Docket File
50-272

MAY 15 1979

Docket No. 50-272

Mr. George W. Ayres
Clerk of the Board
Board of Chosen Freeholders
Courthouse
Salem, New Jersey 08079

Dear Mr. Ayres:

This is to acknowledge receipt of your March 22, 1979 letter to Chairman Hendrie which enclosed for information a copy of your Board Resolution R. 79-109 RESOLUTION OPPOSING THE STORAGE OF HIGH LEVEL RADIOACTIVE WASTES IN SALEM COUNTY. Since a part of your resolution concerns matters currently before an Atomic Safety and Licensing Board considering the expansion of capacity of the spent fuel pool at the Salem Nuclear Generating Station Unit No. 1, and since decisions of that board are subject to review at the Commission level, it would not be appropriate for the Chairman to respond. Accordingly, I have been asked to reply to your letter.

Your resolution (1) opposes "the concept of re-racking spent fuel... or any increase on storage of spent fuel assemblies over the original plan" for nuclear plants in Lower Alloways Creek Township, (2) opposes the construction of any independent spent fuel storage facilities within Salem County, (3) opposes construction of at-reactor site pools for spent fuel "beyond the requirements of periodic maintenance and storage of spent fuel for a reasonable cooling period", and (4) urges NRC "to fulfill its obligation pursuant to the U. S. Code, Title 42, Section 5877...".

With regard to the first item, a Salem Unit No. 1 application for license amendment is now pending before an Atomic Safety and Licensing Board (ASLB). As a party to that proceeding the NRC staff has completed a technical safety evaluation and an environmental impact appraisal which have been supplied to the ASLB and other parties to that hearing. Those documents conclude that re-racking and increased storage are technically safe and environmentally acceptable. Copies of those documents are on file in a local public document room in the Salem Free Public Library located at 112 West Broadway, Salem, New Jersey. Also, the staff is currently reviewing a similar proposal from the Public Service Electric and Gas Company in connection with its application for an operating license for the Salem Unit No. 2. No similar proposals are before the Commission for Hope Creek Unit Nos. 1 and 2, the other two nuclear plants located in Salem County which are under construction.

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All applications for an increase in on-site storage capacity of spent fuel are evaluated in full conformance with existing regulations.

With regard to item number two, in which the Board states its opposition to locating any independent storage facilities for spent fuel within the County, the Commission is unaware of any plans which would propose such a facility. Furthermore, should such an action be proposed, an appropriate public notice would be issued in the Federal Register.

We interpret item number three to mean that the Board is opposed to construction of spent fuel pools in addition to those already included in the original design of the facilities in the County. In NUREG-0404 the NRC staff's draft generic environmental impact statement on handling and storage of spent light water power reactor fuel, we state that increasing the capacity of existing individual spent fuel storage pools is environmentally acceptable, but that each application for such an expansion would be reviewed on a case-by-case basis. If such an expansion does occur, as proposed at Salem, the resultant capacity would most likely be sufficient to meet the storage requirements until some time after the away-from-reactor storage is available. The need for construction of additional storage pools other than those included in the original design of the facilities is therefore unlikely.

With regard to item four in your resolution you cite U. S. Code, Title 42, Section 5877 which is based on the Energy Reorganization Act of 1974 which created the Nuclear Regulatory Commission, and infer that the NRC is not meeting the obligations as stated therein. A copy of Section 5877, Reports to President for submission to Congress, is enclosed. We interpret item four to be reference to Subsection (C) of Section 5877 which requires the Commission to make an annual report to the President for submission to Congress on the activities of the Commission during the preceding fiscal year, including "...a description of the Commission's activities and findings..." in six areas, one of which is "(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities". The Commission has consistently fulfilled its obligation to provide this information. The latest report was forwarded to the President on February 14, 1979. A copy of that report is enclosed for your information. Statutory reporting requirements are highlighted on page xi and in Chapters 1 and 5 of that report. We refer you specifically to the information contained on pages 7, 8, 12, 73, 74 and 93 through 97. The information provided on pages 93 through 97 addresses the matter of long term storage of spent fuel.

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I trust you will find we have been responsive to the items identified in your resolution.

Sincerely,

Original Signed By
Roger S. Boyd

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:
1. U. S. Code 42, Section 5877
2. 1978 Annual Report

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Docket No. 50-272

Mr. George W. Ayres
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Dear Mr. Ayres:

This is to acknowledge receipt of your March 22, 1979 letter to Chairman Hendrie which enclosed for information a copy of your Board Resolution R. 79-109 RESOLUTION OPPOSING THE STORAGE OF HIGH LEVEL RADIOACTIVE WASTES IN SALEM COUNTY. Since a part of your resolution concerns matters currently before an Atomic Safety and Licensing Board considering the expansion of capacity of the spent fuel pool of the Salem Nuclear Generating Station Unit No. 1, and since decisions of that board are subject to review at the Commission level, it would not be appropriate for the Chairman to respond. Accordingly, I have been asked to reply to your letter.

All of the elements of your March 21, 1979 resolution were contained in a similar February 16, 1979 resolution by the Township of Lower Alloways Creek. A copy of that resolution and our March 29, 1979 response are enclosed for your information. In addition, a copy of your letter and this response is being made available to the Atomic Safety and Licensing Board that is considering the proposed capacity expansion of the Salem Unit No. 1 spent fuel pool.

I trust you will find we have been responsive to the items identified in your resolution.

Sincerely,

weight A

2, 1978 Annual Report
1, U.S. Code Title 42, Section 5877

Harold R. Denton, Director
Office of Nuclear Reactor Regulation

Enclosures:
1. Resolution by the Township of Lower Alloways Creek dated February 16, 1979
2. March 29, 1979 Response to Resolution

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3/5 - No legal objection
4/12/79

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DATE	4/17/79	4/17/79	4/12/79	4/ /79	4/ /79	4/ /79

ENCLOSURE 1

The Atomic Energy Act of 1954, as amended, referred to in subsec. (b)(2), is classified to chapter 23 (section 2011 et seq.) of this title.

Effective Date. Section effective Jan. 19, 1975, see section 312(a) of Pub.L. 93-438, and Ex.Ord. No. 11834, set out as notes under section 5801 of this title.

Legislative History. For legislative history and purpose of Pub.L. 93-438, see 1974 U.S.Code Cong. and Adm.News, p. 5470.

§ 5877. Reports to President for submission to Congress

Report by Administrator on activities of Administration

(a) The Administrator shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Administration during the preceding fiscal year. Such report shall include a statement of the short-range and long-range goals, priorities, and plans of the Administration together with an assessment of the progress made toward the attainment of those objectives and toward the more effective and efficient management of the Administration and the coordination of its functions.

Review of desirability and feasibility of transferring functions of Administrator respecting military application and restricted data to Department of Defense or other Federal agencies; report by Administrator

(b) During the first year of operation of the Administration, the Administrator, in collaboration with the Secretary of Defense, shall conduct a thorough review of the desirability and feasibility of transferring to the Department of Defense or other Federal agencies the functions of the Administrator respecting military application and restricted data, and within one year after the Administrator first takes office the Administrator shall make a report to the President, for submission to the Congress, setting forth his comprehensive analysis, the principal alternatives, and the specific recommendations of the Administrator and the Secretary of Defense.

Report by Commission on activities of Commission

(c) The Commission shall, as soon as practicable after the end of each fiscal year, make a report to the President for submission to the Congress on the activities of the Commission during the preceding fiscal year. Such report shall include a clear statement of the short-range and long-range goals, priorities, and plans of the Commission as they relate to the benefits, costs, and risks of commercial nuclear power. Such report shall also include a clear description of the Commission's activities and findings in the following areas—

(1) insuring the safe design of nuclear powerplants and other licensed facilities;

(2) investigating abnormal occurrences and defects in nuclear powerplants and other licensed facilities;

(3) safeguarding special nuclear materials at all stages of the nuclear fuel cycle;

(4) investigating suspected, attempted, or actual thefts of special nuclear materials in the licensed sector and developing contingency plans for dealing with such incidents;

(5) insuring the safe, permanent disposal of high-level radioactive wastes through the licensing of nuclear activities and facilities;

(6) protecting the public against the hazards of low-level radioactive emissions from licensed nuclear activities and facilities.

Pub.L. 93–438, Title III, § 307, Oct. 11, 1974, 88 Stat. 1251.

Historical Note

Effective Date. Section effective Jan. 19, 1975, see section 312(a) of Pub.L. 93–438, and Ex.Ord. No. 11834, set out as notes under section 5801 of this title.

Legislative History. For legislative history and purpose of Pub.L. 93–438, see 1974 U.S.Code Cong. and Adm.News, p. 5470.

§ 5878. Information to Congressional committees

The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Administration's activities.

Pub.L. 93–438, Title III, § 308, Oct. 11, 1974, 88 Stat. 1252.

Historical Note

Effective Date. Section effective Jan. 19, 1975, see section 312(a) of Pub.L. 93–438, and Ex.Ord. No. 11834, set out as notes under section 5801 of this title.

Legislative History. For legislative history and purpose of Pub.L. 93–438, see 1974 U.S.Code Cong. and Adm.News, p. 5470.

§ 5878a. Report to Congressional Committees of funds for and encouragement of small business

The Administrator shall, by June 30, 1976, and by the end of each fiscal year thereafter, submit a report to the Committee on Science and Technology of the House of Representatives and the Committee on Interior and Insular Affairs of the Senate detailing the extent to which small business and nonprofit organizations are being funded by the nonnuclear research, development, and demonstration programs of the Administrator, and the extent to which small business involvement pursuant to section 5801(d) of this title is being encouraged by the Administration.

Pub.L. 94–187, Title III, § 308, Dec. 31, 1975, 89 Stat. 1074.

Historical Note

Codification. Section was not enacted as part of the Energy Reorganization Act of 1974, which comprises this chapter.

KB #5
5/11

APR 2 7 1979

Note to: Gary Zech, Project Manager
Salem Unit No. 1

RE: LETTER TO SALEM BOARD OF CHOSEN FEEHOLDERS

With respect to penultimate paragraph of proposed letter, I would not highlight the Commission's fulfilling its obligation by filing the report. Salem County is interested in whether NRC initiates programs for permanent disposal etc. not whether we filed a report. This paragraph can be changed with very minor modification. *

Myron

Myron Karman, Attorney
Office of the Executive
Legal Director

* Change proposed has been made by adding a sentence to that paragraph.

A. Schwencer
5-2-79