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UNITED STATES OF AMERICA
ATOMIC ENERGY COMMISSION

4/5/73

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

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

ANSWER OF AEC REGULATORY STAFF TO CCPE'S
MOTION TO REQUIRE APPLICANT AND STAFF
TO PROVIDE SPECIFIC RESPONSE TO THE
CCPE RADIOLOGICAL CONTENTIONS AND CCPE'S
STATEMENT OF CONTENTIONS

The Citizen's Committee for the Protection of the Environment (CCPE) has filed a motion dated March 22, 1973 with the presiding Atomic Safety and Licensing Board (Board) requesting the Board to direct applicant and the staff to file detailed responses to the CCPE contentions set forth in the motion's accompanying document entitled "CCPE Statement of Contention With Respect to Further Radiological Issues" and dated March 22, 1973.

The matters to which the contentions relate are (1) thin-walled valves, (2) rupture of water and steam lines outside the containment, and (3) pressure vessel rupture. These three matters, together with fuel densification, were previously identified by CCPE as "unresolved radiological safety issues" in a statement filed with the Board on January 8, 1973. The staff's answer dated February 13, 1973 to said statement contained detailed responses relative to these matters. CCPE's

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latest filing contains no new information or persuasive arguments to warrant a change in the staff's position as set forth in its answer.

With regard to the matters of thin-walled valves and rupture of water and steam lines outside the containment, it is the staff's position, as previously stated in its answer of February 13, 1973, that CCPE is attempting to frame contentions in these areas based solely on communications from the regulatory staff to the applicant requesting information. Such communication alone does not automatically create a contention. If CCPE wishes to raise challenges in these areas, it must present factual basis for its contentions. Nevertheless, the staff stands ready to furnish evidence to the Board as to the extent of applicant's compliance with the rules and regulations, including design criteria, of the Commission.

It is the position of the regulatory staff that CCPE's contentions regarding reactor pressure vessel integrity are both untimely and fail to meet the requisite test established by the Commission of a showing of "special circumstances." As stated in the staff's answer dated February 13, 1973, there has been substantial testimony adduced in this hearing relative to pressure vessel integrity starting with testimony by

the applicant in July of 1971 and extensive testimony by the applicant and staff in October, 1971.

Despite all of the evidence relating to pressure vessel integrity in this proceeding, CCPE at this late date wishes to raise a number of contentions on the subject. In an attempt to justify further consideration of this matter, CCPE cites a draft report prepared by Dr. Wechsler dated March 1970. On its face, this information was available long ago and intervenors had ample opportunity to raise relevant questions on this subject.

The test of when reactor pressure vessel failure becomes an "appropriate area of inquiry in a licensing proceeding" has been clearly stated by the Commission and by the Appeal Board. The Appeal Board, in ALAB-80^{1/} indicated that, as described in the Commission's October 26, 1972 Memorandum and Order, "the probability of a rupture of the pressure vessel is so low that it becomes an appropriate area of inquiry in a licensing proceeding only upon a showing of special circumstances." Further, in answer to a question certified to the Commission in this proceeding relating to the scope of the proper inquiry by the Board into reactor vessel integrity, the Commission by Memorandum and Order dated October 26, 1972 stated,

"to warrant inquiry, the evidence must be directed to the existence of special considerations involving a particular facility in issue. Licensing Boards, in their discretion, are empowered to exclude contentions or challenges which have no substantial or prima facie basis, or which merely amount to

^{1/} In the Matter of WISCONSIN ELECTRIC POWER COMPANY, et al, (Point Beach Unit No. 2) - Docket No. 50-301.

generalized attacks upon the standards presently required by the regulations."

CCPE's contentions regarding possible reactor pressure vessel failure have no substantial or prima facie basis. The staff, based upon the standards set forth in its Safety Evaluation and the substantial testimony already presented in this proceeding, concluded that the probability of failure of the Indian Point 2 reactor is sufficiently low that such failure need not be considered in the design of the facility. CCPE now attempts to postulate a probability of failure of this reactor based upon the educated guesses set forth in the draft of WASH-1250. Such basis is clearly speculative and does not meet the test of providing a "substantial or prima facie basis" for its challenge. For all of the reasons stated above, CCPE's contentions relating to reactor pressure vessel integrity should be dismissed.

Respectfully submitted,

A handwritten signature in cursive script that reads "Myron Karman". The signature is written in dark ink and is positioned above the typed name and title.

Myron Karman
Counsel for AEC Regulatory Staff

Dated at Bethesda, Maryland
this 5th day of April, 1973.

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(Indian Point Nuclear Generating Station,)
Unit No. 2))

CERTIFICATE OF SERVICE

I hereby certify that copies of "Answer of AEC Regulatory Staff to CCPE's Motion to Require Applicant and Staff to Provide Specific Response to the CCPE Radiological Contentions and CCPE's Statement of Contentions," in the above-captioned matter, have been served on the following by deposit in the United States mail, first class or air mail, this 5th day of April, 1973:

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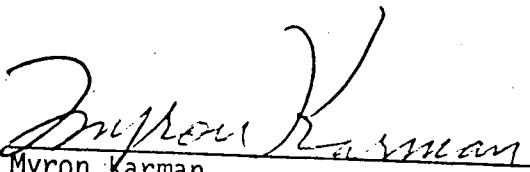
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Myron Karman
Counsel for AEC Regulatory Staff

FROM Sen. Jacob K. Javits (N.Y.)	CONTROL NUMBER 5542	FILE LOCATION
	DATE OF DOCUMENT 4/10/73	ACTION COMPLETION DEADLINE 4/19/73
TO AEC	ACTION PROCESSING DATES Acknowledged _____ Interim Reply _____ Final _____	PREPARE FOR SIGNATURE OF: _____ Chairman _____ Director of Regulation X Giambusso

DESCRIPTION Ltr Original Copy Other

Encl ltr fm Mr. & Mrs. Herbert Buch, Brooklyn, N. Y. -
opposes Con Ed's Indian Point plant and support of a ~~px~~
200 mile limit on foreign fishing craft

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REMARKS:

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REFERRED TO	DATE	IS NOTIFICATION TO THE JCAE RECOMMENDED?
Giambusso f/action	4/17/73	_____

Cys: O'Leary
PDR (50-3)
(50-247)
(50-286)
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