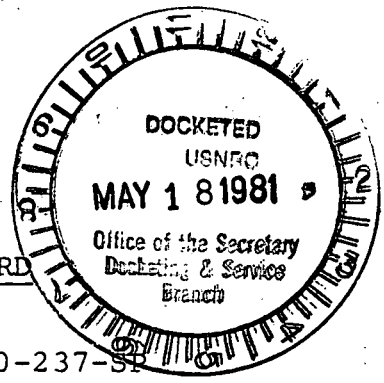


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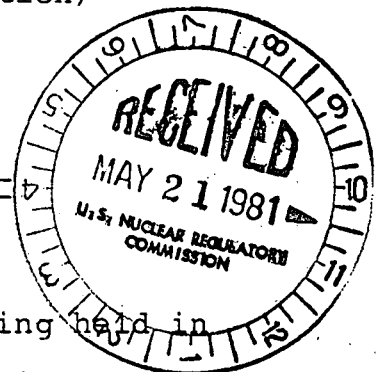
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD



In The Matter Of ) Docket Nos. 50-237-SP  
) 50-249-SP  
COMMONWEALTH EDISON COMPANY )  
) (Spent Fuel Pool  
(Dresden Stations, Units 2 & 3) ) Modification)

MOTION FOR BOARD ORDER  
DIRECTING STAFF TO ADDRESS ALL OF THE  
UNRESOLVED GENERIC SAFETY ISSUES



STATEMENT OF FACTS

At the hearing in the above-entitled proceeding held in Morris, Illinois on November 19-21, 1980, Intervenor conducted a cross-examination of Millard L. Wohl of the NRC Staff on Intervenor's Contention 6. Part of the cross-examination dealt with systems interaction and the multiple failure criteria.

On December 1, 1980, Applicant moved to strike Intervenor's cross-examination of Millard Wohl. The Staff supported Applicant's motion, stating that the plain reading of Contention 6 did not lend itself to demonstration of the relevance of unresolved generic safety items to the proposed pool modification. Intervenor argued that Contention 6 encompassed both consideration of single and multiple failure criteria and systems interaction.

On January 27, 1981, the Board granted Applicant's Motion to Strike on the basis that the specificity of Contention 6 limited the scope of cross-examination, but stated that Intervenor's cross-examination caused the Board to question the relationship of the proposed license modification to any identified generic unre-

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solved safety issues [emphasis supplied], and that neither the Staff SER nor the evidence in the record had addressed this question. Accordingly the Board propounded Board Question 2:

"Based on a review and analysis of the various generic unresolved safety issues under continuing study, what relevance is there, if any, to the proposed spent fuel modification? Further, what is the potential health and safety implication of any relevant issues remaining unresolved."

Intervenor responded by listing (in the Affidavit of Richard B. Hubbard) 34 unresolved generic safety items it considered relevant to the proposed spent fuel pool modification including Category A - Tasks, Category B - Tasks, ACRS Generic Items and TMI Generic Issues. Applicant, through the affidavit of Robert F. Janacek, addressed Category A - Tasks, ACRS Items, and TMI Generic Issues and responded to Intervenor's list. The NRC Staff addressed two Category A - Tasks.

Subsequently, the Board, in an April 1, 1981 conference call not of record, ordered the NRC Staff to address all the unresolved safety issues (USIs) in NUREG-0606 ("Aqua Book") and their relation to this spent fuel pool modification. The affidavit of Karl Kniel was submitted on April 27, 1981. Applicant submitted a second response on May 5, 1981, and Intervenor submitted a second affidavit on May 7, 1981. Intervenor's second affidavit again addressed unresolved safety issues other than those listed in the Aqua Book.

DISCUSSION

It has continuously been Intervenor's position that the Board is required to consider all unresolved generic safety issues, and not just those listed in the Aqua Book. Intervenor again cites the relevant language of the River Bend decision to the Board:

The Board should be able to look at [the SER] to ascertain the extent to which generic unresolved safety problems which have been previously identified in a TSAR item, a Task Action Plan, an ACRS report or elsewhere have been factored into the staff's analysis for the particular reactor - and with what result. To this end, in our view, each SER should contain [in this proceeding, the affidavit and record] a summary description of those generic problems under continuing study which have both relevance to facilities of the type under review and potentially significant public safety implications." Gulf States Utilities Company (River Bend Station, Units 1 and 2) ALAB-444, 6 NRC 760, 775 (1977).

The River Bend decision clearly states that all unresolved generic safety issues relevant to the particular proceeding must be considered. The decisions in North Anna (Virginia Electric Power Company, North Anna Units 1 and 2) 8 NRC 245 (1978), and Yellow Creek (Tennessee Valley Authority, Yellow Creek Nuclear Plants 1 and 2) 8 NRC 602 (1978) follow the River Bend decision.

The North Anna Board stated that the Staff had to adequately analyze all the issues including Task Action Plan, TSAR

and ACRS unresolved generic safety items. North Anna, 8 NRC 248 fn.7, 249, 249 fn.8. The Board in Yellow Creek cited River Bend and stated:

We are reminded that these generic items may appear in the form of problems which have been previously identified in a Technical Safety Activities Report (TSAR), Task Action Plan, an ACRS report or elsewhere. River Bend at 775 . . . To date some such 133 generic issues have been identified from various sources such as the ACRS, staff members, operating experience and research results." (Yellow Creek, 8 NRC 602, 624, 626)

The Staff in Yellow Creek considered items other than Category A Tasks, and in the record explained why licensing could safely proceed in face of the fact that there were no plans for the resolution of some of these items. Yellow Creek 8 NRC at 633.

#### CONCLUSION

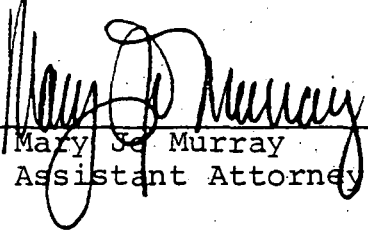
The affidavit of Karl Kniel filed with the Board on April 27, 1981 is deficient under the requirements of the River Bend decision in that it does not address all unresolved generic safety issues which relate to this licensing action and have potentially significant public safety implications.

WHEREFORE, Intervenor, STATE OF ILLINOIS, hereby moves the Board to order the Staff to address all unresolved generic safety issues including, but not limited to, all Category B tasks, ACRS items, and TMI issues relevant to this licensing proceeding.

Respectfully submitted,

PEOPLE OF THE STATE OF ILLINOIS

TYRONE C. FAHNER  
ATTORNEY GENERAL

  
BY: Mary Jo Murray  
Assistant Attorney General

Dated: May 14, 1981

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

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 ) (Spent Fuel Pool  
(Dresden Stations, Units 2 & 3) ) Modification)

CERTIFICATE OF SERVICE

I hereby certify that copies of Intervenor's Motion for Board Order in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, postage prepaid:

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Chevy Chase, Maryland 20015

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5000 Hermitage Drive  
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Dr. Forrest J. Remick  
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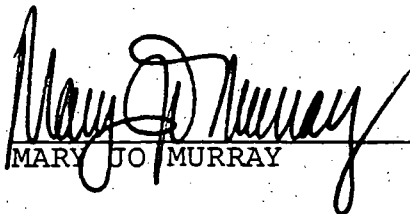
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MARY JO MURRAY

DATED: May 14, 1981