

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Andrew C. Goodhope, Chairman
Dr. Linda W. Little
Dr. Forrest J. Remick



In the Matter of)
)
NUCLEAR ENGINEERING COMPANY, INC.) Docket No. 27-39
)
(Sheffield, Illinois Low-Level)
Radioactive Waste Disposal Site))

ORDER RULING UPON MOTION TO COMPEL NRC STAFF
TO FILE DRAFT ENVIRONMENTAL IMPACT STATEMENT
AND TO COMPEL STUDY OF REASONABLE ALTERNATIVES
TO SUSPENSION OF OPERATIONS AT SHEFFIELD, ILLINOIS

(December 3, 1979)

On August 28, 1979, an Intervenor, Chicago Section of the American Nuclear Society (Chicago Section) moved this Board to compel the NRC Staff to file a Draft Environmental Impact Statement (EIS) and to compel study of reasonable alternatives to suspension of operations at the Nuclear Engineering Company, Inc. (NECO) site located at Sheffield, Illinois.

The thrust of the Chicago Section's argument in support of its motion is that an assessment of the burial of low level radioactive waste at Sheffield compared with the alternative of shipping such waste to distant burial sites will demonstrate the desirability of keeping Sheffield as a burial ground for such waste generated in mid-America.

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NECO's original application asked for additional burial on its present 20.45 acre site and expansion of this site to include future burial on an additional adjoining 168 acres. However, NECO's present 20 acre site is full to capacity under the existing license and NECO has withdrawn its application for a license permitting additional burial on this site. NECO's motion to withdraw its application for the 168 acre expansion has been granted by this Board. This Board denied NECO's motion to withdraw its application for renewal of its license and to dismiss the proceeding. Thus, NECO is still in possession of its existing license on the 20 acre site until it is decided under what conditions, if any, the license should be terminated.

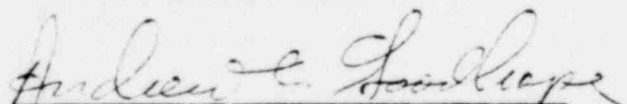
On June 6, 1979, this Board was designated by the Nuclear Regulatory Commission to consider "whether NECO can unilaterally terminate License No. 13-10042-01 for activities at Sheffield without affirmative action by the Commission." NECO has since moved the Commission for reconsideration of its June 6, 1979 memorandum and order and this Board is awaiting a Commission decision on the motion for reconsideration before proceeding to hearing as directed.

The Intervenor, Chicago Section, suggests that once a draft EIS is prepared someone may agree to operate the site if that appears to be the beneficial course of action.

The Chicago Section argues that this Board's ruling granting NECO's motion to withdraw its applications constituted a major federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act (NEPA) and, therefore, required an Environmental Impact Statement. It may well be desirable or even essential that such a low level radioactive waste burial site be located in mid-America or even at Sheffield to reduce the costs and risks of distant shipment. However, this Board has no authority to require the NRC Staff to prepare a draft EIS prior to this Board's ruling on the motion to withdraw, or to require NECO or anyone else to operate such a site simply because it may be an environmentally preferable course of action. The Chicago Section cites no authority which would require or even permit this action by the Board.

Accordingly, IT IS ORDERED that the motion of the Chicago Section of the American Nuclear Society to compel filing of a Draft Environmental Impact Statement and to compel study of reasonable alternatives to suspension of operations at Sheffield be denied.

FOR THE ATOMIC SAFETY AND
LICENSING BOARD


Andrew C. Goodhope, Chairman

Dated at Bethesda, Maryland

This 3rd day of December 1979.

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