

NUCLEAR REGULATORY COMMISSION

IN THE MATTER OF:

PUBLIC MEETING

AFFIRMATION SESSION

SECY-A-79-54 - ALAB-501 (Trojan)

Place - Washington, D. C.

Date - Tuesday, 16 October 1979

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

PUBLIC MEETING

AFFIRMATION SESSION

SECY-A-79-54 - ALAB-531 (Trojan)

Room 1130
1717 H Street, N. W.
Washington, D. C.

Tuesday, 16 October 1979

The Commission met, pursuant to notice, at 11:45 a.m.

BEFORE:

- DR. JOSEPH A. HENDRIE, Chairman
- RICHARD T. KENNEDY, Commissioner
- JOHN F. AHEARNE, Commissioner

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kapDA/

P R O C E E D I N G S

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2 CHAIRMAN HENDRIE: Now let's see. The Commission
3 still has the affirmation before us. Can we affirm it with
4 the three present?

5 MR. HOYLE: We voted with the two who were not
6 present. We take a different position, favoring a review of
7 a portion of the case in this particular instance.

8 CHAIRMAN HENDRIE: Have they been willing to come
9 to an affirmation and affirm their previous negative vote?
10 And it stands as a three-two decision?

11 MR. HOYLE: They have.

12 CHAIRMAN HENDRIE: The record can simply note that
13 Commissioners Gilinsky and Bradford have indicated a
14 preference for review and that is their vote on this issue.
15 And the affirmation can take place with the votes of the
16 three commissioners who are now here.

17 COMMISSIONER AHEARNE: Your understanding is that
18 they will be supplying a statement?

19 MR. HOYLE: Yes. My understanding is that they
20 will be supplying a statement of their view later today.
21 Possibly tomorrow.

22 CHAIRMAN HENDRIE: Okay. I am willing to go ahead
23 with the vote on that basis. Of course, it is our custom
24 that if a commissioner asks for an item to be held, why,
25 we've respected that. We propose to do that here. So we

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1 take the vote on the understanding that the other two
2 commissioners have been willing to have it go with the
3 majority vote this morning at the affirmation.

4 MR. HOYLE: That is my understanding,
5 Mr. Chairman.

6 CHAIRMAN HENDRIE: In that case, then, in the
7 matter of the Trojan review on ALAS-531, I would ask the
8 commissioners to affirm their votes.

9 (Show of hands.)

10 CHAIRMAN HENDRIE: That's alright. You affirmed
11 your previous vote. Okay.

12 MR. HOYLE: Right. Thank you, Mr. Chairman.

13 (Whereupon, at 11:47, the affirmation session was
14 adjourned.)

15 * * *

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

June 29, 1979

SECY-A-79-54

CONSENT CALENDAR ITEM
ADJUDICATORY

For: The Commission

From: James A. Fitzgerald
Assistant General Counsel

Subject: REVIEW OF ALAB-531 (MATTER OF PORTLAND
GENERAL ELECTRIC COMPANY, ET AL.)

Facility: Trojan Nuclear Plant (Proposed Amendment
to Permit Storage Pool Modification)

Purpose: To inform the Commission of an Appeal
Board decision on which two petitions
for review have been received and
which, in my opinion, present signi-
ficant generic issues.

Review Time Expires: Extended by Order of the Secretary.

Summary:

On March 21, 1979, the Appeal Board affirmed a Licensing Board decision that permitted an increase in the storage capacity of the spent fuel storage pool at the Trojan facility. See Board Decision No. 113 (1978). The Appeal Board's decision, ALAB-531, dealt with three major questions: whether the Licensing Board's decision was correct in concluding that the environmental impact of such a capacity expansion or extension of alternatives was necessary, whether the Commission's five-point standard for interim spent fuel storage facilities in the absence of a generic environmental statement was correctly applied, and whether certain conditions on the proposed spent fuel storage pool expansion or extension of the technical action plan were necessary. The Appeal Board's decision affirmed the Licensing Board's decision on all three questions.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Dr. W. Reed Johnson



In the Matter of)

PORTLAND GENERAL ELECTRIC)
COMPANY, et al.)

(Trojan Nuclear Plant))

Docket No. 50-344
(Proposed Amendment to Facility
Operating License NPF-1 to
Permit Storage Pool Modification)

Ms. Susan M. Garrett, Portland, Oregon, pro se and for
the intervenor Coalition for Safe Power.

Mr. Richard M. Sandvik, Assistant Attorney General of
Oregon, Portland, Oregon, (with whom Mr. Frank W.
Ostrander, Jr., Assistant Attorney General of Oregon,
Portland, Oregon, was on the brief) for the intervenor
State of Oregon.

Mr. Warren Hastings, Portland, Oregon, for the applicants
Portland General Electric Company, et al.

Mr. Joseph R. Gray for the Nuclear Regulatory Commission
staff.

DECISION

March 21, 1979

(ALAB-531)

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Before us on appeal is
of the Licensing Board author
license for the Trojan nucle

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413. The amendment would permit the expansion of the capacity of the facility's spent fuel pool by means of the installation of new spent fuel storage racks with space for 651 fuel assemblies in place of the existing racks which can accommodate 280 fuel assemblies.

The Licensing Board authorized the amendment subject to three conditions.^{1/} Two of the intervenors in the proceeding below, Susan M. Garrett (acting on her own behalf and as the representative of the Coalition for Safe Energy) and the State of Oregon, have appealed. We affirm.

I.

In the context of a number of contentions raised by the parties, the Licensing Board examined the environmental impacts which would be associated with the expansion of the capacity of the spent fuel pool. On the basis of that examination, it found that those impacts would be local in character and "insignificant" in extent. 3 NRC at 433-446.

Accordingly, the Board concluded, the staff had correctly determined that an environmental impact statement

^{1/} 3 NRC at 459.

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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

Before:

Joseph M. Hendrie, Chairman
Victor Gilinsky
Richard T. Kennedy
Peter A. Bradford
John F. Ahearne

In the Matter of
PORTLAND GENERAL ELECTRIC COMPANY, et al.
(Trojan Nuclear Plant)

Docket No. 50-344

(Proposed Amendment to Facility
Operating License NPF-1 to Permit
Storage Pool Modification)

MEMORANDUM AND ORDER

The Nuclear Regulatory Commission has decided not to review the decision of its Appeal Board in ALAB-531. 9 NRC ____ (March 21, 1979). The decision not to review ALAB-531, as is always the case when review is declined, should not be taken to express any particular view on the merits of any issue raised in this decision. Houston Lighting and Power Company (South Texas Project, Units 1 and 2), CLI-77-13, 5 NRC 1303, 1308 (1977). Finally, the parties should note that in response to the remand of the Prairie Island decision by the U.S. Court of Appeals for the District of Columbia Circuit in State of Minnesota v. NRC, ____ F.2d ____, No. 78-1269 (D.C. Cir. May 23, 1979), the Commission has ordered a generic proceeding which will focus on some of the issues raised by this decision.

For the Commission

SAMUEL J. CHILK
Secretary of the Commission

Dated this ____ day of _____, 1979
at Washington, D.C.

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UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

OFFICE OF THE
SECRETARY

MEMORANDUM FOR: Lee V. Gossick, EDO
FROM: Samuel J. Chilk, SECY
SUBJECT: BRIEFING ON SUBJECTS TO BE INCLUDED IN TECHNICAL SPECIFICATIONS

In considering whether to review the Appeal Board's decision in ALAB-531, the Commission noted that the State of Oregon has raised a major issue concerning the appropriate standard in the regulations to describe what subjects must be included in a licensee's technical specifications and thus become part of the license. This is an important issue that affects all facilities and licensing actions and requires attention by the Commission. Rather than review the particular adjudication, the Commission has decided to explore this issue in a more generic fashion. Accordingly, the staff is directed to brief the Commission on the scope of the issues involved in setting such a standard and possible approaches for implementing that standard. This briefing will be scheduled as soon as practicable.

cc: Chairman Hendrie
Commissioner Giltnsky
Commissioner Kennedy
Commissioner Bradford
Commissioner Ahearne
OGC
OPE (2)
SECY (2)

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