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March 31, 2005

Dr. Paul B. Abramson, Chairman
Dr. Anthony J. Baratta, Administrative Judge
Dr. David L. Hetrick, Administrative Judge
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

DOCKETED
USNRC
March 31, 2005 (3:01pm)
OFFICE OF SECRETARY
RULEMAKINGS AND
ADJUDICATIONS STAFF

SUBJECT: *Clinton ESP Proceeding, Docket No. 52-0007*

Dear Administrative Judges,

I am writing to request that you correct an erroneous factual statement in you recent Memorandum and Order (Denying, Following Reconsideration, Filing Extension Request) (March 30, 2005). The Memorandum and Order refers to an October 19, 2004, conference call that was scheduled during a telephone conference on September 23, 2004. According to the Memorandum and Order:

That conference call – which had tentatively been scheduled for October 19, 2004 pending counsel for BREDL (acting on behalf of the Intervenors) notifying the Board that that date was acceptable (such confirmation was not received by us) – never occurred.

Id., slip op. at 3 (footnote omitted).

The statement is incorrect in two respects. First, Shannon Fisk, counsel for the Environmental Law and Policy Center (“ELPC”), who has served as lead counsel for the Intervenors since the admission of Intervenors’ Contention 3.1 in August of 2004, was the person responsible for letting the Board know that the October 19 date was acceptable to the Intervenors. See transcript of September 23, 2004, telephone conference at 423-24 (Accession No. ML042730458). As I recall, Mr. Fisk contacted me about the October 19 call in late September. I told him that I was unavailable but said that he should go ahead on October 19 and represent the Intervenors. Mr. Fisk followed up with a letter to the Board, stating that October 19 was acceptable to the Intervenors, but requesting that the time of the telephone conference be changed from 2:00 p.m. to 11:00 a.m. or noon. Letter from Shannon Fisk to Dr. Paul B. Abramson et al, re: Prehearing Conference Call Scheduled for October 19, 2004 (September 27, 2004) (Accession No. ML042810063).

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Second, the October 19, 2004, telephone conference did take place. A copy of the transcript can be found on ADAMS, Accession No. ML043010555. Mr. Fisk and Howard Learner, also of ELPC, represented the Intervenors in that telephone conference.

Given that the Memorandum and Order implicitly criticizes my conduct in this proceeding, based on an inaccurate representation of the facts, I would appreciate it if the Board would make a correction.

Thank you for your consideration.

Sincerely,


Diane Curran

Cc: Service List