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December 21, 1981

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

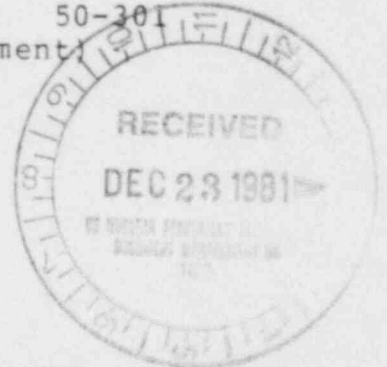
OFFICE OF SECRETARY
REGULATING & SERVICE
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Before the Atomic Safety and Licensing Board

In the Matter of)
)
WISCONSIN ELECTRIC POWER COMPANY)
)
(Point Beach Nuclear Plant,)
Units 1 and 2))

Docket Nos. 50-266
50-301
(OL Amendment)

LICENSEE'S THIRD PROGRESS REPORT
REGARDING DISCOVERY ACTIVITIES



In its October 13, 1981 "Memorandum and Order Concerning The Admission of A Party and Its Contentions," the Licensing Board directed all parties to file bi-monthly progress reports on discovery activities, on the last working day preceding the 22nd of each month and on the last working day preceding the 7th of each month. The Board orally modified that filing schedule at the close of the October 30, 1981 hearing, to eliminate the requirement for filing the first report each month. Tr. 701, 740.

On November 23, 1981, Decade contacted counsel for Licensee to discuss, inter alia, Decade's October 29, 1981 motion to compel discovery. That conversation is memorialized in Licensee's November 24 letter to Decade. As that letter explains, Licensee has no documents responsive to

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Interrogatories 6, 8, 11, 12 and 14 (other than those referenced in Licensee's October 27, 1981 responses to the interrogatories), with the exception of a transcript of the October 23-24, 1980 meeting of the San Onofre Unit 1 Steam Generator Sleaving Review Board, which was transmitted to Decade by counsel for Licensee's letter dated December 2, 1981.

As noted in Licensee's November 20, 1981 discovery progress report, "Licensee's First Set of Interrogatories and Request For Production of Documents to Intervenor Decade Relative To Full Scale Sleaving Program" were filed November 10, 1981. Though those discovery requests, Licensee sought specific information related to the issues raised by Decade in its Contentions 3, 4, 5 and 7. Most of the interrogatories were carefully framed to elicit the bases for Decade's assertions. "Decade's Answer To Licensee's First Set of Interrogatories Relative To Full Scale Sleaving" was filed November 25, 1981. Those answers were so evasive and devoid of substance as to constitute a willful failure to respond. Decade's refusal to specify the bases for its¹ contentions (particularly in response to Licensee's November 10 interrogatories), coupled with Decade's failure to diligently avail itself of opportunities for discovery, contributed to the grounds for "Licensee's Motion For Dismissal of Intervenor Wisconsin's Environmental Decade, Inc.," dated December 9 and hand-served on Decade by Federal Express on December 10, 1981.¹

¹ Licensee's motion requests, as alternative relief, that the Board at a minimum (1) require Decade to plead immediately

Licensee's November 20 discovery progress report also noted the filing that day of "Licensee's Second Set of Interrogatories and Request For Production of Documents To Intervenor Decade Relative To Full Scale Sleeving Program." Those discovery requests were designed to identify, and elicit the bases for, any and all issues which Decade wishes to litigate beyond the issues expressly raised by Decade in its Contentions 3, 4, 5 and 7. In "Decade's Answer To Licensee's Second Set of Interrogatories Relative To Full Scale Sleeving," filed on December 8, 1981, Decade identified for the first time concerns beyond those set forth in its Contentions 3, 4, 5 and 7, but refused to specify the bases for its newly-stated concerns. Thus, Decade's December 8 responses even more graphically evidenced Decade's deliberate refusal to meet even the most fundamental obligations imposed on participants in an NRC licensing proceeding, and provided the basis for the December 11, 1981 "Amendment To Licensee's Motion For Dismissal of Intervenor Wisconsin's Environmental Decade, Inc." Licensee's December 9 motion and its December 11 amendment to that motion are now pending before the Board.

Licensee currently has no discovery requests pending with either Decade or the Staff, and there are no discovery requests

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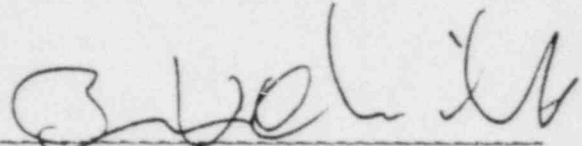
the bases for its Contentions 3, 4, 5 and 7, (2) compel Decade to respond fully to Licensee's interrogatories on an extremely expedited basis, and (3) set a date for the close of discovery in the very near future (with leave for later discovery limited to new information in the Staff's SER and environmental filings upon a showing of "good cause").

pending with Licensee. Licensee does not presently anticipate seeking follow-on discovery of Decade; nor does Licensee intend to seek discovery of the Staff.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

By



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Dated: December 21, 1981

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CERTIFICATE OF SERVICE

This is to certify that copies of the foregoing "Licensee's Third Progress Report Regarding Discovery Activities" were served, by deposit in the U.S. Mail, first class, postage prepaid, to all those on the attached service list, this 21st day of December.


Delissa A. Ridgway

Dated: December 21, 1981

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