



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

October 30, 1980



Carl A. Sinderbrand, Esq.
Assistant Attorney General
The State of Wisconsin
Department of Justice
Madison, Wisconsin 53702

Re: Wisconsin Electric Power Co. (Point Beach
Nuclear Plant - Unit 1), Docket No. 50-266

Dear Mr. Sinderbrand:

Your letter of October 3, 1980, expressing concern over the manner in which the NRC authorized resumption of operation at Unit 1 of the Point Beach Nuclear Plant this past August, has been referred to the Office of the General Counsel for response. As you are aware, the question whether Wisconsin's Environmental Decade, Inc.'s request for an adjudicatory hearing will be granted is an issue now before an Atomic Safety & Licensing Board. Since the Commission may be called upon to review the outcome of the decision in that proceeding, it would be inappropriate for the Commission to comment on the merits of granting a hearing. However, your letter also reflects a concern with the manner in which the NRC staff notified Wisconsin Electric Power Co. (WEPCO) of their approval of the results of certain tests required in July, 1980. Perhaps describing the context for that approval will respond to that concern.

The April 4, 1980 order issued to WEPCO required the licensee to shut down after 90 full power days of operation to perform certain steam generator-related tests. Following submittal of the test results, the licensee was not permitted to restart the reactor absent written approval by the staff. The format of that written approval was not specified in the order. Although the approval of previous test results required by the November 30, 1979 letter had been included in the April 4, 1980 order, this inclusion was primarily for purposes of convenience, since it was necessary to issue the April order to impose additional conditions. Rather than communicate the order and the approval through two separate documents the staff utilized the order to consolidate the requirement of new conditions with the message that the test results were

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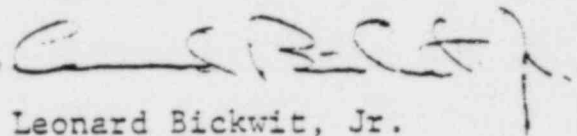
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acceptable. Considering the misunderstanding that has resulted, it may have been more appropriate for the April 4 approval to have been given by means of a separate letter. Nevertheless, as discussed in the September 19, 1980 NRC staff submittal, a copy of which you say you received, WEPCO's authorization to operate Unit 1 had never been rescinded and remained in effect subject to the conditions described in the April 4 order. Once WEPCO met those conditions and the NRC notified the licensee of its approval, there was no longer any legal restriction on resumption of plant operation under the terms of the April 4, 1980 order.

I hope that this explanation responds to the concerns you expressed on behalf of the people of Wisconsin. If you would like any further information, please do not hesitate to contact me on this matter.

Sincerely,



Leonard Bickwit, Jr.
General Counsel

cc: Parties of Record