

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)	
)	
LaCrosse <i>Solutions</i> , LLC)	Docket Nos.: 50-409 and 72-046
)	License No.: DPR-45
La Crosse Boiling Water Reactor)	
)	
EA-19-077)	
)	

ORDER APPROVING THE TRANSFER OF LICENSE
AND CONFORMING AMENDMENT

I.

LaCrosse*Solutions*, LLC (LS) is the holder of Possession Only License No. DPR-45, with respect to the possession, maintenance, and decommissioning of the La Crosse Boiling Water Reactor (LACBWR). LACBWR was an Atomic Energy Commission (AEC) Demonstration Project Reactor that first achieved criticality in 1967, that commenced commercial operation in November 1969, and that was capable of producing 50 megawatts of electricity. LACBWR is located on the east bank of the Mississippi River in Vernon County, Wisconsin, about 1 mile south of the Village of Genoa, Wisconsin, and approximately 19 miles south of the city of La Crosse, Wisconsin, and is co-located with the Genoa Generating Station (Genoa 3), which is a coal-fired power plant that is still in operation. The Allis-Chalmers Company was the original licensee of LACBWR; the AEC later sold the plant to the Dairyland Power Cooperative (DPC) and granted it Provisional Operating License No. DPR-45 on August 28, 1973.

LACBWR permanently ceased operations on April 30, 1987. DPC applied to amend the LACBWR license to a possession-only license on May 22, 1987, and completed reactor defueling on June 11, 1987. In a letter dated August 4, 1987, the NRC terminated DPC's authority to operate LACBWR and granted the licensee possess-but-not-operate status. By letter dated August 18, 1988, the NRC amended DPC's license to reflect the permanently defueled configuration at LACBWR.

The NRC issued an order authorizing the decommissioning of LACBWR and approving the licensee's proposed Decommissioning Plan (DP) on August 7, 1991. Because the NRC approved DPC's DP before August 28, 1996 (the effective date of an NRC final rule concerning power reactor decommissioning (61 FR 39278; July 29, 1996)), the DP is considered the Post-Shutdown Decommissioning Activities Report (PSDAR) for LACBWR. The PSDAR public meeting was held on May 13, 1998, and subsequent updates to the LACBWR decommissioning report have combined the DP and PSDAR into the "LACBWR Decommissioning Plan and Post-Shutdown Decommissioning Activities Report." DPC constructed an onsite Independent Spent Fuel Storage Installation (ISFSI) and completed the movement of all 333 spent nuclear fuel elements from the Fuel Element Storage Well to dry cask storage at the ISFSI by September 19, 2012.

By order dated May 20, 2016, the NRC approved the direct transfer of Possession Only License No. DPR-45 for LACBWR from DPC to LS, a wholly-owned subsidiary of EnergySolutions, LLC, which was created for the sole purpose of completing the dismantlement and remediation activities at the LACBWR site. The order was published in the *Federal Register* on June 2, 2016 (81 FR 35383). The transfer assigned DPC's NRC-licensed possession, maintenance, and decommissioning authorities for LACBWR to LS in order to

implement expedited decommissioning at the LACBWR site. Final decommissioning activities at LACBWR are scheduled to be completed in 2019 and the LACBWR License Termination Plan (LTP) was approved by the NRC on May 21, 2019.

II.

By letter dated June 27, 2018 (Agencywide Documents Access and Management System (ADAMS) Accession No. ML18184A444), as supplemented by letter dated December 3, 2018 (ADAMS Accession No. ML18341A138), LS and DPC (collectively, the applicants) submitted an application, pursuant to Section 184 of the Atomic Energy Act of 1954, as amended, and Section 50.80, "Transfer of licenses," of Title 10 of the *Code of Federal Regulations* (10 CFR), requesting NRC consent for the direct transfer of LS's Possession Only License No. DPR-45 for LACBWR to DPC. Specifically, LS intends to transfer its NRC-licensed possession, maintenance, and decommissioning authorities back to DPC upon the completion of decommissioning activities at the LACBWR site.

DPC is currently the licensed owner of LACBWR; it holds title to and ownership of the real estate encompassing most of the LACBWR site, as well as lease hold interests for the remaining portions of the site; title to and ownership of the spent nuclear fuel; and title to and ownership of all improvements at the LACBWR site. LS currently maintains a lease for the above-ground LACBWR structures (other than the LACBWR ISFSI) and previously assumed responsibility for all NRC-licensed activities at the LACBWR site, including responsibility under the license to complete decommissioning. LS will relinquish any remaining lease rights it holds at the site upon the completion of decommissioning.

Upon the execution of the license transfer, DPC will maintain the onsite ISFSI and the ultimate disposition of the spent nuclear fuel will be provided for under the terms of DPC's Standard Contract for Disposal of Spent Nuclear Fuel and/or High Level Waste with the U.S. Department of Energy. DPC will also continue to maintain its nuclear decommissioning trust, an external trust in which funds are segregated from its assets and outside its administrative control, in accordance with the requirements of 10 CFR 50.75(e)(1).

The application also requested approval of a conforming amendment to the license pursuant to 10 CFR 50.80 and 10 CFR 50.90, "Application for amendment of license, construction permit, or early site permit." No physical or operational changes to the facility were requested beyond those encompassed in the LACBWR PSDAR and LTP. Notice of the application was published in the *Federal Register* on October 11, 2018 (83 FR 51509). The supplemental letter dated December 3, 2018, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's no significant hazards consideration determination. No requests for hearing or comments were received.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, either voluntarily or involuntarily, directly or indirectly, through transfer of control of the license to any person, unless the Commission gives its consent in writing. Upon review of the information in the application and other information before the Commission, and relying upon the representations and agreements contained in the application, the NRC staff has determined that DPC is qualified to be the holder of the license and that the transfer of the license to DPC, as described in the application, is otherwise consistent with applicable provisions of law,

regulations, and orders issued by the Commission pursuant thereto, subject to the condition set forth below.

Upon review of the application for a conforming amendment to the LACBWR license to reflect the transfer to DPC, the NRC staff determined the following:

- (1) The application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I.
- (2) There is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public, and that such activities will be conducted in compliance with the Commission's regulations.
- (3) The issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public.
- (4) The issuance of the proposed license amendment is in accordance with 10 CFR Part 51, "Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions," of the Commission's regulations and all applicable requirements have been satisfied.

The findings set forth above are supported by an NRC safety evaluation dated September 24, 2019, which is available at ADAMS Accession No. ML19008A397.

III.

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Act, 42 U.S.C. Sections 2201(b), 2201(i), and 2234; and 10 CFR 50.80, IT IS HEREBY ORDERED that the transfer of the license, as described herein, to DPC is approved, subject to the following condition:

Prior to the closing of the license transfer from LS to DPC, DPC shall provide satisfactory documentary evidence to the Director of the Office of Nuclear Material Safety and Safeguards (NMSS) at the NRC that it has obtained or continues to possess the appropriate amount of insurance required of a licensee under 10 CFR 140.12 and 10 CFR 50.54(w) of the Commission's regulations, consistent with the exemptions issued to LACBWR on June 26, 1986, and July 24, 2018.

IT IS FURTHER ORDERED that, consistent with 10 CFR 2.1315(b), the license amendment that makes changes, as indicated in Enclosure 2 to the cover letter forwarding this Order, to conform the license to reflect the subject direct license transfer is approved. The amendment shall be issued and made effective at the time the proposed direct license transfer is completed.

IT IS FURTHER ORDERED that, after receipt of all required regulatory approvals of the proposed direct license transfer, DPC shall inform the Director of NMSS in writing of such receipt, and of the date of closing of the transfer, no later than 2 business days prior to the date

of closing of the direct license transfer. Should the proposed direct license transfer not be completed within 1 year of this Order's date of issuance, this Order shall become null and void; provided, however, that upon written application and for good cause shown, such date may be extended by order. This Order is effective upon issuance.

For further details with respect to this Order, see the application dated June 27, 2018, as supplemented by letter dated December 3, 2018, and the associated NRC safety evaluation dated September 24, 2019, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at <http://www.nrc.gov/reading-rm/adams.html>. Persons who encounter problems with ADAMS should contact the NRC's PDR reference staff by telephone at 1-800-397-4209 or 301-415-4737 or by e-mail to pdr.resource@nrc.gov.

Dated at Rockville, Maryland this 24th day of September 2019.

FOR THE NUCLEAR REGULATORY COMMISSION

/RA/

John W. Lubinski, Director,
Office of Nuclear Material
Safety and Safeguards.