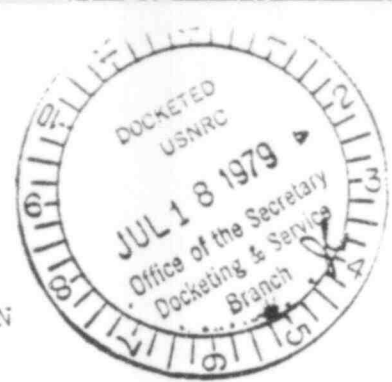


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UNITED STATES OF AMERICA
 NUCLEAR REGULATORY COMMISSION

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|--------------------------------|---|-------------------|
| In the matter of |) | Docket No. 50-70 |
| |) | |
| GENERAL ELECTRIC COMPANY |) | Operating License |
| |) | No. TR-1 |
| (Vallecitos Nuclear Center - |) | (Show Cause) |
| General Electric Test Reactor) |) | |

RESPONSE OF INTERVENORS RONALD V. DELLUMS AND
 FRIENDS OF THE EARTH TO LICENSING BOARD'S QUESTIONS
 OF JUNE 18, 1979.

1. Does Intervenor Dellums have "standing," as that concept is employed in N.R.C. licensing proceedings, to participate in this case by virtue of his status as a Congressman?

Answer: Congressman Dellums has standing as a congressman to participate in this case. The Dellums office is the federal representative of the constituents of the 8th Congressional district, and as such has as one of its responsibilities the representation of constituents' interests before federal agencies. The Congressman joined this case following requests from his constituents that he work for the permanent shutdown of the G.E. Test Reactor, which these constituents considered to be a menace to the lives and property of them and their descendents.

- 1.a. If so, are there legal or regulatory impediments to his representation by Mr. Halterman or Ms. Snow? What are they?

Answer: No. Following Duke Power (Catawba Nuclear Station, Units 1 and 2), LBP-73-28, 6 AEC 666, 678-680 (1973), it is apparent that Congressman Dellums may be represented in this case by Mr. Halterman or Ms. Snow, under 10 CFR § 2.713. In Duke Power, a nonprofit corporation was held properly to be represented before the AEC by a non-attorney representative.

The Congressman joined this proceeding to protect the rights of the residents of the 8th Congressional District. Each congressional office is provided with substantial staff for the purpose of assisting the congressman in discharging his congressional duties. No one may reasonably expect that the Congressman

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personally is capable of performing all the work of all the congressional staff. Indeed, most of a congressman's time is properly spent in Washington, D.C. The rationale of the Duke Power case was that the corporation was not able to personally appear in the case. Obviously Congressman Dellums could personally appear, but for him to do so, and prosecute this intervention personally, assuming the inevitability of hearings, would be in conflict with his primary duties as a congressman to attend to legislative matters in Washington. It may therefore be said that as a congressman, Congressman Dellums is precluded from the personal prosecution of this intervention just as surely as was the corporation in Duke Power. Thus, under the rationale of Duke Power, the Board should allow Congressman Dellums to be represented by his staff.

2. Assuming that Congressman Dellums has "standing" as a private citizen, and was admitted to the case on that basis, do the points raised by the Commission's General Counsel have relevance to the Congressman's continued participation in the same manner as heretofore? What relevance?

Answer: Congressman Dellums entered this case as a proper means of discharging his Congressional duties. As part of this endeavor Congressman Dellums pleaded an interest both as an individual and as a congressman in the outcome of the case. Whether or not the Board admitted the Congressman according to the pleading of personal interest or the pleading of congressional interest does not alter the conclusion that all the Congressman's pleading and other efforts were done as part of the proper discharge of the Congressman's official duties -- which include protecting the residents of the 8th Congressional District from the threat of radioactive contamination.

The two problems raised in this regard concern 18 U.S.C. § 203 and 205. Section 203 generally prohibits the receipt of compensation by members of Congress or legislative employees for services performed in connection with any proceeding in which the United States has a direct and substantial interest, except in discharge of official duties. No violation of section 203 has occurred for at least three reasons: (1) all services performed by Congressman Dellums or his staff have been in discharge of the Congressman's official duties, as explained above, (2) no outside compensation has been received by Congressman Dellums or his staff for services performed in connection with this case, and (3) the United States does not have a direct and substantial interest in this case within the meaning of section 203. The case involves no claims by the United States or against the United States; rather, in addition to the various intervenors, the case involves only the alleged rights of the General Electric Company.

Section 205 generally prohibits representation by members of Congress or legislative employees in connection with any proceeding in which the United States has a direct and substantial interest, except in discharge of official duties. No violation of section 205 has occurred for at least two reasons: (1) all services performed by Congressman Dellums or his staff have been in discharge of the Congressman's official duties, as explained above, and (2) the United States does not have a "direct and substantial interest" in this case.

3. Should the Licensing Board attempt to determine the matter itself, or is the case an appropriate one for referral to the Department of Justice for investigation as involving a possible violation of federal criminal law?
 - a. If such referral is believed to be appropriate, should the referral be made by the Licensing Board, the Office of the General Counsel, or by some other body within the N.R.C.?

Answer: There is no supportable argument that violations of Federal law have occurred on the part of Congressman Dellums or his staff in the prosecution of this intervention. All intervenors have no objection to the referral of these questions to the Department of Justice. We note that Congressman Dellums had already referred this matter to the Justice Department. Intervenors believe that if the Nuclear Regulatory Commission intends to pursue this matter, the referral of the matter to the Justice Department should be made by order of the Commission.

Respectfully Submitted,

W. Andrew Baldwin

W. Andrew Baldwin
For Friends of the Earth
and Ronald V. Dellums

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of)
)
GENERAL ELECTRIC COMPANY) Docket No. 50-70 (Show Cause Order)
) Operating License No. TR-1
(Vallecitos Nuclear Center -)
General Electric Test Reactor))

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Response of Intervenor
Ronald V. Dellums and Friends of the Earth to Licensing Board's Questio
has been served as of this date by personal delivery or first class
mail, postage prepaid, to the following:

| | |
|---|---|
| Edward Luton, Esq., Chairman Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 | Docketing & Service Section Office of the Secretary U.S. Nuclear Regulatory Commission Washington, D.C. 20555 |
| Mr. Gustave A. Linenberger, Member Atomic Safety and Licensing Board Panel U.S. Nuclear Regulatory Commission Washington, D.C. 20555 | Daniel Swanson, Esq. U.S. Nuclear Regulatory Commission Washington, D.C. 20555 |
| Dr. Harry Foreman, Member Director of Center for Population Studies University of Minnesota Minneapolis, Minnesota 55455 | Mr. George Edgar Morgan, Lewis and Bockius 1800 M Street, NW Washington, D.C. 20036 |
| Hon. Ronald V. Dellums Atten: Nancy Snow General Delivery, Civic Center Sta. Oakland, CA 94604 | Ms. Barbara Shockley 1890 Bockman Road San Lorenzo, CA 94580 |
| Advisory Committee on Reactor Safeguards U.S. Nuclear Regulatory Commission Washington, D.C. 20555 | Edward A. Fireston General Electric Company Nuclear Energy Division 175 Curtner San Jose, CA 94125 |

Dated: July 13, 1979

By: Alanna K. Hartzok

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