

IN RESPONSE, PLEASE
REFER TO: M910911

September 17, 1991

MEMORANDUM FOR: William C. Parler
General Counsel

FROM: Samuel J. Chilk, Secretary \s\

SUBJECT: STAFF REQUIREMENTS - AFFIRMATION/
DISCUSSION AND VOTE, 11:00 A.M., WEDNESDAY,
SEPTEMBER 11, 1991, COMMISSIONERS' CONFERENCE
ROOM, ONE WHITE FLINT NORTH, ROCKVILLE,
MARYLAND (OPEN TO PUBLIC ATTENDANCE)

I. SECY-91-253 - Review of ALAB-952 Affirming Dismissal of
Intervenor from ODerating License Amendment Proceeding

The Commission by a 4-0 vote* approved an Order addressing two aspects of ALAB-952 and LBP 90-32. The Order (1) agreed with the Appeal Board's decision to affirm the dismissal of the Nuclear Energy Accountability Project from this proceeding for lack of standing and (2) makes clear that a Licensing Board does not have the authority to raise a sua sponte issue relating to an application for an operating license or amendment when there is no proceeding before the Board relating to the application. Specifically, a Board may not raise a sua sponte issue where all parties in a proceeding have withdrawn or been dismissed.

(Subsequently, on September 11, 1991, the Secretary signed the Order).

II. SECY-91-269 - United Nuclear Corporation's Request for
Hearing.

The Commission, by a vote of 4-0*, approved an Order responding to an April 4, 1991 request by United Nuclear Corporation for a hearing on an amendment to its Source Materials License. Subsequent to the hearing request the NRC staff and licensee met in an effort to resolve the matter in dispute.

* "Section 201 of the Energy Reorganization Act, 42 USC Section 5841, provides that action of the Commission shall be determined by a 'majority vote of the members present.' Commissioner Rogers was not present when this item was affirmed. Accordingly, the formal vote of the Commission was 3-0 in favor of the decision.

Commissioner Rogers, however, had previously indicated that he would approve this paper and had he been present he would have affirmed his prior vote."

The Order denies the hearing request as moot, unless the Commission receives an objection from UNC or the NRC staff within 10 days.

(Subsequently, on September 11, 1991, the Secretary signed the Order).

cc: The Chairman
Commissioner Rogers
Commissioner Curtiss
Commissioner Remick
OGC
OPA
IG
PDR - Advance
DCS - P1-24