

For the Appeal Board

Margaret E. Lewis
Secretary to the Appeal Board

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of)
LONG ISLAND LIGHTING COMPANY, et al)
(Jamesport Nuclear Power Station,)
Units 1 and 2)

Docket Nos. 50-516
50-517

NRC STAFF'S INTERIM RESPONSE
TO COUNTY OF SUFFOLK'S MOTION FOR
LEAVE TO FILE A SUPPLEMENTAL BRIEF AND
REQUEST FOR ADDITIONAL TIME



Introduction

On May 9, 1978, the Atomic Safety and Licensing Board (Licensing Board) designated to preside in this construction permit proceeding issued a Partial Initial Decision (PID). The PID made findings on all required matters except radon releases and health effects. Subsequently, on December 26, 1978, the Licensing Board issued an Initial Decision (Construction Permit) (ID) which made a final cost-benefit balancing and authorized the Staff to issue construction permits to Applicants.^{1/} The County of Suffolk (County) filed numerous exceptions to both the PID and the ID and filed briefs in support of its exceptions. The NRC Staff (Staff) and Applicants both timely filed briefs in opposition to the County's respective briefs.^{2/}

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1/ The permits were issued on January 4, 1979. Applicants, however, are unable to commence construction or related activities at the Jamesport site in the absence of a required site certification from the State of New York.

2/ See pages 3-5 of the Staff's Brief dated April 12, 1979 for a further exposition of the procedural posture of this proceeding.

The County has now filed the present motion seeking leave to file a supplemental brief in this appeal addressing the asserted impact of the Three Mile Island (TMI) accident on the issues raised in this proceeding.^{3/} For the reasons set forth below, the Staff neither supports nor opposes the County's motion at this time.

Discussion

Pursuant to the Commission's policy requiring the Staff to promptly notify the Commission, Appeal Boards and Licensing Boards of information arguably relevant and material to matters being adjudicated, the Appeal Boards and various Boards before which licensing proceedings are pending have been kept informed of information relating to the TMI accident. And the Staff is now in the process of evaluating this and other information developed from the accident at Three Mile Island to determine what, if any, relevance this information may have to the present proceeding. In addition, the Staff is also reviewing the complete record in this proceeding to determine if any of the testimony and documents previously filed herein should be supplemented or modified in light of the information being gained from the TMI experience.

3/ The basis of the County's motion is that:

805 1855 The incident at the Three Mile Island (TMI) plant in Pennsylvania has a direct and material impact on virtually every issue litigated in these proceedings, is confirmatory of a vast portion of the County's proposed findings on those issues and of its legal positions advanced in connection therewith, and requires the submission of supplemental briefs in which the effect of the accident on the hearing record made in this case can be addressed. (County Motion at page 1.)

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While the task involved is substantial, it is nonetheless anticipated that the present evaluation can be completed in the relatively near future, and that at that time the Staff will be in a position to provide the Board and the parties with an informed response as to the merits vel non of the pending motion.

Thus, it is the Staff's view that rather than attempting to formulate a reply to the present motion at this time, the interest of all the parties will be best served by awaiting the completion of the Staff's present evaluation and the submission of the acquired information to this Board and the parties for their consideration. Accordingly, the Staff requests that its time to respond to the County's motion be extended until it has completed its present evaluation. It is presently anticipated that the evaluation will be completed on or before June 8, 1979.

Conclusion

For the reasons stated above, the Staff requests that its time to respond to the present motion be extended to June 8, 1979. In the event the evaluation is not completed by that date, we will advise the Appeal Board and parties.

Respectfully submitted,

Bernard M. Bordenick

Bernard M. Bordenick
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 8th day of May, 1979.

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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S INTERIM RESPONSE TO COUNTY OF SUFFOLK'S MOTION FOR LEAVE TO FILE A SUPPLEMENTAL BRIEF AND REQUEST FOR ADDITIONAL TIME", dated May 8, 1979, in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 8th day of May, 1979:

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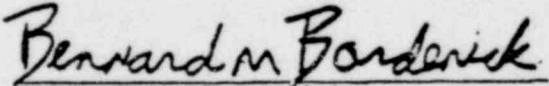
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