

May 20, 1977

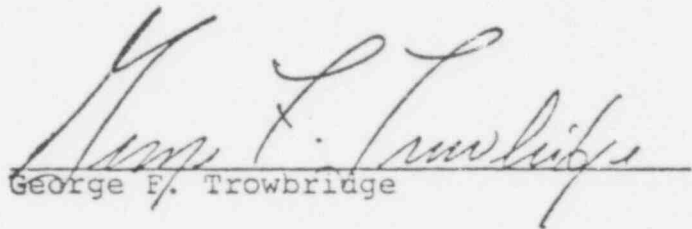
UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

Before the Atomic Safety and Licensing Appeal Board

In the Matter of )  
 )  
METROPOLITAN EDISON COMPANY, ) Docket No. 50-320  
 et al. )  
 )  
(Three Mile Island Nuclear )  
 Generating Station, Unit 2) )

CERTIFICATE OF SERVICE

I hereby certify that copies of "Applicants' Response to Memorandum and Order Dated April 21, 1977 (ALAB-392)" dated May 20, 1977 have been served upon each of the persons listed on the attached service list by mail, postage prepaid, this 20th day of May, 1977.

  
George F. Trowbridge

Dated: May 20, 1977

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SERVICE LIST

Alan S. Rosenthal, Esq., Chairman  
Atomic Safety and Licensing Appeal  
Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. W. Reed Johnson, Member  
Atomic Safety and Licensing Appeal  
Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Jerome S. Sharfman, Esq., Member  
Atomic Safety and Licensing Appeal  
Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Edward Luton, Esq.  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Gustave A. Linenberger  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Ernest O. Salo  
Professor, Fisheries Research  
Institute, WH-10  
University of Washington  
Seattle, WA 98195

Henry J. McGurren, Esq.  
Office of the Executive Legal  
Director  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Chauncey R. Kepford  
433 Orlando Avenue  
State College, PA 16801  
and  
2586 Broad Street  
York, PA 17404

Karin W. Carter, Esq., Assistant  
Attorney General  
Office of Enforcement  
Department of Environmental  
Resources  
709 Health and Welfare Building  
Harrisburg, PA 17120

Docketing and Service Section  
Office of the Secretary  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Atomic Safety and Licensing Appeal  
Board Panel  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

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APPLICANTS' RESPONSE TO MEMORANDUM AND ORDER  
DATED APRIL 21, 1977 (ALAB-392)

Applicants file this response to ALAB-392 solely for the purpose of advising the Three Mile Island, Unit 2 (TMI #2) Appeal Board of circumstances which differentiate the TMI #2 licensing proceeding from other proceedings covered by ALAB-392 and which may suggest a different procedural approach to the resolution of the matters referred to the Appeal Board Panel by the Commission's Memorandum and Order dated April 1, 1977.

The TMI #2 construction permit was issued prior to the enactment of NEPA. As such, it is governed by Appendix D, Section C of Part 50 and has been the subject of a contested hearing as to whether the permit should be continued, modified, terminated or conditioned to protect environmental values. This hearing, which has been combined with the operating license hearing, is currently in progress. Thus, while the NRC Staff has completed its environmental review of TMI #2, the Licensing Board has not yet made a final NEPA determination with respect to the facility against which the Appeal Board could measure the potential impact.

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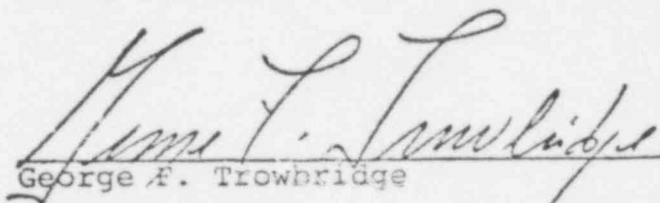
of revised Table S-3.

The Licensing Board in the TMI #2 hearing has ruled that the Board's environmental review of the TMI #2 construction permit should be a full, independent NEPA review by the Board, not confined to contested environmental issues. Thus we fully expect that in making its NEPA determination the Board will take into account the values contained in the revised Table S-3 incorporated in the Commission's interim regulation on fuel cycle impacts.

In these circumstances the TMI #2 Appeal Board may wish to take no action with respect to TMI #2 until the Licensing Board has completed its present hearing and rendered its initial decision. At that point the Appeal Board could then review the Licensing Board's treatment of the impact of the revised S-3 values on its cost/benefit determination in the course of its normal appellate review.

Respectfully submitted,

SHAW, PITTMAN, POTTS & TROWBRIDGE

  
George F. Trowbridge

Dated: May 20, 1977