
Reactor Decommissioning Branch  
Decommissioning and Uranium Recovery  
Licensing Directorate  
Division of Waste Management  
and Environmental Protection  
Office of Federal and State Materials  
and Environmental Management Programs

Docket Nos.: 50-409, 72-46

License No.: DPR-45

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**/RA/**

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Kristina L. Banovac, Project Manager  
Reactor Decommissioning Branch  
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and Environmental Protection  
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W. L. Berg

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