

DR-498

UNIVERSITY OF CALIFORNIA
LOS ALAMOS SCIENTIFIC LABORATORY
(CONTRACT W-7405-ENG-36)
P.O. Box 1663
LOS ALAMOS, NEW MEXICO
87544

IN REPLY
REFER TO: K-1476

December 9, 1965

50-237

Dr. Marvin M. Mann
Assistant Director of Regulation for Nuclear Safety
U. S. Atomic Energy Commission
Washington, D. C. 20545

Dear Marvin,

I owe you an explanation for my precipitous departure from the hearing proceedings for Dresden Unit No. 2. Although you were clear in your initial description to me that the alternate appointee was required to be present during the hearings, I had not fully realized the role that the AEC expected the alternate appointee to assume. The instructions contained in a telegram on December 7, 1965, from W. B. McCool to J. D. Bond made it clear that I, as the alternate, was not to participate in the hearing procedures.

I endured this position for one day of the proceedings, but found the position so irritating and frustrating that I could not face another day. If I have any contribution to make to the AEC procedures of reactor review, surely it must amount to more than sitting silently through an uncontested hearing with no opportunity of exploring questions which occurred to me, or of effecting any input. My decision to return to productive work at Los Alamos, rather than waste more days in debilitating idleness was the only one I could make with a clear conscience.

In light of my action, I am making a reservation in my previously stated willingness to serve on the Atomic Safety and Licensing Panel: I will not be available to serve as a designated alternate for uncontested hearings under the present interpretation and guidance of the AEC. If you consider this reservation to be improper, or if it negates my usefulness, please have my appointment withdrawn.

I hasten to add that the Chairman of the Board, J. D. Bond, did everything he was able to do to make use of my presence as alternate appointee. The clear imperative instructions from the Commission forced him to reverse the earlier (and I believe sensible) position taken by a majority of the Board, that the alternate be allowed to develop such areas of information as would be useful to that alternate should he be required to assume full membership status.

3234.1

Rec'd Off. Dir. of Reg.
Date 12-13-65
Time 10:30
Beth.

December 8, 1965

To be constructive, may I suggest two possible alternatives.

1. Designation of and acceptance by an individual as an alternate Board member would entail an obligation on the part of the appointee that the scheduled hearing dates would remain otherwise uncommitted. He would also undertake the responsibility of becoming fully cognizant of the issues and the submitted evidence. Should it be necessary to call on him for active participation, he would use the verbatim transcript to complete his preparation.

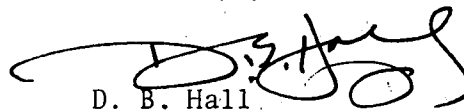
To argue this proposal, let me point out that the objective of avoiding hearing interruptions is achieved by obtaining the assurance of availability. Additionally, the decision of the Board must always be based on the official record. It would be improper to suggest that nuances of delivery or facial expressions should contribute to a finding. Thus pre-hearing preparation and reading of the official transcript should place a newly arrived alternate in an identical position as one who had been required to sit silently through the proceedings.

2. The second suggestion would be to adopt the *ad hoc* ruling as made by Bond and Paxton, Kirshbaum dissenting, at the pre-hearing conference for Dresden Unit 2 and as recorded in the proceedings thereof.

I personally favor the first proposal as a better utilization of available talents and at the same time obtaining the required insurance against delays. The second alternative, while it does allow the alternate to contribute, is wasteful in that the technical aspects of the review are over-emphasized.

I apologize for appearing to be difficult, but I must insist that the present use of technical members of the Review Board, and particularly the function of the alternate technical appointee, has not been clearly thought out. Much as I would like to assist in a smooth and orderly functioning of the reactor review procedures, I can not, with any satisfaction of contribution, take a part as was indicated for me in the Dresden Unit 2 hearing.

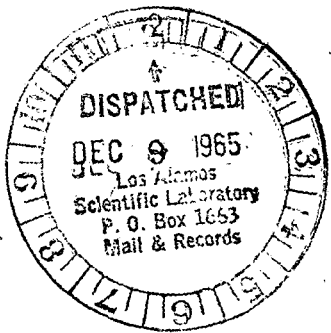
Sincerely yours,



D. B. Hall
K Division Leader

DBH:ec
cc: J. D. Bond

3234.2



J. S. ATOMIC ENERGY COMM.
REGULATORY
MAIL SECTION

1055 DEC 15 AM 8 38

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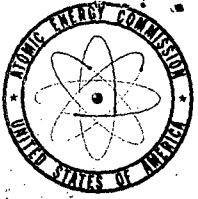
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VIA AIR MAIL

Dr. Marvin M. Mann
Assistant Director of Regulation for Nuclear Safety
U. S. Atomic Energy Commission
Washington, D. C. 20545



UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

DEC 17 1965

MEMORANDUM FOR CHAIRMAN SEABORG
COMMISSIONER PALFREY
COMMISSIONER RAMEY
COMMISSIONER TAPE

SUBJECT: DRESDEN II - ATOMIC SAFETY AND LICENSING BOARD

Enclosed for your information is a letter from Dr. David B. Hall regarding his recent participation as an alternate member of the Dresden II Atomic Safety and Licensing Board.

Since Dr. Hall's comments are pertinent to our present efforts to implement the Regulatory Review Panel's recommendation I would appreciate the opportunity to discuss this with the Commission at an early information meeting.

Harold L. Price
Director of Regulation

Enclosure:

Cy ltr fr D. Hall to
M. Mann dtd. 12/9/65

cc: General Manager
Secretary (2)
OGC (2)

NOT INDEXED