Docket No. 50-247

Mr. John T. Conway, Executive Director
Joint Committee on Atomic Energy
Congress of the United States

DEC 18 1967

Dear Mr. Conway:

I am pleased to respond to your letter of October 11, 1967, concerning the letter addressed to you by Miss Elizabeth R. Hogan dated September 22.

As you requested, I am enclosing a chronological summary of the attempts of The Conservation Center to intervene in the Indian Point 2 proceeding. In amplification of this summary there is also enclosed an "Excerpt from the Atomic Safety and Licensing Board's Initial Decision of October 3, 1966," which contains the pertinent part of the Board's decision; a copy of the staff's brief on The Conservation Center's appeal dated October 31, 1966, which sets forth pertinent details and the staff's official position on the petition to intervene; and a copy of the Commission's decision on the appeal.

I am also enclosing comments by the staff which answer the specific questions raised by Miss Hogan in her letter concerning several areas of technical evaluation by the regulatory staff and the Advisory Committee on Reactor Safeguards. Regarding Miss Hogan's inquiry about the Commission's handling of requests from the ACRS, the regulatory staff responds to all requests by the ACRS concerning radiological safety matters. This cooperation between the staff and the ACRS is a routine and continuing practice.

Cordially,

(Signed) Glenn T. Seaborg

Chairman

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Enclosures:
1. Chronological Summary of Attempted Intervention
2. Excerpts of ASLB Initial Decision
3. Staff's Brief, October 31, 1966
4. Commission Decision
5. Staff Comments

Cleared with Sahar on phone (see previous concurrences)

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John T. Conway

Distribution:

Chairman Seaborg (2)
Commissioner Ramey
Commissioner Tape
Commissioner Johnson
Secretary (2) - Attn: Stan Robinson
General Manager (2)
OGC (2) - 1 Howard Shapar, BETH
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Concerning your reference to the specific questions on page 3 of Miss Hogan's letter, the final designs of the emergency core cooling system and the pertinent structural members within the pressure vessel of the Indian Point 2 plant are currently being reviewed by the AEC regulatory staff. These designs have also been made available to the Advisory Committee on Reactor Safeguards (ACRS) for its review. This material was received by the regulatory staff from the applicant, Consolidated Edison on October 18, 1967, and copies were transmitted to the ACRS on October 19.

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Chairman

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Commissoner Ramey
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Docket No. 50-247

Mr. John T. Conway, Executive Director
Joint Committee on Atomic Energy
Congress of the United States

Dear Mr. Conway:

I am pleased to respond to your letter of October 11, 1967, concerning the letter addressed to you by Miss Elizabeth B. Hogan dated September 22.

As you requested, I am enclosing a chronological summary of the attempts of The Conservation Center to Intervene in the Indian Point 2 proceeding. In amplification of this summary there is also enclosed an "Excerpt from the Atomic Safety and Licensing Board's Initial Decision of October 3, 1966," which contains the pertinent part of the Board's decision; a copy of the staff's brief on The Conservation Center's appeal dated October 31, 1966, which sets forth pertinent details and the staff's official position on the petition to intervene; and a copy of the Commission's decision on the appeal.

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Regarding the inquiry about the Commission's handling of requests from the ACRS, the regulatory staff responds to any request of the ACRS concerning the review of any radiological safety factor, including final design details for specified facility components. Since the

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common goal of both the regulatory staff and the ACRS (which, of course, is shared by the Atomic Safety and Licensing Board and the Commission) is the resolution of all radiological safety problems of licensed reactors, this cooperation between the staff and the ACRS is a routine and continuing practice.

Cordially,

Chairman

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Executive Director
Joint Committee on Atomic Energy
Congress of the United States

Dear Mr. Conway:

I am pleased to respond to your letter of October 11, 1967, concerning the letter addressed to you by Miss Elizabeth R. Hogan under date of September 22.

As you requested, I am enclosing a ~~narrative~~ chronological summary of the attempts of The Conservation Center to intervene in the Indian Point 2 proceeding. In amplification of this summary there is also enclosed an "Excerpt from the Atomic Safety and Licensing Board's Initial Decision of October 3, 1966" which contains the pertinent part of the Board's decision, a copy of the staff's brief on The Conservation Center's appeal dated October 31, 1966, which sets forth pertinent details and the staff's official position on the petition to intervene, and a copy of the Commission's decision on the appeal.

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Form AEC-318 (Rev. 9-53) U. S. GOVERNMENT PRINTING OFFICE 16—62761-3

~~With respect~~ Regarding to the inquiry ~~regarding~~ about the ~~policy of the Commission concerning~~ Commission's handling of requests from the ACRS, ~~it is the practice of~~ the regulatory staff ~~to~~ respond to any request of the ACRS ~~regarding~~ concerning the review of any radiological safety factor, including final design details for specified facility components, ~~and~~ This practice will be followed in this case. The common objectives of the regulatory staff and the ACRS and their abiding interest (with the Atomic Safety and Licensing Board and the Commission) in considering all radiological safety implications of licensed reactors, make such cooperation between the staff and the ACRS a regular and continuing practice.

See new wording

Cordially,

Chairman

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CHRONOLOGICAL SUMMARY OF ATTEMPTED INTERVENTION
BY
THE CONSERVATION CENTER
IN THE
INDIAN POINT 2 CASE

On Saturday, July 30, 1966, the Notice of Hearing in the Indian Point 2 proceeding was published in the Federal Register. This Notice set August 31, 1966, as the date and Buchanan, New York as the place of the hearing. An AEC press release announcing the hearing was also issued on Monday, August 1.

On August 13, 1966, The Conservation Center by Larry Bogart, Director, wrote the Chairman requesting a postponement of the hearing so that "sufficient time be allowed in setting the date for another hearing to allow parties who desire to be heard a chance to prepare." A response to this letter was addressed to Mr. Bogart, as Director of The Conservation Center, by Troy B. Conner, Jr., Trial Counsel for AEC, under the date of August 25, 1966. This letter enclosed copy of the Commission's Rules of Practice, 10 CFR Part 2, referred to the prior review of the application by the regulatory staff and the ACRS, and enclosed, additionally, a copy of the staff's "Safety Evaluation" in the case, together with the incorporated report of the ACRS as its appendix. This letter also informed the

addressee that the hearing had been postponed ('though not in response to Mr. Bogart's request) to September 14, 1966, and enclosed a copy of the Order of postponement. In its concluding paragraph, this letter stated:

> "In the event you determine that you wish to appear in the proceeding, your request, filed in accordance with the provisions of the 'Rules of Practice,' should be addressed to the Secretary, U. S. Atomic Energy Commission, Washington, D. C. 20545."

Two weeks later on Thursday, September 8, Mr. Bogart, as Director of The Conservation Center wrote a letter to the Secretary of the Commission stating that "The Conservation Center requests permission to intervene" in the case, and stated that "We have prepared a statement of objection to the Safety Evaluation, which we would like to have made a part of the record at the public hearing."

On the following Monday, September 12, Mr. Conner, AEC Trial Counsel, called Mr. Bogart and informed him that his request was received too late for a written reply and suggested that the matter be brought up at the prehearing conference which was scheduled for the next day, September 13, at Buchanan, New York. Mr. Bogart informed Mr. Conner that he agreed to this and stated that he had already planned to attend the prehearing conference.

On the following day, September 13, 1966, at the prehearing conference, the Chairman of the Atomic Safety and Licensing Board and the AEC staff counsel reviewed with Mr. Bogart the requirements of Section 2.714 of the Commission's Rules of Practice and pointed out to Mr. Bogart the reasons why The Conservation Center's letter of September 8, addressed to the Secretary of the Commission, did not meet these requirements.

On the next day - September 14, the first day of the hearing - The Conservation Center's petition to intervene had not been filed, but the Center's Counsel (Mr. Harold M. Weston) stated that he would like to be heard at that time; that he had only been retained the night before and had met his clients for the first time that morning -- and stated that other counsel for The Conservation Center "is apparently out of the country at the present time." The Chairman of the ASLB said that he would prefer to have a formal petition, and that it would be considered if filed. Sometime after 3:00 P. M. of September 14, The Conservation Center's counsel asked to file its petition but had an insufficient number of copies to supply the parties and the members of the Board and it was agreed, upon the suggestion of the Chairman of the Board, that it would be filed the following morning when enough copies would be prepared to serve the parties and supply the Board. (Tr. 309-312)

On the second and last day of the hearing (September 15), The Conservation Center filed a petition to intervene. Both the applicant and staff opposed the filing of the petition. The proceedings upon the presentation of the petition for leave to intervene -- including the argument of counsel for the proposed intervenor and opposing arguments by staff counsel and counsel for the applicant -- cover approximately 28 pages of the transcript (pages 369-372; pages 425-450). The Atomic Safety and Licensing Board denied the petition. (In the proceedings on September 15, counsel for the proposed intervenor stated ". . . Mr. Bogart has told me that his intervention is only for the purpose of asking an occasional question in the event that the proceedings have not covered some of the questions that occur to him from the standpoint of representing the public. . ." Staff counsel pointed out that the staff did not object to a limited appearance by The Conservation Center stating that this would permit Mr. Bogart to "identify those questions, and presumably they would be answered, if they have not already been answered, as the proceeding progresses, and this would eliminate any problem of intervention. . ." (Tr. 448-449) Thereupon counsel for the applicant and counsel for the State of New York -- the other two parties -- also stated that they would not object to such a limited appearance (Tr. 450). No request or petition for limited appearance was made by The Conservation Center or Mr. Bogart.)

The Initial Decision of the Atomic Safety and Licensing Board was issued on October 3, 1966. In its Initial Decision the Board noted its denial of the petition for intervention for failure to comply with the Rules of Practice, and noted that "the contentions of the participants had largely centered upon the requirement that a petition to intervene must set forth 'the interest of the petitioner in the proceeding, how that interest may be affected by the Commission action, and the contentions of the petitioner.'" (See the accompanying "Excerpt from the Atomic Safety and Licensing Board's Initial Decision of October 3, 1966, in the Indian Point 2 Case.")

On October 4, 1966, Mr. Bogart wrote to the Chairman acknowledging receipt of the Initial Decision and requested the Chairman's personal review of the Initial Decision "before it becomes effective on October 14." The Chairman's reply dated October 13, 1966, stated that "I can assure you that, in accordance with Commission practice, the Board's Initial Decision will be personally reviewed by all members of the Commission."

On October 14, 1966, The Conservation Center filed with the Commission an "Appeal from Initial Decision, Exceptions and Brief in Support Thereof." The staff and the applicant filed their answers to this appeal on October 31. (See copy of staff's brief accompanying this summary.) On December 20, 1966, the Commission issued a Memorandum and Order denying the appeal in

all respects. (See copy enclosed.) The Commission held that the petition could properly be denied because it was filed late, and even if it were held to be timely filed, that "its very general statement of organizational purpose does not set forth an interest of the petitioner in the proceeding which may be affected by Commission action" as required by the rules of the Commission. The Commission also held that the additional material filed on the appeal was not presented to the Board and should not then be considered.

The Chairman wrote to Mr. Bogart on December 22, referring to the above decision and stated that "I am sure you will appreciate that in reaching our decision we gave the entire proceeding our careful and personal attention." The Chairman also offered to arrange for members of the regulatory staff to meet with Mr. Bogart to explain the staff's safety evaluation and the AEC regulatory program in general if Mr. Bogart would find it helpful.

EXCERPT FROM THE ATOMIC SAFETY AND LICENSING BOARD'S INITIAL DECISION OF OCTOBER 3, 1966, IN THE INDIAN POINT 2 CASE

The Atomic Energy Commission, in accordance with the requirements of the Act issued a notice providing for a hearing before an Atomic Safety and Licensing Board in the Town of Buchanan, New York.[1/] The State of New York, through its Office of Atomic and Space Development, intervened and participated in the proceeding. In addition there were several limited appearances, some of whom appeared in behalf of the project and others who appeared in opposition to the project. A petition to intervene in these proceedings was filed by The Conservation Center of New York on September 15, 1966, the second day of the evidentiary hearing. The petition was

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1/ General public notice was given of the proceeding, which included publication in the Federal Register on July 30, 1966 (31 Fed. Reg. 10331). Prior to the convening of the hearing, public prehearing conferences were held in Buchanan on August 17, 1966, and on September 13, 1966, to consider procedural matters regarding the presentation of the evidence, schedules for witnesses and other items contemplated by the Rules of Practice of the Commission. At the aforesaid prehearing conference the date for the hearing was rescheduled for September 14, 1966, and due notice of this postponement was issued.

served upon the parties and the Board during the second day of the hearings, and was denied by the Board.[2/]

2/ The formal petition to intervene alleged, among other items, the following:

> "The Conservation Center, Inc., a non-profit Delaware Corporation ... was organized in an effort to help protect the health, welfare and safety of the public in the Hudson River Valley Basin as well as in other areas of Eastern United States, where blight and pollution are present dangers.
>
> "The outcome of the present proceeding, and any increase in levels of radioactivity by the operation of the type of plant proposed manifestly affects the interests of the petitioner. The reasons supporting the petitioner's position in the proceeding are set forth in the pages hereinafter attached."

In the attached ten pages were quotations from several documents, particularly the Safety Evaluation by the Regulatory Staff of the Commission which expressed its belief that the construction and operation of the proposed facility would be without undue hazard to the health and safety of the public. Included in the petition, also, were several questions which have been substantially answered by the evidence presented.

The Board considered the petition to intervene at a recess in the hearings, as well as the arguments and presentations made after the recess, and denied the petition to intervene for failure to comply with the Rules of Practice of the Commission. The contentions of the participants had largely centered upon the requirement that a petition to intervene must set forth "... the interest of the petitioner in the proceeding, how that interest may be affected by Commission action, and the contentions of the petitioner."

STAFF ANSWERS TO QUESTIONS CONCERNING THE SAFETY EVALUATION OF INDIAN POINT UNIT 2 CONSTRUCTION PERMIT APPLICATION, SUBMITTED BY ELIZABETH R. HOGAN IN A LETTER DATED SEPTEMBER 22, 1967, TO JOHN T. CONWAY, EXECUTIVE DIRECTOR OF THE JCAE

Miss Hogan poses questions concerning safety evaluations of the Consolidated Edison Company's Indian Point Unit 2 facility which are related to the petition of The Conservation Center to intervene in the proceeding and to statements in the Initial Decision of the Atomic Safety and Licensing Board which granted a provisional construction permit.

Tornadoes

With reference to The Conservation Center's question as to the ability of the facility to withstand the consequences of "unanticipated natural phenomena," Miss Hogan expresses concern about the "potential damage a tornado might cause to a nuclear reactor."

Under the Commission's General Design Criteria for Nuclear Power Plants, all nuclear power reactors such as the Indian Point 2 facility are required to be designed to withstand, without loss of capability to protect the public, the forces imposed by the most severe natural phenomena anticipated at a site, such as earthquakes, flooding conditions, and winds. In the course of our review of the construction permit application for Indian Point 2, we assured ourselves that the containment structure for this reactor would be adequate to withstand a hurricane-induced 110-miles-per-hour wind loading, coincident with temperature and pressure conditions inside the containment associated with a major rupture of the reactor coolant system. The effects of tornado-induced wind loadings were not specifically evaluated at that time on the basis of what was considered to be a low probability of occurrence of severe tornadoes; however, this question is being reexamined for this particular plant.

Fire

Miss Hogan poses the following question contained in The Conservation Center's petition: "How can the AEC or the public be satisfied, when potential adverse effects of fires are admitted to be 'of concern', when a safety analysis of them is impossible, and when there are no records of incidents involving reactor damage as a result of fire-induced excursions, on which to base proper safeguards?"

Potential adverse effects of fires are of concern, as was stated in our safety evaluation. To assure that precautions are taken, we consider in our safety review the materials and methods of construction which would prevent fires.

Our safety evaluation stated that a direct, analytical safety analysis of the consequences of fire in a control room is not possible as a practical matter due to the complexity of the electronic equipment involved. Our position on this point is unchanged. However, this does not mean that a safety analysis was not made. A careful evaluation was made of the fire resistance of the electronic circuit design and system installation based upon both the experience of industry and of the regulatory personnel. As noted in the Safety Evaluation in Indian Point Unit 2, it was our considered judgment that the redundancy of the reactor control safety system, the fail-safe design, and the materials used and methods of construction, provide adequate protection against fire-induced accidents.

Our safety evaluation also noted that an extensive search of records of reactor incidents failed to discover any instance of reactor damage resulting from a fire-induced excursion. Although this does not mean that such damage is impossible, it does indicate an excellent record and does show that the probability for such an occurrence is acceptably small.

Emergency Plans

Miss Hogan quotes the final question in The Conservation Center's petition, inquiring as to emergency plans to protect the public in the event of a major accident.

Emergency plans to be used by personnel at licensed nuclear facilities in case of accidents are considered in detail, not at the construction permit stage, but in the safety review which is conducted before an operating license is issued. These plans usually include procedures for notification to and cooperation with State and local police, State health officials, and the nearest AEC operations office. As an example, the plans may provide that State, AEC and plant personnel would evaluate data and meteorological information to determine the severity of the accident and the hazard potential; State authorities would determine the emergency off-site actions required; AEC may call into action its own emergency teams under the Radiological Assistance Plan, or it may call upon the other Federal agencies under the Interagency Radiological Assistance Plan; and the police would restrict access to the site and, if deemed necessary, institute other protective measures including evacuation of local areas.

AEC compliance inspectors who visit the facility periodically during its operating lifetime maintain a continuing review of the adequacy of emergency evacuation plans.

Review of Final Designs

Miss Hogan noted that the Atomic Safety and Licensing Board, in its Initial Decision quoted a recommendation of the Advisory Committee on Reactor Safeguards that the AEC regulatory staff and the Commission "should review the final design of the emergency core cooling system and the pertinent structural members within the pressure vessel, prior to irrevocable commitments relative to construction of these items." She inquires as to time of review by the AEC and the ACRS.

The final designs of the emergency core cooling system and the pertinent structural members in the pressure vessel of the Indian Point 2 plant are currently being reviewed by the AEC regulatory staff. These designs have also been made available to the ACRS for its review. This material was received by the regulatory staff from Consolidated Edison on October 18, 1967, and copies were transmitted to the ACRS on October 19.

OFFICE OF THE CHAIRMAN

10-12
(Date)

TO: DR

____ For appropriate handling

Ok (Cong Rel) Reply for Chairman's Signature

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Remarks _____

Arnold R. Fritsch
For the Chairman

OFFICE OF THE CHAIRMAN

10-12
(Date)

TO: Rec'd

____ For appropriate handling

6 mo (Cong Rel) Reply for Chairman's Signature

Com - D R For Information

Remarks _____

Arnold R. Fritsch
For the Chairman

OFFICE OF THE CHAIRMAN

_____
(Date)

TO: D C

____ For appropriate handling

____ Reply for Chairman's Signature

____ For Information

Remarks Returned as requested

Arnold R. Fritsch
For the Chairman