[7590-01-P]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-409; NRC-2012-0151]

Dairyland Power Cooperative; La Crosse Boiling Water Reactor

Exemption From Certain Security Requirements

1.0 BACKGROUND

The La Crosse Boiling Water Reactor (LACBWR) is owned and was operated by the Dairyland Power Cooperative (DPC). The LACBWR was a nuclear power plant of nominal 50 Mw electrical output, which utilized a forced-circulation, direct-cycle boiling water reactor as its heat source. The plant is located on the east bank of the Mississippi River in Vernon County, Wisconsin. The plant was one of a series of demonstration plants funded, in part, by the U.S Atomic Energy Commission (AEC). The nuclear steam supply system and its auxiliaries were funded by the AEC, and the balance of the plant was funded by the DPC. The Allis-Chalmers Company was the original licensee; the AEC later sold the plant to the DPC and provided them with a provisional operating license.

The LACBWR was permanently shut down on April 30, 1987, and reactor defueling was completed on June 11, 1987. Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 50.82, the decommissioning plan was approved August 7, 1991. The decommissioning plan serves as the post-shutdown decommissioning activities report (PSDAR). The DPC has been conducting dismantlement and decommissioning activities. The DPC is developing an onsite independent spent fuel storage installation (ISFSI) and plans to move spent fuel to the ISFSI later in 2012.

2.0 REQUEST/ACTION

Part 73, "Physical Protection of Plant and Materials," provides in part, "This part prescribes requirements for the establishment and maintenance of a physical protection system which will have capabilities for the protection of special nuclear material at fixed sites and in transit and of plants in which special nuclear material is used." In 10 CFR 73.55, entitled "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage," paragraph (b)(1) states, "The licensee shall establish and maintain a physical protection program, to include a security organization, which will have as its objective to provide high assurance that activities involving special nuclear material are not inimical to the common defense and security and do not constitute an unreasonable risk to the public health and safety."

The U.S. Nuclear Regulatory Commission (NRC or the Commission) revised 10 CFR 73.55, in part to include the preceding language, through the issuance of a final rule on March 27, 2009 (74 FR 13926). The revised regulation stated that it was applicable to all Part 50 licensees.

By letter dated February 23, 2011, the DPC submitted a revised LACBWR Physical Security Plan (PSP) that included changes to comply with 10 CFR 73.55 and to implement the ISFSI requirements for the planned transfer of spent fuel to dry cask storage. Additionally, by letter dated February 23, 2011, the DPC submitted a request for exemptions from the requirements in the following sections contained in 10 CFR 73.55: 73.55(b)(6), 73.55(b)(7), 73.55(b)(8), 73.55(b)(9)(ii)(A), 73.55(b)(9)(ii)(B), 73.55(b)(9)(ii)(C), 73.55(c)(c)(1)(i), 73.55(c)(2), 73.55(c)(4), 73.55(c)(6), 73.55(d)(3)(i), 73.55(e)(1)(i), 73.55(e)(10), 73.55(g)(2)(iii), 73.55(g)(7)(ii), 73.55(g)(8)(iii), 73.55(i)(1), 73.55(i)(2), 73.55(i)(4)(i), 73.55(i)(4)(ii)(A), 73.55(k)(5)(i)&(ii), 73.55(k)(5)(iii), and 73.55(k)(6)(i), for the LACBWR ISFSI.

3.0 DISCUSSION

Pursuant to 10 CFR 73.5, “Specific exemptions,” the Commission may grant exemptions from the regulations in this part as it determines are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest.

The NRC evaluated the exemption requests submitted by the DPC and determined that the DPC should be granted exemptions from: 10 CFR 73.55(e)(10) requirement for vehicle control measures to be consistent with the physical protection program design requirements of 10 CFR 73.55(b); 10 CFR 73.55(h)(2)(iii) requirement to have two officers physically present during vehicle searches; 10 CFR 73.55(i)(2) requirement to have intrusion detection equipment that annunciates and video assessment equipment that displays concurrently in at least two continuously staffed onsite alarm stations; 10 CFR 73.55(i)(4)(ii)(A) requirement to maintain and locate the central alarm station inside a protected area; 10 CFR 73.55(k)(5)(i); 10 CFR 73.55(i)(4)(ii); 10 CFR 73.55(k)(5)(ii); 10 CFR 73.55(k)(5)(iii); and 10 CFR 73.55(k)(6)(i). The remaining exemptions requested were determined either to be inapplicable to the facility or are being met by the licensee’s current PSP, therefore, your request for exemptions from 10 CFR 73.55(b)(6), 73.55(b)(7), 73.55(b)(9)(ii)(A), 73.55(c)(2), 73.55(c)(4), 73.55(d)(3)(i), 73.55(e)(1)(i), 73.55(g)(2)(iii), 73.55(g)(7)(ii), 73.55(g)(8)(iii), 73.55(i)(1), 73.55(b)(8), 73.55(b)(9)(ii)(B), 73.55(b)(9)(ii)(C), 73.55(c)(1)(i), and 73.55(c)(6) were denied. Additional information regarding the NRC staff evaluation is documented in a Safety Evaluation Report that contains Safeguards Information and is being withheld from public disclosure in accordance with 10 CFR 2.390.

In considering these exemption requests, the NRC staff reviewed the LACBWR ISFSI PSP for compliance with all applicable regulations and NRC Orders. Based upon its review, the NRC staff determined that current barriers and actions implemented under the LACBWR ISFSI PSP satisfy the requirements of 10 CFR 73.55, and that granting the above exemptions will not

result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemptions are authorized by law.

The purpose of the regulations in 10 CFR 73.55 is to establish and maintain a physical protection system designed to protect against radiological sabotage. The NRC staff determined that the NRC approved measures currently employed by the LACBWR in its ISFSI PSP are appropriate for the reduced radiological risk to the public from the ISFSI and are consistent with the general performance standards in 10 CFR 73.55(b). Therefore, the NRC staff concludes that granting the above exemptions do not pose an increased risk to public health and safety and are not inimical to the common defense and security and will not endanger life or property or the common defense and security.

As discussed above, the purpose of 10 CFR 73.55 is to protect against radiological sabotage. The NRC staff determined granting the DPC an exemption from the specified requirements of 10 CFR 73.55 would not reduce the level of security required at the LACBWR ISFSI to an unacceptable level, and will not result in increased radiological risk to the public from operation of this general licensed, standalone ISFSI. Accordingly, the NRC staff has determined that, pursuant to 10 CFR 73.5, these exemptions are authorized by law and are otherwise in the public interest.

4.0 CONCLUSION

Accordingly, for the exemptions granted, the Commission has determined that, pursuant to 10 CFR 73.5, the exemptions are authorized by law, will not endanger life or property or the common defense and security, and are otherwise in the public interest. Therefore, the Commission hereby grants the DPC exemptions from the requirements in 10 CFR 73.55 specified in sections 73.55(e)(10), 73.55(h)(2)(iii), 73.55(i)(2), 73.55(i)(4)(ii), 73.55(i)(4)(ii)(A), 73.55(k)(5)(i), 73.55(k)(5)(ii), 73.55(k)(5)(iii), and 73.55(k)(6)(i) as detailed in our safety evaluation.

This licensing action meets the categorical exclusion provision in 10 CFR 51.22(c)(25), as part of this action is an exemption from the requirements of the Commission's regulations and (i) there is no significant hazards consideration; (ii) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (iii) there is no significant increase in individual or cumulative public or occupational radiation exposure; (iv) there is no significant construction impact; (v) there is no significant increase in the potential for or consequences from radiological accidents; and (vi) the requirements from which an exemption is sought involve safeguard plans. Therefore, this action does not require either an environmental assessment or an environmental impact statement.

These exemptions are effective immediately.

Dated at Rockville, Maryland, this 18th day of June 2012.

FOR THE U.S. NUCLEAR REGULATORY COMMISSION

/RA/

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