

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE COMMISSION

In the Matter of)	
)	
PROPOSED RULEMAKING ON THE STORAGE)	PR-50, 51
AND DISPOSAL OF NUCLEAR WASTE)	(44 FR 61372)
)	
(Waste Confidence Rulemaking))	March 4, 1980



ANSWER OF ILLINOIS TO NRDC MOTION
TO DIRECT CERTIFICATION

People of the State of Illinois ("Illinois") by WILLIAM J. SCOTT, Attorney General of the State of Illinois in support of the Motion of the Natural Resources Defense Council's ("NRDC") Motion for Directed Certification of the question of the staff's role in compiling a meaningful record states as follows:

DIRECTED CERTIFICATION

NRDC requests that the Commission direct the presiding officer to certify the motions of itself and the State of California regarding the role of the staff in compiling a complete record in the rulemaking proceeding. This request is appropriate and should be granted. Contrary to the position of the Utility Waste Management Group and the Edison Electric Institute directed certification by a party is a procedure which may be used. Public Service Company of New Hampshire (Seabrook Station, Units 1 & 2). ALAB-271, 1 NRC 478, 482-83 (1975), (although the directed certification in Seabrook was to the appeals board such an option is not present in a rulemaking proceeding).

Handwritten notes: "1-4/pt. 50" and "+ pt. 51" with arrows pointing to the text.

The circumstances under which a request for directed certification is to be granted are "exceptional." Consumers Power Co. (Midland Plant, Units 1 & 2) ALAB-382, 5 NRC 603 (1977). The question raised by NRDC is of such significance as to warrant an order of directed certification by the Commission. The extent of the record in the waste confidence proceeding is of critical importance to the quality of decision that will be made by the Commission.

THE ROLE OF THE STAFF

NRDC asks that the staff be directed to seek the views of independent experts to develop a full record. The staff has declined to undertake this role, deferring instead to the Department of Energy and other parties and stating that until directed by the Commission they will remain neutral.

It is accurate, as the staff and others suggest, that the fifty parties to this proceeding will put on a number of witnesses and that an extensive data bank has been made available. It is also accurate that any technical expert may come forward and without restriction present testimony. However, it is also true that if the record in this proceeding is to be developed in such a haphazard and random fashion that there will be significant gaps in the evidence brought out. Further, there will be many technical experts who could make a valuable contribution to this proceeding whose testimony will not be made apart of this record.

Few of the parties to this proceeding, with the possible exceptions of the Department of Energy and the NRC staff, have the

resources to attempt to comprehensively present testimony on the full range of areas pertinent to nuclear waste disposal. Most parties will at best be able to put on one or several witnesses. Thus whether an area will be adequately covered or not will be left entirely to chance.

Further, most experts will not come forward to their own volition and present testimony. Most technical experts depend upon consulting as their means of livelihood and can ill-afford to devote their time to such a proceeding without compensation. The list of participants and limited participants to this proceeding shows that experts are not volunteering their services by appearing as participants. Rather, experts in this proceeding, as with all other nuclear proceedings, will participate only as consultants to parties.

Without the staff playing an active role seeking out the testimony of independent experts, the record in this proceeding will not be adequate. The safe disposal of nuclear waste is too important to be making decisions on the basis of incomplete facts. The Motions of NRDC and California should be granted and the staff should be ordered to systematically seek out the assistance of independent experts in the fields related to the disposal and storage of nuclear waste.

Respectfully submitted,

DEAN HANSELL
Assistant Attorney General
Environmental Control Division
188 W. Randolph Street, Suite 2315
Chicago, Illinois 60601
312-793-2491

CERTIFICATE OF SERVICE

I, JESSIE GIBSON, hereby certify that I have served copy of the Answer Of Illinois to NRDC Motion To Direct Certification, upon each of the following persons on this list by deposit in the United States Mail, first class postage prepaid, this 5th day of March, 1980.

Chairman John F. Ahearn
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Commissioner Victor Gilinsky
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Commissioner Richard F. Kennedy
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Commissioner Peter A. Bradford
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Commissioner Joseph M. Hankie
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Marshall E. Miller, Esq.
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Leo Slagge, Esq.
Office of the General Counsel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Karen Cyr, Esq.
Rulemaking and Enforcement Division
Office of Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. James C. Malaso, Chief
High Level Waste Licensing
Management Branch
Office of Nuclear Material Safety
and Safeguards
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Ronald C. Wilson, Esq.
810 14th Street, NW
Washington, D. C. 20005

Cher F. Brown, II, Esq.
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D. C. 20545

Mr. Eugene N. Cramer
Neighbors for the Environment
17146 Ridgepark
Hacienda Heights, CA 91745

POOR ORIGINAL

Richard M. Sandvik, Esq.
Department of Justice
500 Pacific Building
520 S. W. Yamhill
Portland, OR 97204

Karin P. Sheldon, Esq.
Sheldon, Harmon and Weiss
1725 I Street, NW
Suite 506
Washington, D. C. 20006

Mr. Marvin Lewis
6504 Bradford Terrace
Philadelphia, PA 19149

Dr. Judith Johnsrud
433 Orlando Avenue
State College, PA 16801

Keith A. Cnsdorff, Esq.
Assistant Deputy Public Advocate
Division of Public Interest
Advocacy
P.O. Box 141
Trenton, NJ 08625

Mrs. W. M. Schaefer
3741 Koehler Drive
Sheboygan, WI 53081

Davis Santee Miller, Esq.
213 Morgan Street, NW
Washington, D. C. 20001

E. Dennis Muchnicki, Esq.
Assistant Attorney General
Environmental Law Section
30 East Broad Street
17th Floor
Columbus, OH 43215

Jocelyn F. Olson, Esq.
Special Assistant Attorney General
1935 West County Road B2
Roseville, MN 55113

E. Tupper Kinder, Esq.
Assistant Attorney General
Environmental Protection Division
Office of Attorney General
State House Annex
Concord, NH 03301

Mr. A. S. West
Rohm and Haas Company
Independence Mall West
Philadelphia, PA 19105

Mr. Raymond M. Mombolisse
Pacific Legal Foundation
1990 M Street, NW
Washington, D. C. 20036

Mr. James Richards
Capital Legal Foundation
1101 17th Street, NW
Washington, D. C. 20036

Ezra I. Bialik, Esq.
Environmental Protection Bureau
Two World Trade Center
New York, NY 10047

Mr. Michael H. Raudenbush
T.S.M. Stoller Corporation
1919 14th Street, Suite 500
Boulder, CO 80302

Dr. William A. Lochstet
119 E. Aaron Drive
State College, PA 16801

Richard P. Wilson, Esq.
Assistant Attorney General
2600 Bull Street
Columbia, SC 29201

Elliott Andalman, Esq.
Andalman, Adelman and Steiner
224 Second Avenue
Hattisburg, MS 39401

Mr. Greg Darby
Hanford Conversion Project
1817 NE 17th
Portland, OR 97212

Ms. Priscilla C. Grew
Director, Department of
Conservation
State of California
Sacramento, CA 95825

Carl Valora, Jr.
Valora, McAllister, Aron and
Westermoreland
Mainland Professional Plaza
535 Tilton Road
Northfield, NJ 08225

Richard W. Lowerre, Esq.
Assistant Attorney General
Environmental Protection Division
P.O. Box 12548, Capitol Station
Austin, TX 78711

Mr. David Berick
Environmental Policy Institute
317 Pennsylvania Avenue, SE
Washington, D. C. 20003

Christopher Ellison, Esq.
California Energy Commission
1111 Howe Avenue
Sacramento, CA 95825

Dr. Betram Wolfe
Vice President and General Manager
General Electric Company
175 Curtner Avenue
San Jose, CA 95125

Mr. Ken Kramer
Lone Star Chapter of the
Sierra Club
P.O. Box 1931
Austin, TX 78767

Mr. Robert Halstead
Department of Administration
State of Wisconsin
1 West Wilson Street
Madison, WI 53702

Joseph Gallo, Esq.
Isham, Lincoln and Beale
1050 17th Street, NW
Washington, D. C. 20036

Michael Miller, Esq.
Isham, Lincoln and Beale
One First National Plaza
Suite 4200
Chicago, IL 60603

James P. McGarnery, Jr., Esq.
Leboeuf, Lamb, Leiby and MacRae
1333 New Hampshire Avenue, NW
Washington, D. C. 20036

Dr. Miro M. Todorovich
Executive Secretary
Scientists and Engineers for
Secure Energy
410 Riverside Drive
New York, NY 10025

George Freeman, Jr., Esq.
Hunton and Williams
P.O. Box 1535, 707 Main Street
Richmond, VA 23212

Michael J. Scibinico, II, Esq.
Department of Natural Resources
Tawes State Office Building
Annapolis, MD 21401

Richard M. Hluchan, Esq.
36 West State Street
Trenton, NJ 08625

Harry Voigt, Esq.
Leboeuf, Lamb, Leiby and MacRae
1333 New Hampshire Avenue, NW
Washington, D. C. 20036

Ms. Lorna Salzman
Friends of the Earth
72 Jane Street
New York, NY 10014

June D. McArtor, Esq.
Deputy Attorney General
Tatnall Building
P.O. Box 1401
Dover, DE 19901

Mr. Bryan L. Baker
Mockingbird Alliance
900 Lovett Boulevard
Houston, TX 77006

Mr. William J. Cahill, Jr.
Consolidated Edison Company of
New York, Inc.
4 Irving Place
New York, NY 10003

William Griffin, Esq.
State of Vermont
Office of the Attorney General
109 State Street
Montpelier, VT 05602

Patrick Walsh, Esq.
Wisconsin Department of Justice
114 East, State Capitol
Madison, WI 53702

R. Leonard Vance, Esq.
Commonwealth of Virginia
Office of Attorney General
Supreme Court Building
1101 East Broad Street
Richmond, VA 23219

Mr. John O'Neill, II
Route 2, Box 44
Maple City, MI 49664

Mr. Ashton J. O'Donnell
Bechtel National, Inc.
P.O. Box 3965
San Francisco, CA 94119

Mr. Ralph Stein
Office of Nuclear Waste Management
Mail Stop B107
U.S. Department of Energy
Washington, D. C. 20545

Mr. M. A. Glora
Site Qualification and Licensing
Department
Office of Nuclear Waste Isolation
Department of Energy
505 King Avenue
Columbus, OH 43201

Mr. Phillip Warburg
State of Connecticut
444 North Capitol Street
Suite 317
Washington, D. C. 20001

Mr. George DeBuchananne
Chief, Office of Radiology
U.S. Department of Interior
Geological Survey
Reston, VA 22092

Honorable Charles S. Rogers
Assistant Attorney General
112 State Capitol
Oklahoma City, OK 73105

Honorable Robert M. Lindholm
Assistant Attorney General
Jefferson City, MO 65102

Honorable Richard Troy
Assistant Attorney General
Department of Justice
234 Loyola Building, 79th Floor
New Orleans, LA 70112

Honorable Francis S. Wright
Assistant Attorney General
Environmental Protection Division
One Ashburton Place, 19th Floor
Boston, MA 02108

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

Thomas M. Lemberg, Esq.
Leva, Hawes, Symington, Martin
and Oppenheimer
815 Connecticut Avenue, NW
Washington, D. C. 20008

Wayne McDaniel, Esq.
Federal Energy Regulatory Commission
North Building, Room 3408
Washington, D. C. 20426

Mr. Ray K. Robinson
Exxon Nuclear Company, Inc.
777 106th Avenue, NE
Bellevue, WA 98009

Mr. Orville Hill
2315 Camas Avenue
Richland, WA 99352

Mr. Edward P. Regnier
Mail Stop 90666
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Harvey Price, Esq.
General Counsel
Atomic Industrial Forum, Inc.
7101 Wisconsin Avenue
Washington, D. C. 20014

Alvin H. Gutterman, Esq.
Tennessee Valley Authority
Knoxville, TN 37902

Lawrence K. Lau, Esq.
Deputy Attorney General
State Capitol
Honolulu, HA 96813

Joseph B. Knotts, Esq.
Debevoise & Liberman
1200 17th Street, NW
Washington, D. C. 20036

Mr. John J. Kearney
Senior Vice President
Edison Electric Institute
1111 19th Street, NW
Washington, D. C. 20036

Lawrence Coe Lanpher, Esq.
Hill, Christopher & Phillips, P.C.
1900 M Street, NW
Washington, D. C. 20036

Maurice Axelrad
Lowenstein, Newman, Reis,
Axelrad & Toll
1025 Connecticut Ave., N.W.
Washington, D. C. 20036

SUBSCRIBED AND SWORN TO
BEFORE ME THIS 4th DAY
OF MARCH, 1980.

NOTARY PUBLIC