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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD
Charles Bechhoefer, Chairman
Dr. George C. Anderson
Ralph S. Decker

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In the Matter of)
DAIRYLAND POWER COOPERATIVE)
(La Crosse Boiling Water Reactor))

Docket No. 50-409-SC
Prov. Op. Lic. DPR-45

MEMORANDUM AND ORDER SCHEDULING
EVIDENTIARY HEARING AND
PREHEARING CONFERENCE
(November 12, 1980)

A. Under the February 25, 1980 show-cause order which is the genesis of this proceeding, Dairyland Power Cooperative (Licensee) is required to show cause why, no later than February 25, 1981, it should not make a site dewatering system operational, or place the La Crosse Boiling Water Reactor in a safe shutdown condition. In delegating authority to this Board to conduct this hearing, the Commission also emphasized that we should determine whether such a system should be installed and made operational by February 25, 1981 (Commission Order dated July 29, 1980, published at 45 Fed. Reg. 52290, August 6, 1980). Our Prehearing Conference Order of September 30, 1980, LBP-80-26, 12 NRC _____, stressed that even though the Licensee has now satisfied the NRC Staff that a

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dewatering system need not be installed, the ultimate decision on this question must be made by us inasmuch as an adjudicatory hearing was requested by interested persons.

At this stage of the proceeding, it is apparent to us that, were we to decide that a dewatering system should be installed, the Licensee could not design such a system, have it approved by the NRC Staff, and install it by February 25, 1981. Indeed, it is unlikely that we can render an initial decision in this proceeding by that date (even if we were able to dispose of all issues through summary disposition procedures). The Board itself has several substantive questions which we expect to pose to the parties in the near future, and we would expect to have answers to those questions prior to any final determination in this proceeding. Should the size of the safe shutdown earthquake be litigated, that issue also would delay the conclusion of this proceeding--for the Staff has apprised the Appeal Board that it could not be prepared to litigate this issue until June, 1981. Moreover, the Licensee informed us at the prehearing conference that it would take approximately a year for it to design and install a site dewatering system (Tr. 39).

At the same prehearing conference, the Licensee took the position that, as a matter of law, the February 25, 1981 date (which represented a one year period from the issuance of the

show-cause order) would be extended "day for day" until the conclusion of the proceeding, thereby postponing the date for required operation of a site dewatering system until one year from the issuance of a decision requiring design and installation of such a system (ibid). We disagree. The original one-year period was based on a hazard analysis performed by the Staff. In our view, any further extension would require an additional hazard analysis by us.

For these reasons, we are scheduling an evidentiary hearing to consider the single issue of the risk to the public health and safety of extending the February 25, 1981 operational date for a dewatering system for some specific period of time. The hazard analysis should assume a safe shutdown earthquake producing peak ground acceleration of 0.12g. We expect that, as part of this analysis, the following questions will be addressed:

1. What is the currently estimated return period for an earthquake producing ground acceleration of 0.12g at the La Crosse site? Can confidence limits be placed on this estimate?
2. What is the basis for determining that return period (including the specific earthquakes considered--e.g., Anna, Ohio; New Madrid, Missouri;

etc.)? Do the probabilistic studies take into account the July, 1980 earthquake near Maysville, Kentucky? What effect would this earthquake have on the probabilistic computations?

3. What attenuation model is being used for the return period determination? How does this model compare with others being used for this purpose? How does use of different attenuation models affect the determination of the return period of an earthquake producing 0.12g ground acceleration?

4. In a memorandum from Robert E. Jackson to D. Crutchfield, dated June 23, 1980, titled "Initial Review and Recommendations for Site Specific Spectra at SEP Sites," the Staff appears to be judging a return period probability of 10^{-3} or 10^{-4} for a safe shutdown earthquake as acceptable. On what basis is a departure from a probability of 10^{-6} or 10^{-7} (accepted by the Staff with respect to other external events), acceptable in this instance? (See, for example, Sections 2.2.3 and 3.5.1.6 of the Standard Review Plan; SECY-80-409, Table H-2, September 4, 1980.)

5. Does the probability analysis include any specific conditions which may result in amplification at the La Crosse site? (See "Initial Review and Recommendations for Site Specific Spectra at SEP Sites," attached to June 23, 1980 Jackson/Crutchfield Memorandum, p. 3.) Identify any such conditions which may be pertinent. What would be the effect of including such conditions in the probability analysis?

The evidentiary hearing on this limited issue will commence on December 16, 1980, immediately following the pre-hearing conference described below. Prefiled testimony should be filed by the Licensee and Staff, and may be filed by the consolidated intervenors, by Friday, December 5, 1980.

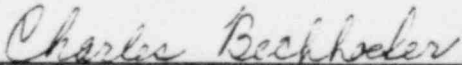
B. Motions for summary disposition are now required to be filed by November 14, 1980. If motions are filed on that date, responses must be filed by Tuesday, December 9, 1980. We plan to hold a prehearing conference beginning at 9:30 a.m. on Tuesday, December 16, 1980, to consider any summary disposition motions which may be filed, the manner in which the parties propose to respond to the questions which are to be posed by the Licensing Board, as well as further scheduling for the proceeding. The conference will be held on December 16, and the evidentiary hearing on December 16 and 17 (9:00 a.m. to 12:00 noon) at Hall of the Presidents, Cartwright Center,

University of Wisconsin at La Crosse, La Crosse, Wisconsin 54601. To the extent necessary, the hearing will continue on the afternoon of December 17 and at 9:00 a.m. on December 18 in Room 303, Cartwright Center, University of Wisconsin at La Crosse.

C. We plan to take oral limited appearance statements on December 16, 1980, at the commencement of the evidentiary session. We also plan to take such statements (to the extent necessary) beginning at 9:00 a.m. on December 17, 1980. Such statements should be limited to the subject matter of this show-cause proceeding.

IT IS SO ORDERED.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Charles Bechhoefer, Chairman

Dated at Bethesda, Maryland
this 12th day of November 1980.