

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

COMMISSIONERS:

John F. Ahearne, Chairman
Victor Gilinsky
Joseph M. Hendrie
Peter A. Bradford

In the Matter of
DAIRYLAND POWER COOPERATIVE
(LaCrosse Boiling Water Reactor)
Request for Hearing

Docket No. 50-409

ORDER

Dairyland Power Cooperative (Dairyland) currently operates the LaCrosse Boiling Water Reactor (LACBWR) under Provisional Operating License No. DPR-45. On February 25, 1980, the Director, Nuclear Reactor Regulation (Director), issued an Order to Show Cause regarding the design and operation of a dewatering system for this facility. The Order was based on the Director's conclusion that continued operation of the plant for an extended period of time may be potentially hazardous because the LACBWR site could be subject to liquefaction if the licensee - designated safe-shutdown earthquake were to occur. The order gave the licensee an opportunity to file a written answer, and also provided that "any other person whose interest may be affected by this Order" may request a hearing. 42 U.S.C. 22399.

On March 25, 1980 Dairyland submitted the "Licensee's Answer to Show Cause" which contained a contingent request for a hearing in the event that the staff did not consider the answer sufficient cause for not undertaking the steps

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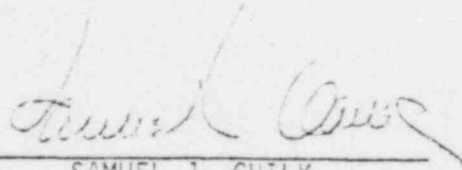
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outlined in the Show Cause Order. The staff is evaluating the licensee's answer to the Order and has requested Dairyland to provide additional information. Requests for a hearing have been received from Mr. Frederick M. Olsen, III of LaCrosse, Wisconsin (March 18, 1980) and Ms. Anne Morse for the Coulee Region Energy Coalition (March 19, 1980).

10 CFR 2.105(c) provides, among other things, that the Commission may designate an Atomic Safety and Licensing Board to rule on requests for a hearing. Accordingly, pursuant to the Atomic Energy Act of 1954, as amended, and 10 CFR Part 2 of the Commission's regulations, these requests for hearing shall be considered and ruled on by an Atomic Safety and Licensing Board composed of Charles Bechhoefer, Esq., Chairman, Dr. George C. Anderson, and Mr. Ralph S. Decker. If the Board determines that a hearing is required, the Board is instructed to conduct an adjudicatory hearing solely on contentions within the scope of the issues identified in the February 25, 1980, Order: (1) whether the licensee should submit a detailed design proposal for a site dewatering system; and (2) whether the licensee should make operational such a dewatering system as soon as possible after NRC approval of the system, but no later than February 25, 1981, or place the LACBWR in a safe cold shutdown condition.

It is so ORDERED. 1/

For the Commission



SAMUEL J. CHILK
Secretary of the Commission

Dated at Washington, D.C.,
this 7th day of July, 1980.

1/ Section 201 of the Energy Reorganization Act, 42 U.S.C §5841, provides that action of the Commission shall be determined by a "majority vote of the members present." Commissioner Gilinsky was not present when this Order was affirmed, but had previously voted by notation to approve this Order. Had Commissioner Gilinsky been present, he would have affirmed his prior vote. Accordingly, the formal vote of the Commission was 3-0 in favor of the Order.