



ADJUDICATORY ISSUE

August 3, 1983

(NEGATIVE CONSENT)

SECY-83-316

For: The Commissioners
From: James A. Fitzgerald
Assistant General Counsel
Subject: REVIEW OF ALAB-733 (DAIRYLAND POWER
COOPERATIVE)
Facility: La Crosse Boiling Water Reactor
Purpose: To advise the Commission of an Appeal
Board decision, [which, in our opinion,

EX 5

Review Time Expires: August 22, 1983

Petitions for Review: None filed

Discussion: In ALAB-733, the Appeal Board affirmed three unchallenged Licensing Board decisions in a proceeding involving: (1) Dairyland Power Cooperative's application to convert its provisional operating license to a full-term operating license; and (2) the finding that

EX 5

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5
FOIA- 92-436

Contacts:
Sheldon L. Trubatch, OGC, x43224
Mel S. Schulze, OGC, x41493

9404010188 930603
PDR FOIA
GILINSK92-436 PDR

U/S3

no dewatering system is required by the liquefaction potential at the La Crosse site. The Appeal Board's decision was based on its customary sua sponte review of the record in which the Board discovered no error warranting corrective action.

EX 5

believe that Accordingly, we

EX 5



James A. Fitzgerald
Assistant General Counsel

Attachment: ALAB-733

7

EX 5

+

SECY NOTE: In the absence of instructions to the contrary, SECY will notify OGC on Thursday, August 18, 1983 that the Commission, by negative consent, assents to the action proposed in this paper.

DISTRIBUTION:
Commissioners
OGC
OPE
SECY

Release

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Administrative Judges:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Thomas S. Moore



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

Docket No. 50-409

SERVED JUL 1 1983

DECISION

July 13, 1983

(ALAB-733)

This is a consolidated proceeding involving (1) the application of the Dairyland Power Cooperative for a full-term operating license for its La Crosse nuclear facility to replace a long-standing provisional license; and (2) a February 25, 1980 show cause order issued by the Director of the Office of Nuclear Reactor Regulation and concerned with the liquefaction potential at the La Crosse site.¹ The extended history of the proceeding is adequately

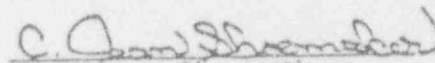
¹More particularly, the show cause order -- on which an evidentiary hearing was held -- raised the question whether the licensee should be required to install a site dewatering system to prevent liquefaction (i.e., the flow of soil under the site), were an earthquake to occur in the vicinity. In order to determine the liquefaction potential, and thus the need to take protective measures against it, the Licensing (Footnote Continued)

summarized in LBP-82-58, 16 NRC 512 (1982), and requires no rehearsal here. Suffice it to say that, in an April 21, 1983 initial decision, the Licensing Board determined the last issue remaining before it. See LBP-83-23, 17 NRC _____. Because no exceptions to that decision have been filed, we are now called upon to review it on our initiative. Also at hand for like review are two earlier Licensing Board substantive opinions that similarly were not appealed -- LBP-82-58, supra, and LBP-81-7, 13 NRC 257 (1981). We deferred consideration of them to await the final outcome of the proceeding below.

Our examination of the findings and rulings contained in the three opinions, and the record on which they are based, has disclosed no error warranting corrective action. Accordingly, each is affirmed.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board

(Footnote Continued)
Board had to ascertain, inter alia, the ground vibratory motion (i.e., acceleration) that might be associated with the postulated earthquake. See ALAB-618, 12 NRC 551 (1980).