

EXECUTIVE OFFICE OF THE PRESIDENT  
COUNCIL ON ENVIRONMENTAL QUALITY  
722 JACKSON PLACE, N. W.  
WASHINGTON, D. C. 20006

April 27, 1977

Honorable Marcus Rowden  
Chairman  
Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Mr. Chairman:

This letter summarizes our views on the Commission's proposed regulations for early review and approval of siting issues respecting nuclear facilities, and reflects the results of discussions between our staffs.

We support the idea underlying the proposed early site review regulations, namely, that genuine consideration of alternative nuclear facility sites is more likely to occur if an applicant has not invested substantial amounts in site-specific design at the time of site review. Separating site review from design review provides an opportunity to achieve a thorough, objective consideration of alternative sites without the prospect of imposing substantial economic penalties on an applicant if its preferred site is rejected. Our concerns stem from the manner in which the proposed regulations implement this idea.

First, we strongly object to making reprocessing facilities eligible for early site review under these regulations. Whether "wide-scale" commercial reprocessing is permitted in the United States is a complex, controversial, and extremely significant issue that remains unresolved by the Commission. The proposed early site review regulations, however, would appear to authorize applicants to obtain review and approval of sites, or site related issues, before the Commission resolves the generic issues concerning reprocessing. With GESMO pending, we believe it would be highly inappropriate for the Commission to adopt a policy which would appear to authorize review and approval of sites or site related issues or the issuance of limited work authorizations for reprocessing facilities. It is our understanding that the NRC staff is giving serious consideration to recommending that the scope of the proposed regulations be changed to eliminate their application to reprocessing facilities.

Second, we are concerned that the proposed regulations could lead to a fragmentation of the review of site related issues. The regulations would authorize an applicant to define the scope of site related issues it wanted the Commission or staff to consider. If water availability or seismic stability were likely to be the limiting factor for a possible

site, for example, an applicant could seek to restrict its application for site review to the water or seismic issue alone. This approach may have two undesirable effects. Since a decision by a licensing board on a site related issue would bind the staff and the board for up to five years in the absence of new information, the balancing that NEPA requires among all relevant environmental, economic and technical factors could be skewed at a later time by a binding previous decision on a specific site related issue. In addition, the prospect of an applicant "stringing out" consideration of a variety of site related issues over a number of years could undermine the ability of interested citizen groups and intervenors to participate effectively in the site review process. We understand that the NRC staff is sympathetic to these concerns, and will not proceed with early site reviews on limited issues in cases where the later NEPA review on the full range of alternative siting issues might be prejudiced, or where, because of the limited nature of the issues, the conduct of the review would not be in the public interest. We understand that the NRC Staff is giving serious consideration to recommending that the rule specifically prohibit applicants from seeking more than one early site review on limited issues prior to the full construction permit review. We understand further that the views of NEPA commenting agencies would be solicited on any "fragmentation" problems in individual limited site review cases.

Third, the relationship between the site review process and NRC's environmental review process in connection with limited work authorizations or construction permits is unclear in the proposed regulations. As our staffs have discussed, integrating NEPA review with early site review presents a number of practical difficulties which are difficult to resolve in the abstract; the "piecemealing" problem discussed above is one example; coordinating EIS review with EPA under the Second Memorandum of Understanding is another. In view of the intricacies involved in integrating these two sets of procedures, we suggest that the relationship between them be made more explicit in the early site review regulations. For example, the regulations should indicate explicitly that no construction permit or limited work authorization will be issued without a complete NEPA review.

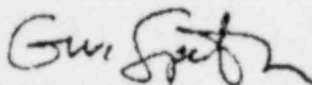
We also suggest that the regulations offer guidance on which NEPA issues will normally be considered at early site review and which ones will be left until design review, and which types of design assumptions the Commission would make at the site review stage in order to enable EPA to make judgments on cooling and intake structure issues where EPA is issuing an early site permit. We understand that the NRC staff feels that these matters should not be included in the regulations at the present time because of a need for some additional case-specific experience on site reviews. We nevertheless urge that consideration be given to including a listing of NEPA issues suitable for early site review and design assumptions at the earliest practicable time.

MM  
383

- 3 -

I hope these comments are useful. If we can be of further assistance, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gus Speth", with a stylized flourish at the end.

Gus Speth  
Member

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

COMMONWEALTH EDISON COMPANY, et al.

(Carroll County Site)

}  
Docket Nos. S50-599  
S50-600  
}

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF BRIEF IN OPPOSITION TO PETITIONERS' APPEAL FROM LICENSING BOARD'S ORDER DENYING PETITION TO INTERVENE" 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 18th day of July, 1980.

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

Dr. John H. Buck  
Atomic Safety and Licensing  
Appeal Board  
U. S. Nuclear Regulatory Commission  
Washington, D. C. 20555

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

John F. Wolf, Esq., Chairman  
3409 Shepherd Street  
Chevy Chase, Maryland 20015

\* Mr. Glenn O. Bright  
Atomic Safety and Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dr. Robert L. Holton  
School of Oceanography  
Oregon State University  
Corvallis, Oregon 97331

Philip P. Steptoe, Esq.  
Isham, Lincoln & Beale  
One First National Plaza, 42nd Floor  
Chicago, Illinois 60603

Thomas J. Miller  
Attorney General of Iowa  
State Capitol Complex  
Des Moines, Iowa 50319

Jan L. Kodner, Esq.  
230 W. Monroe  
Suite 2026  
Chicago, Illinois 60626

Mr. John W. Cox, Jr.  
Jo Daviess County Ad Hoc Committee  
on Nuclear Energy Information  
906 Campbell Street  
Galena, Illinois 61036

Mr. James C. Schwab, Executive Director  
Iowa Public Interest Research Group, Inc.  
Activities Center, Iowa Memorial Union  
University of Iowa  
Iowa City, Iowa 52242

Nancy J. Bennett  
Assistant Attorney General  
Environmental Control Division  
188 West Randolph, Suite 2315  
Chicago, Illinois 60601

\*Atomic Safety and Licensing  
Board Panel  
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

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


David N. Howarth, Esq.  
RFD 2, Box 115  
Elizabeth, Illinois 61028

Mr. James L. Runyon  
1316 - Second Avenue  
P. O. Box 307  
Rock Island, Illinois 61201

Mr. Edward Gogol  
6105 W. Winthrop  
Chicago, Illinois 60660

Mr. Jim Dubert  
C/o Iowa Socialist Party  
2801½ West Street  
Ames, Iowa 50010

Mr. Tom Sorg  
111 Broad Street  
Mt. Carroll, Illinois 61053

  
Steven C. Goldberg  
Counsel for NRC Staff