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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

DOCKETED
USNRC

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges: '84 JUL 27 P12:10

Sheldon J. Wolfe, Chairman

Dr. George C. Anderson

Dr. Hugh C. Paxton

OFFICE OF LEGAL
COUNSELING & SERVICE
BRANCH

SERVED JUL 27 1984

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| In the Matter of |) | (NRC Docket No. 50-482 OL) |
| KANSAS GAS & ELECTRIC CO., <u>ET AL.</u> |) | ASLBP Docket No. 81-453-03 OL |
| (Wolf Creek Generating Station, Unit No. 1) |) | July 26, 1984 |

MEMORANDUM AND ORDER

(Re Applicants' Motion For Clarification Of Initial Decision)

On July 2, 1984, the Board issued its initial decision authorizing the issuance of an operating license for the Wolf Creek Generating Station, Unit 1, provided two conditions were met prior to the issuance of the operating license. LBP-84-26, 20 NRC _____. On July 17, 1984, Applicants filed a Motion For Clarification. Therein, Applicants request (1) that the wording of the Board's Order in the Initial Decision, which specifies that the two conditions related to the offsite emergency plans must be "met prior to the issuance of an operating license," should be changed to specify that these two conditions must be "met prior to the authorization of operations of greater than 5% of the rated power"; (2) that the wording of the first license condition be modified by substituting the words "health care facilities" for

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"hospitals;" and (3) that the Board's finding of fact 24 be modified to read that the U. S. Fish and Wildlife Service (USFWS) will use its siren equipped vehicles to notify only that small portion of the USFWS territory within the EPZ which is not without acoustical siren range.

Counsel for Applicants advise that counsel for the Intervenors, the NRC Staff and for FEMA have authorized them to state that they concur in this motion.

1. Satisfaction of Conditions Prior to Issuance of an Operating License.

Our Order in the Initial Decision is not inconsistent with 10 C.F.R. § 50.47(d). That Decision addressed the application by KG&E for a full power license only, and the "operating license" we conditioned in our Order referred to that full power license. Applicants state that this explanatory language would satisfy their concern that the effect of the condition, if interpreted literally, would prevent fuel loading and low power testing prior to the satisfaction of the specified conditions.* A similar clarification was made by a Licensing Board in Louisiana Power and Light Co. (Waterford

* Since Applicants state that this explanatory language would satisfy their concern, we neither need to modify the wording of our Order, nor do we have to determine whether, in citing only one operating license for the Susquehanna Steam Electric Station, Unit 2, Applicants have established that it is customary NRC practice to issue operating licenses which "pending Commission approval" are "restricted to power levels not to exceed five percent of full power," even in the absence of a motion filed pursuant to 10 C.F.R. § 50.57(c). (See footnote 1 at p. 2 of Applicants' Motion).

Steam Electric Station, Unit 3), LBP-82-112, 16 NRC 1901(1982); there as here, such clarification should resolve any such concern. Also, we decline to amend the language of the Order lest it be mis interpreted as authorizing a low power license. Absent a motion filed pursuant to 10 C.F.R. § 50.57(c), the issue whether fuel loading and lower power should be authorized is not before this Board.

2. Letters of Agreement With Host Health Care Facilities.

The first license condition directs, in part, that "Letters of agreement shall be signed by Coffey County with hospitals in surrounding counties providing for the acceptance of patients from the Coffey County Hospital and the Golden Age Lodge Nursing Home in the event of an emergency evacuation occasioned by an accident at the Wolf Creek Plant . . ." Applicants request that the words "and nursing homes" be added to this condition in order to give local authorities maximum flexibility in allocation and utilization of health care resources in emergency preparedness. This is a reasonable request. Thus, as modified, the first sentence of the first condition provides that "Letters of agreement shall be signed by Coffey County with hospitals and nursing homes in surrounding counties providing for the acceptance of patients from the Coffey County Hospital and the Golden Age Lodge Nursing Home in the event of an emergency evacuation occasioned by an accident at the Wolf Creek Plant." Further, the last line on page 25 is amended to read that "Accordingly, the Board directs that such letters of agreement with hospitals and nursing homes be obtained and included within the County Plan. (See Order, infra)."

3. USFWS Notification of Small Portion of Redmond Reservoir.

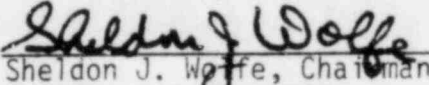
Applicants' request for a modification of the Board's finding of fact 24 is well-taken and supported by citations to the transcript. Accordingly, the sentence in finding 24 at page 64 of the Initial Decision which states that "The Fish and Wildlife Service will use its siren equipped vehicles to cover its jurisdictional area, will personally contact individuals where possible, and will put preprinted warning flyers on unattended, parked cars.", is modified to read that "The Fish and Wildlife Service will use its siren equipped vehicles to cover this small portion of land, will personally contact individuals in that small area where possible, and will put preprinted flyers on unattended, parked cars." Also, the first full sentence at the top of page 17 of the Initial Decision is modified to state that "After reading the County Plan and hearing the testimony, we are satisfied that the F&WS will be able to notify visitors in all areas under its jurisdiction (including the small area not within range of a siren) that they should evacuate."

ORDER

Applicants' Motion For Clarification Of Initial Decision is granted to the extent discussed above.

Judges Anderson and Paxton join but were unavailable to sign this issuance.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Sheldon J. Wolfe, Chairman
ADMINISTRATIVE JUDGE

Dated at Bethesda, Maryland
this 26th day of July, 1984.