

From: W.Mike Ripley
To: Howard Larson
Date: 4/11/01 8:56AM
Subject: Response to Question Raised at NRR Briefing to ACNW - 3/21/01

Howard,

On March 21, 2001, during a staff presentation to ACNW on the Partial Site Release rulemaking, Mr. Milton Levenson, ACNW Board Member, questioned the staff on what regulations would prevent a third party from locating potentially hazardous facilities or engaging in hazardous activities on property adjacent to a reactor site which has been released for unrestricted use.

Please forward the following response to Mr. Levenson:

Staff Response:

The NRC has no authority to regulate the activities of non-licensed third parties, even where such activities pose a potential hazard to adjacent, licensed facilities.

Although the NRC has no authority to prevent third parties from constructing facilities or engaging in activities which present a potential hazard to the licensee's plant, the NRC does have authority to take action against the licensee. Assuming that the potential hazard is such that the NRC would not have allowed the siting of the plant if the conditions were known, then under Section 186 of the Atomic Energy Act, the NRC could revoke the license to prevent the hazard today. Since the license can be revoked, lesser actions can be taken as well - such as issuing an order or suspension, or a demand for information, depending on the circumstances

Note also that, as part of its application for a construction permit and operating license for a power reactor facility, the licensee is required to perform an analysis of the effects of the environment on the plant including those from nearby industrial facilities and transportation (see 10 CFR Part 100). Additionally, the licensee must continue to ensure that its bases and conclusions as presented in Final Safety Analysis Report, that form part of the basis for the operating licenses, remain valid (see 10 CFR 50.71). Therefore, the licensee must ensure that the reactor plant is adequately protected and can be operated with an acceptable degree of safety with respect to offsite activities as they are identified. The NRC would review any necessary changes to the nuclear plant license, or changes to the plant licensing basis, that evolve from the licensee's evaluation. These reviews and evaluations are applicable to conditions existing on property adjacent to the licensee's site as originally licensed, as well as on property released prior to license termination.

Thanks,

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