

UNITED STATES NUCLEAR REGULATORY COMMISSIONDOCKET NO. 50-220NIAGARA MOHAWK POWER CORPORATIONNOTICE OF PROPOSED ISSUANCE OF AMENDMENT TOFACILITY OPERATING LICENSE

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-63, issued to Niagara Mohawk Power Corporation (the licensee), for operation of the Nine Mile Point Nuclear Station, Unit No. 1, located in Oswego County, New York.

The amendment would revise the provisions in the Technical Specifications to increase the spent fuel storage capacity from 1984 fuel assemblies to 3009 fuel assemblies in accordance with the licensee's application for amendment dated March 22, 1978.

Prior to 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.

By December 7, 1978, 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 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. 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,

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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 his petition, 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, the petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each

contention set forth with reasonable specificity. 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.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D. C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H 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 or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Thomas A. Ippolito: (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 Executive Legal Director, U. S. Nuclear Regulatory Commission, Washington, D. C. 20555, and to Eugene B. Thomas, Jr., Esquire,

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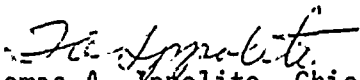
LeBoeuf, Lamb, Leiby and Mac Rae, 1752 N Street, N. W. Washington, D. C. 20036, attorney for the licensee.

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 Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR §2.714(a)(i)-(v) and §2.714(d).

For further details with respect to this action, see the application for amendment dated March 22, 1978, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N. W., Washington, D. C., and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, New York 13126.

Dated at Bethesda, Maryland this 27th day of October 1978.

FOR THE NUCLEAR REGULATORY COMMISSION


Thomas A. Ippolito, Chief
Operating Reactors Branch #3
Division of Operating Reactors

DETERMINATION OF PROPOSED LICENSING AMENDMENT

Licensee: Niagara Mohawk Power Corporation (Nine Mile Point 1)

Request for: An increase in Spent Fuel Storage from 1984 to 3009 fuel assemblies.

Request Date: March 22, 1978

Proposed Noticing Action : (X) Pre-Notice Recommended
() Post-Notice Recommended
() Determination delayed pending completion of Safety Evaluation

Basis for Decision:

1. Niagara Mohawk has requested an increase of spent fuel storage capacity from 1984 fuel assemblies to 3009 assemblies. By prior application Niagara requested, and received approval via Amendment No. 21, an increase of SFP capacity from 1140 to 1984 assemblies. Pre-noticing is recommended for two reasons:
 - A. The proposal involves a substantial increase in spent fuel stored on-site with a commensurate increase in radioactive inventory in the SFP; and
 - B. An increase in stored assemblies increases the heat loading on the SFP cooling system and an inversely proportional decrease in the system margin in being capable of maintaining pool temperature below boiling.
2. *C. Margin to critical decreased (29)*
The aforementioned may reflect a relaxation in limiting conditions without compensatory modifications that maintain the level of safety. In addition, the proposed modification involves an accident which exceeds the envelope of accidents considered in the FSAR or by Amendment No. 21

- Proposed NEPA Action:
- () Environmental Impact Statement (EIS) Required
 - (X) Negative Declaration (ND) and Environmental Impact Appraisal (EIA) Required
 - () No EIS, ND or EIA Required
 - () Determination delayed pending completion of EIA

Basis for Decision:

On September 16, 1975, the Commission announced (40 FR 42801) its intent to prepare a generic environmental impact statement on handling and storage of spent fuel from light water power reactors. In this notice, the Commission also announced its conclusion that it would not be in the public interest to defer licensing actions intended to ameliorate a possible shortage of spent fuel storage capacity pending completion of the generic environmental impact statement. The Commission directed that in the consideration of any such proposed licensing action, five specific factors should be applied, balanced, and weighed in the context of the required environmental statement or appraisal.

Since the proposed action: (1) does not significantly increase the types or amounts of effluents, (2) does not increase the authorized power level, and (3) is not expected to result in any significant increase in environmental impact an environmental impact statement need not be prepared. The five specific factors that the Commission directed to be considered in any proposed plant-specific license amendment will be reviewed in an environmental impact appraisal (EIA). Therefore, the preparation of an EIA and negative declaration (ND) regarding the proposed action is appropriate.

CONCURRENCES:

- 1. Phil Polk 10/5/78
Phil Polk Dated
- 2. T. Ippolito 10/11/78
T. Ippolito Dated

- 3. Born Bordenich 10/20/77
OELD Dated
- 4. B. Grimes 10/27/76
B. Grimes Dated

