50-247

Recd in File Room 2/23/67

FEB 17 1967

Dear Senator Williams:

I am pleased to furnish information in response to your referral of January 17, 1967, which enclosed a copy of a letter to you from Mr. Larry Bogart, Director of The Conservation Center, New York City, together with a reprint of an article published in the December 1966 issue of The Rotarian.

The development of power reactors for peaceful use has over the years progressed with the paramount consideration of public health and safety built in from the very beginning. The current increase in nuclear power plant projects reflects industry's confidence both in the economics of nuclear power and in the record of safe operating experience that has been accumulated to date. Before any nuclear power plant can be undertaken, all radiological safety factors -- in which siting considerations are an integral part -- must be thoroughly evaluated and approved in the AEC's licensing process.

The Commission's Advisory Committee on Reactor Safeguards, as required by law, reviews all power reactor construction permit applications. That Committee reviewed the Indian Point Unit 2 application and recommended it for approval.

Our copy of a transcript of Dr. Edward Teller's testimony of January 10, 1967, at the air pollution conference in New York City shows that he recommended exploration of the possibility of locating reactors underground -- particularly with reference to building such plants within cities -- as another possible method of achieving safety. But he spoke favorably of the present system of multiple safeguards

OFFICE ▶						
SURNAME ▶	8110310179 670217 PDR ADOCK 05000247 U PDR					
DATE ▶						

being applied to above-ground nuclear reactors. In fact, Dr. Teller emphasized that a study of underground reactors "should not interfere with immediate and existing plans to build more reactors, according to the present good practice."

We are not able to comment on Mr. Bogart's reference to unnamed "experts" who have "cautioned against locating nuclear reactors on major rivers." In the case of Indian Point Unit 2 -- as with other power reactors -- the plans had to meet the requirements of the AEC's criteria for siting. The application was evaluated and reported on favorably by both the AEC regulatory staff and the Advisory Committee on Reactor Safeguards. Finally, an atomic safety and licensing board conducted a public hearing on the matter and, on October 3, 1966, issued a favorable decision which directed the issuance of a construction permit. The Commission itself, in its review of the proceeding, was satisfied that the record supported the board's findings and conclusions in accordance with the Commission's regulations.

We regret that Mr. Bogart believes that "a group of citizens can't be heard," which apparently refers to the board's denial of a petition by The Conservation Center to intervene in the proceeding. The record of the proceeding shows that Mr. Bogart was in communication with the AEC well in advance of the publicly announced hearing and that he was informed of the procedures required for intervention. Nevertheless, no attempt was made by The Conservation Center to comply with the Commission's Rules of Practice, for timely and proper intervention, and the board consequently denied the petition. Subsequently, on October 21, 1966, the Commission received an "Appeal from Initial Decision, Exceptions and Brief in Support Thereof" from The Conservation Center. A copy of the Commission's memorandum and order of December 20, 1966, denying the appeal and describing the circumstances is enclosed for your information.

OFFICE ▶						
SURNAME ▶						
DATE ▶						

Finally, with regard to the reprint of the article, "Atomic Power and the Problems of Public Safety," which appeared in the December 1966 issue of The Rotarian, we note that many of the statements attributed to Mr. Adolph Ackerman are the same points raised in his testimony before the Joint Congressional Committee on Atomic Energy during its June 1965 hearings on indemnity legislation. Our comments concerning Mr. Ackerman's testimony were furnished to the Joint Committee on Atomic Energy following those hearings, and are summarized in the enclosed copy of a letter from the director of AEC's Division of Public Information to the editor of The Rotarian.

In keeping with the AEC's rules in licensing proceedings, a copy of your letter with enclosures and this reply have been placed in the Commission's Public Document Room.

If you should need further information on this matter, let me know.

Cordially,

(Signed) Glenn T. Seaborg

Chairman

Honorable Harrison Williams
United States Senate

Enclosures:
1. Memo of Order dtd 12/20/66
2. Memo fr John Harris, DPI dtd 12/14/66

bcc: HLPrice
CKBeck
MMMann
CLHenderson
WGDooly
JCook

Distribution
Supplementary docket
Formal docket file 50-247
Public Document Room
Secretariat (2)
General Manager (2)
General Counsel (2)
Chairman
Commissioner Johnson
Commissioner Nabrit
Commissioner Ramey
Commissioner Tape

OFFICE ▶	REG	OGC	DIR:REG	OCR
SURNAME ▶	WGDooly/ CHenderson:aw		HLPrice	
DATE ▶	2/ /67	2/10/67	2/ /67	

C
O
P
Y

DEC 1 4 1966

Mr. Karl K. Krueger, Editor
ROTARIAN MAGAZINE
1600 Ridge Avenue
Evanston, Illinois 60201

Dear Mr. Krueger:

The article "Atomic Power and the Problem of Public Safety" by Helen Matheson in your December 1966 issue has come to our attention. We appreciate that this article was in response to a previous favorable story on atomic power safety and that, as your editors' note states, your magazine has not taken a position on the matters mentioned in the recent story.

Nevertheless, many of the statements attributed to Mr. Adolph Ackerman in the article make it necessary for us to comment so that the 400,000 subscribers of ROTARIAN can judge the facts.

As you may know, Mr. Ackerman raised most of the same points in his testimony before the Joint Congressional Committee on Atomic Energy in June of 1965 when that committee was considering a 10-year renewal of the Price-Anderson Indemnity Act.

Following those hearings, the Joint Committee requested the Atomic Energy Commission's views on Mr. Ackerman's statements. Since these AEC comments are also applicable to many of the matters discussed in the ROTARIAN, let me quote them:

> "(a) that no factual basis has been found to support Mr. Ackerman's charge of a 'breakdown in engineering and corporate responsibility,' attributed to the indemnity provisions of the Price-Anderson legislation;
>
> (b) that Mr. Ackerman's apparent approach to the safety problem through the single discipline of civil engineering ignores the fact that the complex technology of nuclear power plant design and operation is more dependent on the vital talents of several other branches of engineering, such as mechanical, chemical, physical, metallurgical, electrical, electronic computational and instrument engineering. We believe that all appropriate engineering talents are being utilized;

C
O
P
Y

(c) that the AEC, in carrying out the public health and safety responsibilities with which it is charged by the Congress, has exercised continuing research and regulatory efforts in the development of the safety philosophy which guides the design and safety evaluation of nuclear power reactors. This philosophy provides both for multiple safeguards against the occurrence of a serious accident, and for containment of fission product release in the extremely unlikely event of such an accident;

(d) that this 'defense in depth' strategy has not been seriously challenged to date by any accidents or equipment failures, and this accident prevention philosophy is well demonstrated by the various component failure examples cited by Mr. Ackerman, none of which has resulted in any public safety problem;

(d) that, while catastrophic accidents can be postulated and their possibility cannot be absolutely ruled out, the probability of such accidents at nuclear power plants approved by the AEC is so remote that it does not constitute an undue risk to the public health and safety; and

(f) that the need for continuous, trouble-free operation is so vital to nuclear power economics as to coincide to a large degree with the objectives of protecting the safety of the public. This is counter to Mr. Ackerman's views that governmental indemnity is a controlling influence on engineering design of nuclear power plants to the extent that public safety is being sacrificed under competitive pressures."

More and more utilities are turning to the atom as a source of electric power generation. We believe they are making their decisions to "go nuclear" on the basis of sound economic and engineering judgments.

The atomic energy industry has an exceptional record of safety. There has never been a radiation accident at a central station nuclear plant which has affected the public. From its very inception, people who have dealt with atomic materials have recognized their potential hazard and have taken steps to protect employees and the public. We intend to do everything possible to maintain that record.

I am enclosing a copy of the Joint Committee on Atomic Energy hearing record which deals in more detail with the matters raised by Mr. Ackerman.

Sincerely yours,

John A. Harris, Director
Division of Public Information

UNITED STATES OF AMERICA

ATOMIC ENERGY COMMISSION

COMMISSIONERS:

Glenn T. Seaborg, Chairman
Wilfrid E. Johnson
Samuel M. Nabrit
James T. Ramey
Gerald F. Tape

In the Matter of CONSOLIDATED EDISON COMPANY OF NEW YORK, INC. (Indian Point Station Unit No. 2)	DOCKET NO. 50-247

MEMORANDUM AND ORDER

On October 3, 1966, an atomic safety and licensing board, by initial decision, directed the issuance of a provisional construction permit to Consolidated Edison Company of New York for Indian Point Station Unit No. 2, a pressurized water reactor facility to be located in the Town of Buchanan, Westchester County, New York. On October 21, 1966, the Commission received an "Appeal From Initial Decision, Exceptions and Brief in Support Thereof" from the Conservation Center, Inc. The Conservation Center objects to the board's denial of its petition for intervention and states certain exceptions to the substance of the board's initial decision.

The Conservation Center's petition to intervene was denied by the board for failure to comply with the Rules of Practice of the Commission. See 10 CFR § 2.714. The Center, in its appeal, "assume[s] that untime-

Dupe of ~~8410310211~~

liness in the presentation of the petition was not a basis for denial since the decision makes no reference thereto." We note that the Center's petition was not properly filed and served upon the parties until the second day of the hearings and that it was opposed, inter alia, on grounds of non-timeliness without adequate justification for late filing. Based on the record presented, denial for this reason was within the ambit of a board's authority under our Rules.

Even if we were to hold that the petition was timely filed, 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 our Rules. Petitioner asks that we now consider in support of its interest additional matters presented for the first time in an affidavit appended to its appeal. We do not believe this would be appropriate. One seeking intervention should in the first instance set forth before the atomic safety and licensing board the matters on which he relies for a showing of interest. Maintenance of an orderly hearing process and a due regard for the rights of the parties to a proceeding point to this as the proper course. We see no compelling reason for departing from this course in the present case.

Petitioner, in its appeal, emphasizes the importance of public participation in this proceeding and seemingly concludes that this is foreclosed by denial of its petition to intervene. The high degree of importance we attach to appropriate public participation is reflected in our Rules and in our "Statement of General Policy" explaining the procedures the Commission expects to be followed by atomic safety and licensing boards in the conduct of these proceedings. (See, 31 F.R. 832, January 21, 1966; 31 F. R. 12774, September 30, 1966). In the present proceeding we note that

there was participation by representatives of cognizant State and local official bodies. The State of New York participated as a party through its Office of Atomic and Space Development and supported the application. Limited appearances in support of the application were made by the Mayor of Buchanan, the Westchester County Executive and the Council on Science and Technology of the City of New York. Several private persons and organizations also made limited appearances, either for or against the application. We think it further worth observing that when, at the hearing, the deficiencies in the Center's petition were objected to by the parties - the Commission's regulatory staff, the applicant and the State of New York - counsel for the petitioner stated that intervention was only for the purpose of asking an occasional question in the event the proceedings did not cover some of the questions that occurred to the Center's spokesman from the standpoint of representing the public. While each of the parties responded that it would have no objection to the Center's making a limited appearance (see 10 CFR § 2.715) to accommodate this stated purpose, the Center took no action in this regard.

Since the Center is not a party to this proceeding, it has no standing to file exceptions to the board's initial decision. Matter of Pacific Gas and Electric Company, 2 AEC 172, and 2 AEC 173; Matter of Elk River Power Demonstration Reactor Program Project, 2 AEC 245. We believe, in any event, that the record (which includes not only the applicant's presentation but also the review by the regulatory staff and the Advisory Committee on Reactor Safeguards) supports the board's findings and conclusions under 10 CFR Section 50.35(a). Petitioner's exceptions appear premised in large measure upon a

lack of understanding of our two-stage licensing procedure, the scope of information required for a construction permit as contrasted to an operating license, and the function of an atomic safety and licensing board at the construction permit stage. As we stated in our decision of May 6, 1965 in Matter of Jersey Central Power & Light Company, 3 AEC _____:

> "* * * Section 50.35 does not require that all design details of the facility must be supplied, nor that at the construction permit stage every safety question shall actually have been satisfactorily resolved.
>
> "The board considers the expert analyses, notes any safety questions that remain unresolved, evaluates the research and development program proposed to resolve them, and thereupon comes to an over-all judgment as to whether there is reasonable assurance that the safety issues will be resolved and the proposed facility can be constructed and operated safely."

The foregoing reflects the long-standing approach of the Commission's regulatory process. This approach has received favorable judicial review by the United States Supreme Court (Power Reactor Development Co. v. International Union, et al., 367 U.S. 396) and has also been carefully reviewed by the Congress through the Joint Committee on Atomic Energy. (See, Improving the AEC Regulatory Process, Joint Committee Print, 87th Congress, 1st Session, March, 1961; see also, Power Reactor Development Co. v. International Union, et al., supra, at pp. 408-409). We are satisfied from our review here that the proceedings below meet the cited standard.

It is ORDERED that the appeal be denied in all respects.

Dated: December 20, 1966

By the Commission.

W. B. McCool
Secretary