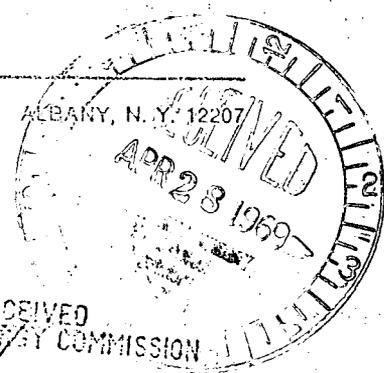


STATE OF NEW YORK
ATOMIC ENERGY COUNCIL

ALBANY, N.Y. 12207
50-256

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DEPARTMENT OF COMMERCE 112 STATE STREET
NEAL L. MOYLAN, COMMISSIONER

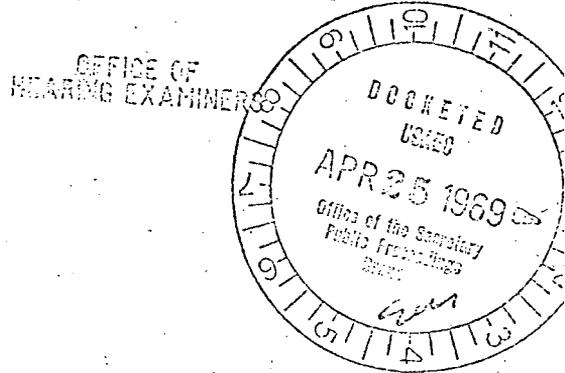


April 21, 1969

Samuel W. Jensch, Esq.
Chairman, Atomic Safety and
Licensing Board
U.S. Atomic Energy Commission
Washington, D.C. 20545

RECEIVED
ATOMIC ENERGY COMMISSION
1969 APR 24 PM 4 10

Dr. John Henry Buck
2180 Mandeville Road
Los Angeles, California 90049



Dr. Thomas Pigford
c/o Thermo Electron Corporation
85 First Avenue
Waltham, Massachusetts 02154

Dear Sir:

I have today received your letter of April 16, 1969 requesting the parties to signify by April 21, 1969 their positions with respect to a letter from Mrs. Weik dated April 12, 1969 requesting that she be permitted to proceed on April 28, 1969 to present subpoenaed testimony. I have not previously seen Mrs. Weik's letter to you dated April 12, 1969.

Position

I would like to inform you of my position with respect to Mrs. Weik's request, as construed by the Board. I have no objection to the presentation of Commissioner Feldman of the New York City Department of Water Supply on April 28, 1969. I have no objection to the presentation, in accordance with the determination of the Board on the record (transcript pages 303-304), of a witness from the New York State Department of Health who would present the data of the New York State Department of Health requested in Mrs. Weik's subpoena issued to Commissioner Ingraham, concerning certain samples taken by the Department of Health. I would, of course, object if the Board's letter is intended to require the personal appearance of Dr. Ingraham to present this data, since

it was clearly the determination of the Board on the motion by Mr. Silletti to quash the subpoena issued to Dr. Ingraham that the decision as to whether the personal appearance of Dr. Ingraham would be required would await the presentation of the data requested in the subpoena by another appropriate official of the Department of Health (uncorrected transcript pages 303-304).

Further, I wish to indicate that we are still willing to present such data to the Board upon the Board's request, despite Mrs. Weik's repeated refusal of such data through any witness other than Dr. Ingraham personally (uncorrected transcript pages 288-296, 304).

In addition, I would like to make a few additional comments.

I was surprised that the Board did not inform the subpoenaed parties or the attorneys for the subpoenaed parties who made appearances at the hearing; namely: Nicholas Silletti, Esq., New York State Department of Health, 84 Holland Avenue, Albany, New York, on behalf of Dr. Ingraham; and Mr. Garry Melman, Office of the Corporation Counsel, City of New York, on behalf of Commissioner Feldman. While Mrs. Weik's request affects the parties to the proceeding, it directly relates to the appearance of certain subpoenaed individuals who have been separately represented in this proceeding by separate counsel on their behalf - any issue which substantially and directly concerns these individuals.

I have personally informed members of the staff of the subpoenaed individuals of Mrs. Weik's letter of April 12, 1969 and the Board's letter of April 16, 1969. I would request the Board to take no action on Mrs. Weik's request until there has been an opportunity for a statement of position by or on behalf of the subpoenaed individuals.

I would like to indicate that contrary to Mrs. Weik's allegation, the Board's subpoenas have not been "ignored" by the individuals involved. At the hearing, Mr. Silletti offered, in response to the subpoena, the complete cooperation of the Department of Health in supplying the information requested by the subpoena Mrs. Weik served upon Dr. Ingraham, despite its

inadequate service. Mr. Silletti did argue that there had been no showing of the need or reasonableness for the personal appearance of Dr. Ingraham. In response to Mr. Silletti's motion to quash the Board determined:

"We think it reasonable that another responsible assistant of Dr. Ingraham would be qualified to represent those data in the full scope as set forth in the subpoena. If, after the presentation of the data, it appears that Dr. Ingraham's presence himself would make a relevant contribution we will again consider the necessity of his appearance, and if so we would endeavor to find a time and a schedule which would permit him to be here without interruption of his busy schedule..." (Uncorrected transcript pages 303-304)

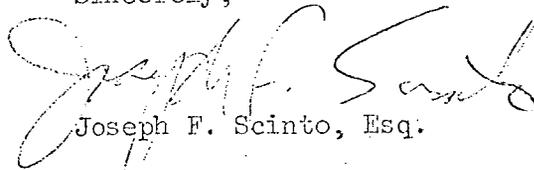
In connection with the subpoena served upon Commissioner Feldman, the Board denied the motion to quash. Following the denial of motion, the Board requested me to work out, if possible, arrangements for the appearance of Commissioner Feldman which would be agreeable to Mr. Feldman, Mrs. Weik and the other parties and to then report to the Board. In response to this request, I worked with the various people involved and determined on the afternoon of March 26, 1969 that such an arrangement might be possible on March 27, 1969. However, there was little opportunity to bring this matter to the attention of the Board during the cross examination of Dr. Cole. As the afternoon progressed, I was able to give no firm assurance to Mrs. Weik or Commissioner Feldman that Mrs. Weik's presentation of Commissioner Feldman would in fact be authorized by the Board. Subsequently, Mrs. Weik decided that she would not be present on March 27, 1969.

I informed the Board on March 27, 1969 (transcript page 791) that I had not been able to accommodate Mrs. Weik's schedules with respect to March 27, 1969.

Prior to the receipt of the Board's letter of April 16, 1969, I had contacted Commissioner Feldman, Mrs. Weik, Mr. Trosten, Mr. Green, and Mr. Conner, to work out a mutually acceptable time for Commissioner Feldman's appearance at the reconvened session of the proceeding. I was able to obtain general agreement on an appearance by Commissioner Feldman as Mrs. Weik's witness for April 28,

1969. I did, however, in view of the Board's letter to Mrs. Weik of April 8, 1969, attempt to solicit an alternate date which might be acceptable. Mrs. Weik indicated that she did not believe that any date other than April 28, 1969 would be agreeable to her. Just before writing to the Board to inform them of my effort in this respect, I learned that the Board had written a recent letter to the parties concerning the appearance of witnesses subpoenaed by Mrs. Weik. I delayed writing to the Board on this matter, until I received the Board's most recent letter.

Sincerely,



Joseph F. Scinto, Esq.

cc: Leonard P. Trosten, Esq.
Troy B. Conner, Jr., Esq.
Harold P. Green, Esq.
Mrs. Mary Hays Weik