



March 29, 2023

KS-2023-005
10 CFR 50.82(a)(8)(i)(A)
10 CFR 50.75(h)(1)(iv)

U. S. Nuclear Regulatory Commission
ATTN: Document Control Desk
Washington, DC 20555-0001

Kewaunee Solutions, Inc.
Facility Operating License No. DPR-43
NRC Docket Nos. 50-305 and 72-64

Subject: Request for Exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) for Site Restoration Activities

References:

1. Letter from G. P. van Noordennen (EnergySolutions, LLC) to NRC Document Control Desk, "Notification of Amended Post-Shutdown Decommissioning Activities Report (Revision 2) for Kewaunee Power Station," dated May 13, 2021 [ML21145A083]

Pursuant to 10 CFR 50.12, Kewaunee Solutions, Inc. (Kewaunee Solutions; KS) requests an exemption from 10 CFR 50.82(a)(8)(i)(A) for Kewaunee Power Station (KPS) to allow KS to use funds from the KPS decommissioning trust fund (Trust) for site restoration activities, consistent with the KPS Post-Shutdown Decommissioning Activities Report (PSDAR) (Reference 1). KS also requests, pursuant to 10 CFR 50.12, an exemption from 10 CFR 50.75(h)(1)(iv), to allow Trust disbursements for site restoration activities to be made without prior notice, similar to withdrawals in accordance with 10 CFR 50.82(a)(8).

Kewaunee Solutions requests approval of this exemption request by December 1, 2023. As discussed in the KPS PSDAR, KS plans to begin site restoration activities in late 2023. The exemptions are needed to allow KS to use funds from the Trust for these site restoration activities.

Attachment 1 provides the details of the 10 CFR 50.12 request. Enclosure 1 of Attachment 1 contains confidential financial information. Kewaunee Solutions requests that Enclosure 1 be withheld from public disclosure pursuant to 10 CFR 2.390, as described in the Affidavit provided in Attachment 2.

**UPON SEPARATION OF ATTACHMENT 1, ENCLOSURE 1, THIS LETTER IS
UNCONTROLLED**

~~CONFIDENTIAL COMMERCIAL AND FINANCIAL INFORMATION TO BE WITHHELD
FROM PUBLIC DISCLOSURE PURSUANT TO 10 CFR 2.390 AND 10 CFR 9.17~~

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Request for Exemptions
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If you have any questions or require additional information, please contact Mr. Joseph R. Lynch at 508-728-1421.

Respectfully,

Amy C
Hazelhoff

Digitally signed by Amy
C Hazelhoff
Date: 2023.03.29
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Amy C. Hazelhoff
Vice President Regulatory Affairs
EnergySolutions, LLC

Attachment:

1. Request for Exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv). Enclosure 1 contains CONFIDENTIAL COMMERCIAL INFORMATION.
2. 10 CFR 2.390 Affidavit

Commitments made in this letter: None

cc: Regional Administrator, Region III
U. S. Nuclear Regulatory Commission
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**UPON SEPARATION OF ATTACHMENT 1, ENCLOSURE 1, THIS LETTER IS
UNCONTROLLED**

ATTACHMENT 1

REQUEST FOR EXEMPTIONS FROM 10 CFR 50.82(a)(8)(i)(A) AND 50.75(h)(1)(iv)

(14 Pages)

Kewaunee Power Station
Request for Exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv)

1.0 EXEMPTION REQUEST

Pursuant to 10 CFR 50.12 “Specific exemptions,” Kewaunee Solutions, Inc. (KS) requests an exemption from 10 CFR 50.82(a)(8)(i)(A) to allow KS to use funds from the Kewaunee Power Station (KPS) decommissioning trust fund (Trust) for site restoration activities, consistent with the KPS Post-Shutdown Decommissioning Activities Report (PSDAR). KS also requests, pursuant to 10 CFR 50.12, an exemption from 10 CFR 50.75(h)(1)(iv) for the same reason, and to allow Trust disbursements for site restoration activities to be made without prior notice, similar to withdrawals in accordance with 10 CFR 50.82(a)(8).

2.0 BACKGROUND

By letter dated February 25, 2013, former KPS site owner and licensee Dominion Energy Kewaunee, Inc. (DEK) informed the NRC of its intention to permanently cease operations of KPS on May 7, 2013 (Reference 1). Subsequently, by letter dated May 14, 2013, DEK submitted a certification of permanent removal of fuel from the reactor vessel pursuant to 10 CFR 50.82(a)(1)(ii) (Reference 2).

By letter dated April 4, 2013 (Reference 3), as supplemented by letter dated November 6, 2013 (Reference 4), DEK submitted an application requesting exemptions from 10 CFR Section 50.82(a)(8)(i)(A) and Section 50.75(h)(1)(iv), to allow use of funds from the decommissioning Trust for irradiated fuel management without prior notification to the NRC. By letter dated May 21, 2014, (Reference 5) NRC approved the exemption request. At that time, DEK’s decommissioning approach for KPS was long-term SAFSTOR.

DEK’s exemption request did not include site restoration activities. DEK chose to apply the SAFSTOR approach to decommissioning, as defined in Regulatory Guide 1.184, “Decommissioning of Nuclear Power Reactors” (RG 1.184). The DEK PSDAR (Reference 6) did not contemplate performing site restoration activities until well into the future, and therefore these activities were not included in the exemption request. DEK did, however, commit to the State of Wisconsin Public Service Commission that in addition to radiological decommissioning, the site will be restored to greenfield (site restoration) status (Reference 7). Because the exemption request approved in 2014 allows use of the KPS Trust for radiological decommissioning and irradiated fuel management activities, this new exemption request focuses solely on the site restoration activities. KS will continue to use the Trust to fund radiological decommissioning activities and irradiated fuel management, as allowed by the 2014 exemption.

NRC approved the transfer of the KPS license from DEK’s parent entity, Dominion Nuclear Projects, Inc., to EnergySolutions, LLC (ES), by letter dated March 31, 2022 (Reference 8). This also reflected, concurrent with the transfer, the transfer and name change from DEK to Kewaunee

Solutions, Inc. (KS). The commitment made to the State of Wisconsin to restore the site to greenfield condition carried forward to KS.

KS has chosen to apply the DECON approach to decommissioning per RG 1.184, with the goal of accelerating the decommissioning schedule for KPS. KS updated the KPS PSDAR to reflect this approach (Reference 9). Under DECON, site restoration activities are scheduled to occur sooner, and therefore this exemption request is submitted to include these activities.

10 CFR 50.82(a)(8)(i)(A) states that decommissioning trust funds may be used by licensees if the withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in 10 CFR 50.2. Similarly, 10 CFR 50.75(h)(1)(iv) requires that decommissioning trust agreements provide that disbursements (other than ordinary and incidental expense) are restricted to decommissioning expenses until final decommissioning is completed. The definition of “decommission” in 10 CFR 50.2 does not include activities associated with site restoration.

Based on the above, KS has concluded that 10 CFR 50.75(h)(1)(iv) and 10 CFR 50.82(a)(8)(i)(A) would prohibit use of the Trust for activities related to site restoration activities prior to completion of radiological decommissioning without prior NRC approval. However, the PSDAR contains activities associated with site restoration that must be performed concurrently with the completion of radiological decommissioning. Therefore, exemptions from 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) are requested to allow KS to withdraw and use the Trust for these site restoration activities.

The PSDAR demonstrates that, including projected earnings and expected reliable reimbursement from DOE to be used for irradiated fuel management anticipated to start in 2031, the Trust contains funds sufficient to complete radiological decommissioning, irradiated fuel management and site restoration activities. Therefore, these exemptions would not present an undue risk to the public health and safety or prevent decommissioning from being completed as planned.

3.0 BASIS FOR EXEMPTION REQUEST

10 CFR 50.82(a)(8)(i) states (in part) that decommissioning trust funds may be used by licensees if:

(A) The withdrawals are for expenses for legitimate decommissioning activities consistent with the definition of decommissioning in section 50.2;

10 CFR 50.75(h)(1)(iv) similarly requires that decommissioning trust agreements must provide that disbursements (other than ordinary and incidental expense) are restricted to decommissioning expenses until final decommissioning is completed. 10 CFR 50.2 provides the following definition:

Decommission means to remove a facility or site safely from service and reduce residual radioactivity to a level that permits -

- 1) Release of the property for unrestricted use and termination of the license; or*
- 2) Release of the property under restricted conditions and termination of the license.*

NRC staff guidance regarding the regulations discussed above indicates that decommissioning activities do not include site restoration activities. (See, e.g., NUREG-1713, “Standard Review Plan for Decommissioning Cost Estimates for Nuclear Power Reactors,” pg. 2 (“*Other activities related to facility deactivation and site closure, including. . . demolition of decontaminated structures, and site restoration activities after residual radioactivity has been removed are not included in the NRC definition of decommissioning.*”).

10 CFR 50.75(h)(1)(iv) further provides that except for withdrawals being made under 10 CFR 50.82(a)(8) or for payments of ordinary and incidental expenses, no disbursement may be made from the trust without written notice to the NRC at least 30 working days in advance. Because disbursements for site restoration activities would not be made under 10 CFR 50.82(a)(8), this provision would require advance notice before disbursements for site restoration activities but not for radiological decommissioning. If the NRC grants an exemption allowing the Trust to additionally be used for site restoration activities, it would be sensible to treat both types of disbursements in the same manner, eliminating the need for prior notice once decommissioning has commenced and the expenditures have been identified in the PSDAR. The annual reporting requirements in 10 CFR 50.82(a)(8)(v) and (vi) will allow continual NRC oversight of the status of the Trust thereafter.

3.1 JUSTIFICATION FOR THE EXEMPTION REQUEST

10 CFR 50.12 states that the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of Part 50 which are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security. 10 CFR 50.12 also states that the Commission will not consider granting an exemption unless special circumstances are present. As discussed below, this exemption request satisfies the provisions of Section 50.12.

1. The exemptions are authorized by law

The proposed exemptions would allow KS to use funds from the Trust for site restoration activities, consistent with the PSDAR. As stated above, 10 CFR 50.12 allows the NRC to grant exemptions from the requirements of 10 CFR Part 50. The proposed exemptions would not result in a violation of the Atomic Energy Act of 1954, as amended, or the Commission’s regulations. Therefore, the exemptions are authorized by law.

2. The exemptions will not present an undue risk to public health and safety

The underlying purpose of 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv) is to provide reasonable assurance that adequate funds will be available for decommissioning of power reactors within 60 years of cessation of operations. The sinking fund analysis presented in Table 1A-2 in Enclosure 1 (Confidential) demonstrates use of the Trust in the proposed manner will not adversely impact KS's ability to terminate the KPS license (i.e., complete radiological decommissioning) within 60 years, consistent with the schedule and costs contained in the PSDAR. Therefore, the underlying purpose of the regulations will continue to be met. Since the underlying purpose of the rules will continue to be met, the exemptions will not present an undue risk to the public health and safety.

3. The exemptions are consistent with the common defense and security

The proposed exemptions would allow KS to use the Trust for site restoration activities, consistent with the PSDAR. Site restoration is an integral part of the planned KPS decommissioning process as discussed in the PSDAR. Use of the Trust as discussed in the PSDAR will not adversely affect KS's ability to physically secure the site or protect special nuclear material. Therefore, the proposed exemptions are consistent with the common defense and security.

3.2 SPECIAL CIRCUMSTANCES

Pursuant to 10 CFR 50.12(a)(2), the NRC will not consider granting an exemption to its regulations unless special circumstances are present. KS believes that special circumstances are present as discussed below.

1. Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule. (10 CFR 50.12(a)(2)(ii))

The underlying purpose of 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) is to provide reasonable assurance that adequate funds will be available for decommissioning of power reactors within 60 years of cessation of operations. Strict application of the rule would prohibit withdrawal of funds from the Trust for activities associated with site restoration until the KPS license has been terminated. However, the PSDAR sinking fund analysis (discussed above) demonstrates that adequate funds are available in the Trust to complete all decommissioning activities, including license termination, irradiated fuel management, and site restoration. The analysis projects that at the end of decommissioning activities in 2055, about \$66 million will remain in the Trust. In addition, as discussed in more detail in Section 4.0 below, the establishment of a dedicated \$7 million subaccount and an agreement to obtain an \$8 million performance bond(s) if a settlement agreement is not entered into with DOE by January 1, 2024, would provide additional funding assurance if needed.

The 30-day notification provision in 50.75(h)(1)(iv) was not intended to duplicate other reporting requirements that would exist after a plant commences decommissioning. During the rulemaking establishing this requirement, a commenter observed that licensees that have complied with the requirements of 10 CFR 50.82(a)(4) regarding submittal of a PSDAR and control disbursements in accordance with the provisions of 10 CFR 50.82(a)(6), (a)(7) and (a)(8) should be exempt from further restrictions on disbursements (67 Fed. Reg. 78,332, 78,335 (Dec. 24, 2002)). The NRC agreed with the comment, because requiring notification in such circumstances would not provide any additional assurance that funding is available and would duplicate notification requirements in 50.82. If the NRC grants the requested exemption allowing KS to use its Trust for site restoration activities, the same consideration will justify dispensing funds without the 30-day notification requirement as well. The PSDAR identifies the intended disbursements, and the annual reporting requirements promulgated in 10 CFR 50.82(a)(8)(v) and (vi) will allow continual NRC oversight of the status of the Trust. Applying the 30-day advance notification requirement in 50.75(h)(1)(iv) to disbursements for site restoration activities would duplicate these other reporting requirements and is not necessary to achieve the underlying purposes of this rule.

Therefore, since the underlying purposes of the rules would be achieved by allowing KS to use the Trust to fund the activities as discussed in its PSDAR, the special circumstances required by 10 CFR 50.12(a)(2)(ii) exist.

2. Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted, or that are significantly in excess of those incurred by others similarly situated. (10 CFR 50.12(a)(2)(iii))

The NRC did not intend to prevent the use of the trust funds solely because they are commingled, and to do so would create an unnecessary financial burden without any corresponding safety benefit. The adequacy of the Trust to cover the cost of activities associated with the different elements of decommissioning (including the site restoration activities) is supported as documented in the PSDAR. If KS cannot use its Trust for site restoration, it would be forced to provide additional funding that would not be recoverable from the Trust. This would impose an unnecessary and undue burden in excess of that contemplated when the regulation was adopted.

Therefore, compliance with the rule would result in an undue hardship or other costs in excess of those contemplated when the regulation was adopted, or that are in excess of those incurred by others similarly situated and the special circumstances required by 10 CFR 50.12(a)(2)(iii) exist.

3. The exemption would result in benefit to the public health and safety that compensates for any decrease in safety that may result from the grant of the exemption. (10 CFR 50.12(a)(2)(iv))

The proposed exemptions would allow the use of the Trust for site restoration activities in accordance with the PSDAR. Adequate funds are available in the Trust to complete all activities associated with license termination, irradiated fuel management, and site restoration. There is no decrease in safety associated with the Trust being used to fund activities associated with site restoration. The exemptions would allow KS to perform site restoration activities in accordance with the PSDAR. As discussed in the PSDAR, KS plans to use a DECON method of decommissioning. This method of decommissioning removes cost uncertainties involved with a long-term dormancy approach, and allows for synergies of staff and equipment utilization, already engaged in radiological decommissioning activities, to also pursue site restoration work largely in parallel.

Therefore, since granting the exemption would result in benefit to the public health and safety and would not result in a decrease in safety, the special circumstances required by 10 CFR 50.12(a)(2)(iv) exist.

4.0 TECHNICAL JUSTIFICATION FOR THE EXEMPTION

The projected costs of decommissioning, including managing spent fuel (irradiated fuel) and site restoration activities, are summarized in Table 4-1 of the PSDAR which is repeated herein below. The cost data in Table 4-1 reflect the additional costs expected to be incurred by KS related to the extended period of storage of spent fuel until acceptance by DOE. Table 4-1 projects the overall Kewaunee cost burden to be \$955 million in 2021 dollars. The portion of this cost burden for site restoration activities is projected to be \$47.7 million, a small portion (about 5%) of the overall estimated cost.

The sinking fund analysis provided in Table 1A-2 of the PSDAR (repeated herein in Enclosure 1 (Confidential)) shows that the KPS decommissioning Trust, with projected earnings and DOE reimbursements, is sufficient to cover the overall cost burden of KPS decommissioning, including site restoration activities. The updated Irradiated Fuel Management Plan (Reference 10) provided a supplementary note to Table 1A-2 (Confidential) stating that at closing of the license transfer of KPS from DEK to ES, the Trust had an actual balance of \$819.3 million. This validates Note A of the sinking fund analysis. Note: The 2022 decommissioning funding status report for KPS with an updated sinking fund analysis will be filed with the NRC in March 2023.

The corresponding KPS estimated annual spending is provided in Table 1B-1 of the PSDAR (repeated herein below). The annual spending is tabulated according to the major cost categories, namely, license termination (radiological decommissioning), irradiated fuel management (spent fuel management), and site restoration.

Table 1A-2 (Confidential) demonstrates that adequate funds exist in the KPS Trust to complete the decommissioning of KPS by 2054. The analysis assumed a starting NDT value of \$800M at closing of the license transfer from DEK to ES. This was a conservative assumption, as the actual closing balance was \$819.3 million as stated above. The 2020 decommissioning funding status report for KPS (Reference 11), documents the Trust had \$900M in assets as of December 31, 2020. The KPS Sinking Fund Analysis in Table 1A-2 (Confidential) thereafter conservatively accounts for taxes on unrealized gains up front in the analysis, resulting in approximately \$730M available for decommissioning upon completion of the transfer of control of KPS to ES (KS).

TABLE 4-1 Decommissioning Cost Summary

Kewaunee Power Station Summary of Decommissioning Costs (thousands of 2021 dollars)	
Description	Total Cost
Planning & Transition Direct Costs	8,302
Undistributed Planning & Transition Costs	1,865
PLANNING & TRANSITION	10,166
Infrastructure Upgrades & Site Modifications	27,949
Reactor Vessel Removal	43,786
Large Component Removal	11,398
Decontamination & Rad Building Demolition	52,676
Other Direct Decommissioning Activities	56,701
Waste Transportation & Disposal	159,002
Final Status Surveys & License Termination	14,029
Undistributed Decommissioning Costs	200,118
DECONTAMINATION & LICENSE TERMINATION	565,659
Clean Building & Site Demolition	25,899
Other Direct Site Restoration Costs	9,296
Undistributed Site Restoration Costs	12,513
SITE RESTORATION	47,708
Total Estimated Costs	623,533
Contingency	100,236
TOTAL DECOMMISSIONING & SITE RESTORATION	723,769
ISFSI Security & Operations	141,854
Fuel & GTCC Transfer to DOE	11,137
Undistributed Fuel/GTCC Storage & Transfer Costs	39,404
SPENT NUCLEAR FUEL (SNF)/ GTCC STORAGE & TRANSFER	192,395
ISFSI Decommissioning & Demolition	9,195
ISFSI Final Status Surveys & License Termination	1,561
Undistributed Costs for ISFSI Decommissioning	5,345
ISFSI DECOMMISSIONING	16,102
Total Estimated Costs	208,497
Contingency	22,824
TOTAL SPENT FUEL MANAGEMENT	231,321
GRAND TOTAL	955,090

Table 1B-1 Kewaunee Power Station Estimated Annual Spending (thousands of 2021 Dollars)				
Year	License Termination	Spent Fuel Management	Site Restoration	Total
2021	10,878	-		10,878
2022	49,527	7,134	-	56,661
2023	81,911	7,134	-	89,045
2024	85,499	7,134	6,118	98,751
2025	84,525	7,134	11,012	102,671
2026	105,053	7,134	11,527	123,714
2027	107,684	7,134	10,341	125,160
2028	102,934	7,134	10,154	120,223
2029	34,072	7,134	5,464	46,671
2030	6,911	6,214	160	13,285
2031		6,214		6,214
2032		6,214		6,214
2033		6,214		6,214
2034		6,214		6,214
2035		6,214		6,214
2036		6,214		6,214
2037		6,214		6,214
2038		6,214		6,214
2039		6,214		6,214
2040		6,214		6,214
2041		6,214		6,214
2042		6,214		6,214
2043		6,214		6,214
2044		6,214		6,214
2045		6,214		6,214
2046		6,214		6,214
2047		6,214		6,214
2048		6,214		6,214
2049		8,067		8,067
2050		11,962		11,962
2051		12,292		12,292
2052		12,292		12,292
2053		7,232		7,232
2054		4,324		4,324
2055		-		-
Total	668,993	231,321	54,776	955,090

Additional financial assurance for radiological decommissioning, irradiated fuel management, and site restoration activities, was provided in support of the KPS license transfer from DEK to ES. By letter to NRC dated July 27, 2022 (Reference 12), ES provided documentary evidence of:

1. Establishment of a dedicated subaccount under the KPS decommissioning Trust and transfer of \$7 million into that account, which amount represents approximately one year's worth of estimated operation and maintenance costs of the independent spent fuel storage installation.
2. Agreement to obtain a performance bond(s) in the amount of \$8 million, designed to cover the projected annual O&M costs for the KPS ISFSI for the years 2024-2030, IF a settlement agreement with the United States government, acting through DOE, on reimbursements for spent nuclear fuel management expenses is not entered into by January 1, 2024.

5.0 ENVIRONMENTAL CONSIDERATIONS

Pursuant to the requirements of 10 CFR 51.21, "Criteria for and identification of licensing and regulatory actions requiring environmental assessments," KS evaluated the requested exemptions against the criteria for identification of licensing and regulatory actions requiring environmental assessments. It was determined that the requested exemptions meet the eligibility criterion for categorical exclusion set forth in 10 CFR 51.22, "Criterion for categorical exclusion; identification of licensing and regulatory actions eligible for categorical exclusion or otherwise not requiring environmental review," paragraph (c)(25), as shown below.

(i) The exemptions involve no significant hazards consideration

KS has evaluated the proposed exemptions to determine whether a significant hazards consideration is involved by focusing on the three standards set forth in 10 CFR 50.92 as discussed below:

1. Do the proposed exemptions involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed exemptions would allow KS to withdraw funds from the KPS decommissioning Trust to conduct site restoration activities in accordance with the PSDAR. The proposed exemptions have no effect on plant systems structures and components (SSCs) since the physical decommissioning work to be performed at the site (including site restoration) remains the same with or without this requested exemption. The proposed exemptions have no effect on the capability of any plant SSC to perform its design function. The proposed exemptions would not increase the likelihood of the malfunction of any plant SSC. The proposed exemptions would have no effect on any of the previously evaluated accidents in the KPS Defueled Safety Analysis Report (DSAR). Use of funds in the Trust as allowed under the exemptions will not affect the

probability of occurrence of any previously analyzed accident. The proposed exemptions do not change the requirements pertaining to site restoration.

Therefore, the proposed exemptions do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed exemptions create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed exemptions do not involve a physical alteration of the plant. No new or different type of equipment will be installed and there are no physical modifications to existing equipment associated with the proposed exemptions. Similarly, the proposed exemptions would not physically change any structures, systems or components involved in the mitigation of any accidents. Thus, no new initiators or precursors of a new or different kind of accident are created. Furthermore, the proposed exemptions do not create the possibility of a new accident because of new failure modes associated with any equipment or personnel failures. No changes are being made to parameters within which the plant is normally operated, or in the setpoints which initiate protective or mitigative actions, and no new failure modes are being introduced.

Therefore, the proposed exemptions do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed exemptions involve a significant reduction in a margin of safety?

The proposed exemptions do not alter the design basis or any safety limits for the plant. The proposed exemptions do not impact station operation or any plant SSC that is relied upon for accident mitigation.

Therefore, the proposed exemptions do not involve a significant reduction in a margin of safety.

Based on the above, KS concludes that the proposed exemptions present no significant hazards consideration, and, accordingly, a finding of “no significant hazards consideration” is justified.

(ii) There is no significant change in the types or significant increase in the amounts of any effluent that may be released offsite.

There are no expected changes in the types, characteristics, or quantities of effluents discharged to the environment associated with the proposed exemption. There are no materials or chemicals introduced into the plant that could affect the characteristics or types of effluents released offsite. In addition, the method of operation of waste processing systems will not be affected by the exemptions. The proposed exemptions will not result in changes

to the design basis requirements of SSCs that function to limit or monitor the release of effluents. All the SSCs associated with limiting the release of effluents will continue to be able to perform their functions or will be replaced by equivalent systems during the decommissioning process. Therefore, the proposed exemptions will result in no significant change to the types or significant increase in the amounts of any effluents that may be released offsite.

(iii) There is no significant increase in individual or cumulative occupational radiation exposure.

The exemptions would result in no expected increases in individual or cumulative occupational radiation exposure on either the workforce or the public. There are no expected changes in normal occupational doses. Likewise, design basis accident dose is not impacted by the proposed exemption.

(iv) There is no significant construction impact.

There are no construction activities associated with the proposed exemptions.

(v) There is no significant increase in the potential for consequences from radiological accidents.

See the no significant hazards considerations discussion in item 1 above.

(vi) The requirements from which exemptions are sought involve surety, insurance or indemnity requirements or other requirements of an administrative nature.

The underlying purpose of the requirements from which exemptions are sought is to provide reasonable assurance that adequate funds will be available for decommissioning of power reactors within 60 years of cessation of operations. These requirements provide surety for decommissioning funding.

Based on the above, KS concludes the requested exemptions meet the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(25). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the proposed exemptions.

6.0 PRECEDENT

The exemption request is similar to the one submitted to the NRC on February 25, 2020, by NextEra Energy Duane Arnold, LLC for the Duane Arnold Energy Center [ML20056E054], supplemented May 29, 2020 [ML20153A371], and approved by the NRC on August 12, 2020 [ML20171A627]. In addition, the exemption request is similar to the one submitted to the NRC

on November 16, 2018, by Entergy Nuclear Operations, Inc., for the Pilgrim Nuclear Power Station [ML18320A037], and approved by the NRC on July 22, 2019 [ML19163A001].

7.0 CONCLUSION

Pursuant to the provisions of 10 CFR 50.12, “Specific exemptions,” KS is requesting permanent exemptions from 10 CFR 50.82(a)(8)(i)(A) and 10 CFR 50.75(h)(1)(iv) for KPS. The proposed exemptions would allow KS to use funds from the KPS decommissioning Trust for site restoration activities, consistent with the PSDAR, and make such disbursements in the same manner as withdrawals for radiological decommissioning.

Granting these exemptions will be consistent with the purposes underlying NRC decommissioning regulations as it: (1) would not foreclose release of the site for possible unrestricted use; (2) would not result in significant environmental impacts not previously reviewed by the NRC; and (3) would not undermine the existing and continuing reasonable assurance that adequate funds will be available for decommissioning.

These requested exemptions are authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security, and special circumstances are present as set forth in 10 CFR 50.12(a)(2).

8.0 SCHEDULE

KS requests review and approval of this exemption request by December 1, 2023. As discussed in the KPS PSDAR, KS plans to begin site restoration activities in late 2023. The exemptions are needed to allow KS to use funds from the Trust for these site restoration activities.

9.0 REFERENCES

1. Letter from D. G. Stoddard (DEK) to NRC Document Control Desk, “Certification of Permanent Cessation of Power Operations,” dated February 25, 2013 [ML13058A065]
2. Letter from D. G. Stoddard (DEK) to NRC Document Control Desk, “Certification of Permanent Removal of Fuel from The Reactor Vessel,” dated May 14, 2013 [ML13135A209]
3. Letter from D. G. Stoddard (DEK) to NRC Document Control Desk, “Request for Exemptions From 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv),” dated April 4, 2013 [ML13098A031]
4. Letter from D. G. Stoddard (DEK) to NRC Document Control Desk, “Supplement to Request for Exemptions From 10 CFR 50.82(a)(8)(i)(A) and 50.75(h)(1)(iv),” dated November 6, 2013 [ML13312A916]
5. Letter from C. Gratton (NRC) to D. A. Heacock (DEK), “Kewaunee Power Station – Exemptions from the Requirements of 10 CFR Part 50, Section 50.82(a)(8)(i)(A) and Section 50.75(h)(1)(iv) (TAC NO. MF1438),” dated May 21, 2014 [ML14219A737]

6. Letter from D. G. Stoddard (DEK) to NRC Document Control Desk, “Kewaunee Power Station Post-Shutdown Decommissioning Activities Report,” dated February 26, 2013 [ML13063A248]
7. Dominion Energy Kewaunee, Inc., Purchase of Kewaunee Nuclear Power Plant, July 5, 2005, State of Wisconsin Public Service Commission Docket No. 05-EI-136
8. Letter from B. A. Watson (NRC) to D. G. Stoddard (DEK), “Order Approving Transfer of the License for Kewaunee Power Station and Conforming License Amendment (EPID L-2021-LLO-0002),” dated March 31, 2022 [ML22014A391]
9. Letter from Gerard van Noordennen (ES) to NRC Document Control Desk, “Notification of Amended Post-Shutdown Decommissioning Activities Report (Revision 2) for Kewaunee Power Station,” dated May 13, 2021 [ML21145A083]
10. Letter from J. T. Sauger (EnergySolutions, LLC) to NRC Document Control Desk, “Kewaunee Solutions, Inc., Kewaunee Power Station, Update To Irradiated Fuel Management Plan Pursuant to 10 CFR 50.54(bb),” dated September 26, 2022
11. Letter from M. D. Sartain (DEK) to Document Control Desk, “Decommissioning Funding Status Report, Financial Test and Independent Public Accountants’ Letter of Attestation,” dated March 25, 2021 [ML21084A800]
12. Letter from Russel G. Workman (EnergySolutions, LLC) to NRC Document Control Desk, “Executed Financial Assurance Instruments for the Kewaunee License Transfer License No. DPR-43 (Docket Nos. 50-305, 72-64),” dated July 27, 2022 [ML22215A151]

ATTACHMENT 2

10 CFR 2.390 AFFIDAVIT

(2 Pages)

**KEWAUNEE SOLUTIONS, INC.
KEWAUNEE POWER STATION
DOCKET NO. 50-305**

10 CFR 2.390
AFFIDAVIT OF RUSSELL G. WORKMAN

I, Russell G. Workman, General Counsel of EnergySolutions, LLC, state that:

1. I am authorized to execute this affidavit on behalf of Kewaunee Solutions, Inc.
2. Kewaunee Solutions is providing information in support of an exemption request from portions of 10 CFR 50.82 and 10 CFR 50.75 relating to use of a commingled decommissioning Trust fund for site restoration activities at the Kewaunee Power Station. This exemption request is submitted to the NRC pursuant to 10 CFR 50.12, and it includes confidential financial information, including proprietary aspect to the decommissioning of the Kewaunee Power Station, that should be held in confidence by the NRC pursuant to the policy reflected in 10 CFR 2.390(a)(4) and 10 CFR 9.17(a)(4), because:
 - a. This information is and has been held in confidence by Kewaunee Solutions, its affiliates and contractors.
 - b. This information is of a type that is held in confidence by Kewaunee Solutions, and its affiliates and contractors, and there is a rational basis for doing so because the information contains sensitive trade secret or financial information concerning the decommissioning of Kewaunee Power Station.
 - c. This information is being transmitted to the NRC in confidence.
 - d. This information is not available in public sources and could not be gathered readily from other publicly available information.
 - e. Public disclosure of this information would create substantial harm to the competitive position of Kewaunee Solutions by disclosing unique decommissioning analyses, including approaches to decommissioning developed by Kewaunee Solutions at considerable time and expense, to other parties whose commercial interests may be adverse to those of Kewaunee Solutions.
3. Accordingly, Kewaunee Solutions requests that the designated document be withheld from public disclosure pursuant to the policy reflected in 10 CFR 2.390(a)(4) and 10 CFR 9.17(a)(4).

Kewaunee Solutions, Inc.,



Russell G. Workman
General Counsel

STATE OF UTAH

COUNTY OF SALT LAKE

Subscribed and sworn to me, a Notary Public, in and for the County and State above named, this
27th day of March 2023.



My Commission Expires: _____