

MAR 30 1973

Docket No. 50-247

Anthony Z. Roisman, Esq.
Berlin, Roisman and Kessler
1712 N Street, N. W.
Washington, D. C. 20036

Dear Mr. Roisman:

I have been advised by Mr. Howard K. Shapar, our Assistant General Counsel, that you have requested a clarification of my letter to Consolidated Edison Company of New York, Inc., dated February 22, 1973, related to Change No. 2, License No. DPR-26.

The following is the staff position in this matter:

1. After our analysis of the proposed change in the Technical Specifications for DPR-26 to load and subcritically test pre-pressurized fuel rods, it was determined that this use of the rods does not involve any significant hazard considerations not previously reviewed because the differences between pre-pressurized and un-pressurized rods have relevance with respect to nuclear safety only when the reactor is in a critical or operating state.
2. No determination is made with respect to the proposed use of these pre-pressurized fuel rods in the reactor for any purpose involving criticality, nor is the determination here in any way to be the basis for any subsequent determination that the operation of the plant with these pre-pressurized fuel rods will meet the requirements of the Atomic Energy Act or the Regulations of the Atomic Energy Commission.
3. The staff does not believe that Change No. 2 to License No. DPR-26 encroaches upon ASLB responsibilities under NEPA.

Sincerely,

(Signed) John F. O'Leary

John F. O'Leary
Director of Licensing

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Conner*

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DATE ▶	3/ /73	3/ /73	3/ 30 /73			

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Anthony Z. Roisman, Esq. - 2 -

cc: Samuel W. Jensch, Esq.
Dr. John C. Geyer
Mr. R. B. Briggs
J. Bruce MacDonald, Esq.
Angus Macbeth, Esq.
Honorable William J. Burke
Paul S. Shemin, Esq.
Leonard M. Trosten, Esq.
Atomic Safety and Licensing
Board Panel
Atomic Safety and Licensing
Appeal Board
Mr. Frank W. Karas

OFFICE ▶						
SURNAME ▶						
DATE ▶						

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The following is the staff position in this matter:

1. After our analysis of the proposed change in the Technical Specifications for DPR-26 to load and subcritically test pre-pressurized fuel rods, it was determined that such rods do not involve any significant hazard considerations not previously reviewed because the differences between pre-pressurized and unpressurized rods have relevance with respect to nuclear safety only when the reactor is in a critical or operating state.
2. No determination is made with respect to the proposed use of these pre-pressurized fuel rods in the reactor for any purpose involving criticality, nor is the determination here in any way to be the basis for any subsequent determination that the operation of the plant with these pre-pressurized fuel rods will meet the requirements of the Atomic Energy Act or the Regulations of the Atomic Energy Commission.
3. The staff does not believe that Change No. 2 to License No. DPR-26 encroaches upon ASLB responsibilities under NEPA.

Sincerely,

John F. O'Leary
 Director of Licensing

(1st dr. not signed)

OFFICE ▶	OGC <i>[initials]</i> MKarman:db	OGC <i>[initials]</i>	DL		
SURNAME ▶	TEngelhardt	HShapar	JFO'Leary		
DATE ▶	1 / 1 73	3/28/73	1 / 173		

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