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LC-2018-0007

U.S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

La Crosse Boiling Water Reactor
Facility Operating License No. DPR-45
NRC Docket Nos. 50-409 and 72-046

Subject: Request for Exemption from 10 CFR 50.54(w)(1)

Pursuant to 10 CFR 50.12, "Specific exemptions," LaCrosseSolutions, LLC (LS) requests a permanent exemption from 10 CFR 50.54(w)(1) for the La Crosse Boiling Water Reactor (LACBWR) facility. 10 CFR 50.54(w)(1) requires individual power reactor licensees to obtain insurance coverage from private sources to provide protection covering the licensee's obligation, in the unlikely event of an accident, to stabilize and decontaminate the reactor and the reactor site. Specifically, licensees must obtain insurance having a minimum coverage limit for each reactor station site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. This insurance coverage is referred to as "onsite coverage" or "onsite insurance coverage."

LS is requesting an exemption to 10 CFR 50.54(w)(1) to reduce the minimum coverage limit of 10 CFR 50.54(w)(1) to \$50 million for LACBWR.

The underlying purpose of 10 CFR 50.54(w)(1) is to require sufficient property damage insurance to ensure adequate funding of onsite post-accident recovery, stabilization and decontamination costs following an accident at an operating nuclear power plant. However, the regulation does not take into consideration the reduced potential for, and consequences of, such nuclear incidents at permanently shutdown facilities. The LACBWR facility is a single reactor site, the reactor is permanently shutdown and defueled, and all fuel has been placed into dry cask storage. Additionally, it is in the final stages of decommissioning. The proposed exemption would allow a reduction in the level of onsite insurance coverage for LACBWR to a level that is commensurate with the current status of the facility and the underlying purpose of the rule.

This exemption request is not required to address an immediate safety concern. LS requests approval of this proposed exemption request by September 1, 2018. The plant-specific analysis is discussed in the attachment to this letter. There are no regulatory commitments contained in this request. If you have any questions regarding this submittal, please contact at me (860) 462-9707.

Respectfully,

Gerard van Noordennen
Vice President Regulatory Affairs

Attachment: Exemption Request Evaluation

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M001
NM5326
NM55

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Exemption Request Evaluation

1.0 DESCRIPTION

Pursuant to 10 CFR 50.12, "Specific exemptions," LaCrosseSolutions, LLC (LS) requests a permanent exemption from 10 CFR 50.54(w)(1) for the La Crosse Boiling Water Reactor (LACBWR) facility. 10 CFR 50.54(w)(1) requires individual power reactor licensees to obtain insurance coverage from private sources to provide protection covering the licensees obligation, in the unlikely event of an accident, to stabilize and decontaminate the reactor and the reactor site. Specifically, licensees must obtain insurance having a minimum coverage limit for each reactor station site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. This insurance coverage is referred to as "onsite coverage" or "onsite insurance coverage."

LS is requesting an exemption to 10 CFR 50.54(w)(1) to reduce the minimum coverage limit of 10 CFR 50.54(w)(1) to \$50 million for the LACBWR facility. LACBWR currently maintains \$180 million of onsite insurance coverage in accordance with a previous exemption approved by the NRC as documented in Reference 1.

10 CFR 50.54(w)(1) reads as follows:

"(w) Each power reactor licensee under this part for a production or utilization facility of the type described in §§ 50.21(b) or 50.22 shall take reasonable steps to obtain insurance available at reasonable costs and on reasonable terms from private sources or to demonstrate to the satisfaction of the NRC that it possesses an equivalent amount of protection covering the licensee's obligation, in the event of an accident at the licensee's reactor, to stabilize and decontaminate the reactor and the reactor station site at which the reactor experiencing the accident is located, provided that:

- (1) The insurance required by paragraph (w) of this section must have a minimum coverage limit for each reactor station site of either \$1.06 billion or whatever amount of insurance is generally available from private sources, whichever is less. The required insurance must clearly state that, as and to the extent provided in paragraph (w)(4) of this section, any proceeds must be payable first for stabilization of the reactor and next for decontamination of the reactor and the reactor station site. If a licensee's coverage falls below the required minimum, the licensee shall within 60 days take all reasonable steps to restore its coverage to the required minimum. The required insurance may, at the option of the licensee, be included within policies that also provide coverage for other risks, including, but not limited to, the risk of direct physical damage."

2.0 PURPOSE

The underlying purpose of 10 CFR 50.54(w)(1) is to require sufficient property damage insurance to ensure adequate funding of onsite post-accident recovery, stabilization and decontamination costs following an accident at an operating nuclear power plant. However, the regulation does not take into consideration the reduced potential for, and consequences of, such nuclear incidents at permanently shutdown facilities. The LACBWR facility is a single reactor site, the reactor is permanently shutdown and defueled, and all fuel has been placed into dry cask storage. Additionally, it is in the final stages of decommissioning. The proposed exemption would allow a reduction in the level of onsite insurance coverage for LACBWR to a level that is commensurate with the current status of the facility and the underlying purpose of the rule.

3.0 BACKGROUND

The La Crosse Boiling Water Reactor (LACBWR) was a 50 Megawatt Electric (MWe) BWR that is owned by Dairyland Power Cooperative (DPC). This unit, also known as Genoa 2, is located on the DPC Genoa site on the east shore of the Mississippi River south of the Village of Genoa, Vernon County, Wisconsin.

The site is licensed under Possession Only License No. DPR-45 with Docket Numbers of 50-409 for LACBWR and 72-046 for the Independent Spent Fuel Storage Installation (ISFSI).

The LACBWR facility is owned by DPC. DPC purchased LACBWR in July 1973. LACBWR was shutdown on April 30, 1987. All spent nuclear fuel elements from LACBWR have been transferred from the Fuel Element Storage Well to dry cask storage at the on-site ISFSI as of September 19, 2012.

As documented in Reference 2, DPC and LS submitted an application requesting that the U.S. Nuclear Regulatory Commission (NRC) consent to the transfer of DPC's Possession Only License No. DPR-45 for the LACBWR to LS. The Applicants requested that the NRC consent to the transfer of DPC's licensed possession, maintenance, and decommissioning authorities to LS so as to implement expedited decommissioning at the LACBWR Site. The License transfer was approved on May 20, 2016 as documented in Reference 3. SAFSTOR was utilized prior to license transfer as the decommissioning approach since the permanent shutdown and defueling of LACBWR, with limited decontamination and dismantlement for the LACBWR facility. The site is currently in the later stages of active decommissioning which is scheduled to be completed by the end of 2018 excluding the ISFSI facility. Current onsite insurance is provided through an insurance policy purchased through DPC.

With the approval of the license transfer, LS assumed responsibility for all licensed activities at the LACBWR Site, including responsibility under the license to complete decommissioning. As such, post license transfer regulatory correspondence will be with LS.

4.0 DISCUSSION

The underlying purpose of 10 CFR 50.54(w)(1) is to require sufficient property damage insurance to ensure adequate funding of onsite post-accident recovery, stabilization and decontamination costs following an accident at an operating nuclear power plant. The requirements of 10 CFR 50.54(w)(1) were developed taking into consideration the risks associated with an operating nuclear power reactor, including the potential consequences of a release of radioactive material from the reactor. However, the regulation does not take into consideration the reduced potential for, and consequences of, such nuclear incidents at permanently shutdown facilities. The LACBWR facility is a single reactor site and the reactor is permanently shutdown and defueled. Additionally, it is in the final stages of decommissioning. The proposed exemption would allow a reduction in the level of onsite insurance coverage for LACBWR to a level that is commensurate with the current status of the facility and the underlying purpose of the rule.

Although the potential for, and consequences of, nuclear accidents decline substantially after a plant permanently defuels its reactor, they are not completely eliminated. A site with a permanently shutdown and defueled reactor may contain an inventory of radioactive liquids, activated reactor components, and contaminated materials. For purposes of modifying the amount of onsite insurance coverage maintained by a permanently shutdown and defueled reactor licensee, the potential radiological consequences of these non-operating reactor nuclear incidents are appropriate to consider, despite their very low probability of occurrence.

Reduced Scope and Severity of Radiological Events at LACBWR

All LACBWR spent fuel is stainless steel clad and has been in dry cask storage since September 2012. As a result, a fuel handling accident and a fuel zirconium fire are no longer considered credible events. The site is in the final stages of decommissioning. The reactor building is the only contaminated structure remaining and the removal of most components within the reactor building, including the reactor vessel, is complete.

In the current state of active decommissioning, only minor liquid and airborne effluent releases resulting from decommissioning activities are considered credible events. Following is an overview of credible remaining radiological release events analyzed in the LACBWR Decommissioning Plan and Post Shutdown Decommissioning Activities report (D-Plan/PSDAR) which is the LACBWR SAR equivalent document:

D-Plan/PSDAR Chapter 4 presents the results of an analysis of postulated accidents that reflect the significantly reduced non-ISFSI radiological source term as compared to the LACBWR source term during plant operations. With consideration for the current stage of LACBWR decommissioning and with spent nuclear fuel now stored in the ISFSI, the analysis confirms that the minimal radioactive material resulting from LACBWR operation and remaining on the LACBWR site is insufficient for any potential event to result in exceeding dose limits or otherwise involving a significant adverse effect on public health and safety.

The analysis considers the spontaneous release of the (non-ISFSI-related) radioactive source term that was remaining at the LACBWR site in 2012. Decommissioning activities and the associated decontamination subsequent to 2012 have significantly reduced that source term such that the analysis remains bounding for future activities. The 2012 source term is in a form and quantity immediately releasable through the:

- Airborne pathway; and
- Liquid discharge pathway.

The airborne release and one of the liquid release events considered in the analysis are non-mechanistic in that there are no credible phenomena that could reasonably be postulated to cause such releases. However, these events are analyzed and conservative assumptions for other credible liquid release events are selected to bound any remaining decommissioning events postulated considering the current stage of LACBWR decommissioning.

NRC Proposed Rulemaking

Proposed changes to regulations governing onsite insurance coverage were previously included in a risk-informed, integrated rulemaking initiative for decommissioning nuclear power plants, which is now being acted upon with a proposed draft rule expected in 2018. This rulemaking initiative, documented in SECY-00-145 (Reference 4), included onsite insurance coverage requirements. The rulemaking, as incorporated into SECY-00-145, would have allowed the minimum onsite insurance coverage to be reduced to \$50 million once the spent fuel in the spent fuel pool is no longer thermal-hydraulically capable of sustaining a zirconium fire, based on a plant-specific analysis.

On November 20, 2017, the NRC issued Regulatory Basis Document, "Regulatory Improvements for Power Reactors Transitioning to Decommissioning," (Reference 5). Appendix G, "Offsite and Onsite Financial Protection Requirements and Indemnity Agreements," discusses rulemaking changes for existing financial protection regulations including onsite insurance coverage as defined in 10 CFR 50.54(w)(1). Currently, licensees of a decommissioning reactor typically prepare and submit regulatory exemption requests that would allow them to be excluded from these requirements. To address this inefficiency, the NRC is recommending in this rulemaking an expansion of its financial protection regulations to cover the situation presented by a decommissioning reactor. These changes would provide regulatory certainty by minimizing the need for the licensees of decommissioning reactors to request regulatory exemptions for relief from requirements that should apply only to operating reactor licensees.

Several onsite and offsite insurance coverage options are discussed for decommissioning facilities. Option 2, which is the recommended option as discussed in Appendix G, Section 10, proposes reducing the onsite insurance coverage requirement to \$50 million for decommissioning facilities where a fuel zirconium fire is no longer possible. This exemption request is consistent with the proposed rulemaking guidance.

Previous Exemptions

Other decommissioning plants have been granted exemptions allowing reductions to onsite insurance coverage. Specific examples include Zion Station (Reference 6) and Kewaunee Power Station (Reference 7).

Summary

Based on the LACBWR site remaining radiological hazards discussed above, LS concludes that the criteria for reducing the minimum onsite insurance coverage limit required by 50.54(w)(1) from \$180 million (Previous Exemption-Reference 1) to \$50 million, as established in SECY-00-145 and the Regulatory Basis Document for decommissioning rulemaking, is satisfied at LACBWR. Therefore, LS believes that the proposed exemption is justified.

The proposed reduction in the minimum level of onsite insurance coverage from \$180 million to \$50 million would continue to serve the underlying purpose of the rule and provide a conservative level of financial protection considered commensurate with the significant reduction in the probability and consequences of potential nuclear incidents at LACBWR. The exemption would not present an undue risk to the health and safety of the public because analyses demonstrate that dose to the public for events that can occur during decommissioning are below acceptable limits. Consistent with the NRC's conclusions documented in SECY-00-145 and in the November 2017 Regulatory Basis Document for decommissioning rulemaking, the proposed reduction in the level of onsite insurance coverage would continue to provide sufficient property damage insurance to ensure funding for onsite post-accident recovery, stabilization, and decontamination costs in the unlikely event of a nuclear incident at LACBWR.

5.0 JUSTIFICATION FOR EXEMPTION

10 CFR 50.12 states that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of Part 50 which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the defense and security. 10 CFR 50.12 also states that the Commission will not consider granting an exemption unless special circumstances are present. As discussed below, this exemption request satisfies the provisions of Section 50.12.

(1) The Requested Exemption is Authorized by Law

The requested exemption is authorized by law and similar exemptions have been granted by the Commission. Other permanently shutdown plants that have been granted similar exemptions are discussed above. In addition, the requested exemption is consistent with the guidelines presented by the NRC staff in SECY- 00-145 and the November 2017 Regulatory Basis Document for decommissioning rulemaking. The proposed exemption is not contrary to the Atomic Energy Act of 1954, as amended, or the Commission's regulations. Therefore, the exemption is authorized by law.

(2) The Requested Exemption Will Not Present an Undue Risk to Public Health and Safety

The requirements of 10 CFR 50.54(w)(1) and the existing level of onsite insurance coverage for LACBWR are predicated on the assumption that the reactor is operating. However, LACBWR is a permanently shutdown and defueled facility. The permanently defueled status of the facility has resulted in a significant reduction in the number and severity of potential accidents, and correspondingly, a significant reduction in the potential for and severity of onsite property damage. The proposed reduction in the amount of onsite insurance coverage does not impact the probability or consequences of potential accidents. The proposed level of insurance coverage is commensurate with the reduced risk and reduced cost consequences of potential nuclear accidents at LACBWR. Therefore, granting the requested exemption will not present an undue risk to the health and safety of the public.

(3) The Exemptions are Consistent with the Common Defense and Security

The proposed exemption would not eliminate any requirements associated with physical protection of the site and would not adversely affect LACBWR's ability to physically secure the site or protect special nuclear material. Physical security measures at LACBWR are not affected by the requested exemption. Therefore, the proposed exemption is consistent with the common defense and security.

(4) Special Circumstances

Pursuant to 10 CFR 50.12(a)(2), the NRC will not consider granting an exemption to its regulations unless special circumstances are present. LACBWR believes that special circumstances are present as discussed below:

Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. (10 CFR 50.12(a)(2)(ii))

The underlying purpose of 10 CFR 50.54(w)(1) is to require sufficient property damage insurance to ensure funding of onsite post-accident recovery stabilization, and decontamination costs following an accident at an operating nuclear power plant. The requirements of 10 CFR 50.54(w)(1) were developed taking into consideration the risks associated with the operation of an operating nuclear power reactor, including the potential consequences of a release of radioactive material from the reactor. However, the regulation does not take into consideration the reduced potential for, and consequences of, nuclear incidents at permanently shutdown facilities.

LACBWR is a single unit reactor site with the reactor permanently shutdown and defueled. All fuel is stainless steel clad and has been placed in dry cask storage, and the site is in the final stages of decommissioning. LACBWR has performed site-specific analyses for remaining postulated radiological events. The analyses concluded that the minimal radioactive material resulting from LACBWR operation and remaining on the LACBWR site is insufficient for any potential event to result in exceeding dose limits or otherwise involving a significant adverse effect on public health and safety.

The proposed reduction in the level of onsite insurance coverage from \$180 million to \$50 million would continue to serve the underlying purpose of the rule by requiring a conservative level of financial protection considered commensurate with the significant reduction in the probability and consequences of nuclear incidents at LACBWR. Consistent with the NRC's conclusions documented in SECY-00-145 and the 2017 regulatory basis document, the proposed reduction in the level of onsite insurance coverage would continue to require sufficient property damage insurance to ensure funding for onsite post-accident recovery, stabilization, and decontamination costs in the unlikely event of an accident at LACBWR.

Therefore, application of the requirement in 10 CFR 50.54(w)(1) to maintain the current exemption approved amount of 180 million (Reference 1) in onsite insurance coverage is not necessary to achieve the underlying purpose of this rule and special circumstances are present as defined in 10 CFR 50.12(a)(2)(ii).

Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. (10 CFR 50.12(a)(2)(iii))

Continued compliance with 10 CFR 50.54(w)(1) and approved exemptions would require that LACBWR maintain \$180 million in onsite insurance coverage. The reduction in onsite insurance coverage from \$180 million to \$50 million would continue to require a level of financial protection commensurate with the underlying purpose of the rule while eliminating an unnecessary financial burden.

Current onsite insurance is provided through an insurance policy purchased through DPC. Continued application of the requirement to maintain \$180 million in onsite insurance coverage for LACBWR would result in undue hardship and costs being incurred by DPC for the purchase of unnecessary levels of onsite insurance coverage. The NRC has granted similar exemptions to other decommissioning facilities.

Therefore, compliance with the rule would result in an undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. Therefore, the special circumstances are present as defined in 10 CFR 50.12(a)(2)(iii).

6.0 ENVIRONMENTAL CONSIDERATIONS

The proposed exemption meets the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22(c)(25), because the proposed exemption involves: (i) no significant hazards consideration; (ii) no significant change in the types or significant increase in the amounts of any effluent that may be released offsite; (iii) no significant increase in individual or cumulative occupational radiation exposure; (iv) no significant construction impact; (v) no significant increase in the potential for consequences from radiological accidents; and (vi) the requirements from which the exemption is sought involve: (H) Surety, insurance or indemnity requirements. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed exemption.

(i) No significant hazards consideration

Pursuant to 10 CFR 50.12, "Specific exemptions," LS requests a permanent exemption from 10 CFR 50.54(w)(1) for LACBWR. LS is proposing an exemption to 10 CFR 50.54(w)(1) to reduce the minimum coverage limit of 10 CFR 50.54(w)(1) from the current approved amount of 180 million (Reference 1) to \$50 million. LS has evaluated the proposed exemption to determine whether or not a significant hazards consideration is involved by focusing on the three standards set forth in 10 CFR 50.92 as discussed below:

Does the proposed exemption involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed exemption has no effect on any remaining plant systems, structures and components (SSCs) and no effect on the capability of any plant SSC to perform its design function. The proposed exemption would not increase the likelihood of the malfunction of any plant SSC. The proposed exemption would have no effect on the probability of consequences of any of the previously evaluated accidents in the LACBWR D-Plan/PSDAR. Therefore, the proposed exemption does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Does the proposed exemption create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed exemption does not involve a physical alteration of the plant. No new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed exemption. Similarly, the proposed exemption would not physically change any structures, systems, or components involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed exemption does not create the possibility of a new accident as a result of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the plant is normally operated, or in the setpoints which initiate protective or mitigative actions, and no new failure modes are being introduced. Therefore, the proposed

exemption does not create the possibility of a new or different kind of accident from any previously evaluated.

Does the proposed exemption involve a significant reduction in a margin of safety?

The proposed exemption does not alter the design basis or any safety limits for the plant. The proposed exemption does not impact station operation or any plant SSC that is relied upon for accident mitigation. Therefore, the proposed exemption does not involve a significant reduction in a margin of safety.

Based on the above, LS concludes that the proposed exemption presents no significant hazards consideration, and, accordingly, a finding of “no significant hazards consideration” is justified.

- (ii) There is no significant change in the types or significant increase in the amounts of any effluent that may be released offsite.

There are no expected changes in the types, characteristics, or quantities of effluents discharged to the environment associated with the proposed exemption. There are no materials or chemicals introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems will not be affected by the exemption. The proposed exemption will not result in changes to the design basis requirements of SSCs that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents will continue to be able to perform their functions. Therefore, the proposed exemption will result in no significant change to 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 occupational radiation exposure.

The exemption would result in no expected increases in individual or cumulative occupational radiation exposure on either the workforce or the public. There are no expected increases in normal occupational doses.

- (iv) There is no significant construction impact.

There are no construction activities associated with the proposed exemption.

- (v) There is no significant increase in the potential for consequences from radiological accidents.

See the no significant hazards considerations discussion in item (i) above.

- (vi) The requirements from which exemption is sought involve surety, insurance or indemnity requirements.

The requirements from which the exemption is sought involve financial protection and for the indemnification and limitation of liability of licensees pursuant to Section 170 of the Atomic Energy Act of 1954, as amended and 10 CFR 50.54(w)(1)

7.0 CONCLUSION

Pursuant to the provisions of 10 CFR 50.12, "Specific exemptions," LS is requesting an exemption from 10 CFR 50.54(w)(1) for LACBWR. The requested exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. In addition, special circumstances are present as set forth in 10 CFR 50.12.

8.0 REFERENCES

1. John Zwolinski, U.S. Nuclear Regulatory Commission, Letter to James Taylor, Dairyland Power Cooperative, "Primary Property Damage Insurance Exemption," dated June 26, 1986
2. Barbara A. Nick, President and CEO, Dairyland Power Cooperative, Letter to U.S. Nuclear Regulatory Commission, "Application for Order Approving License Transfer and Conforming Administrative License Amendments," dated October 8, 2015
3. Marlayna Vaaler, U.S. Nuclear Regulatory Commission, Letter to Barbara Nick, Dairyland Power Cooperative, "Order Approving Transfer of License for the La Crosse Boiling Water Reactor from the Dairyland Power Cooperative to LaCrosseSolutions, LLC and Conforming Administrative License Amendment," dated May 20, 2016
4. SECY-00-145, "Integrated Rulemaking Plan for Nuclear Power Plant Decommissioning," dated June 28, 2000.
5. Nuclear Regulatory Commission Regulatory Basis Document, "Regulatory Improvements for Power Reactors Transitioning to Decommissioning," dated November 20, 2017.
6. Federal Register Volume 64, Number 248, December 28, 1999, pages 72700- 72701, "In the Matter of Commonwealth Edison Company (Zion Nuclear Power Station, Units 1 and 2): Exemption."
7. Michele Evans, U.S. Nuclear Regulatory Commission, Exemption Issuance for Kewaunee Power Station, dated April 3, 2015.