



November 15, 1970

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Secretary
Atomic Energy Commission
Washington, D. C. 20545

Dear Sir:

I would like to petition to intervene on behalf of myself, a citizen of Ohio, against the construction of the proposed Davis-Besse nuclear power plant to be located in Northern Ohio. I understand that the AEC is conducting public hearings in Port Clinton, Ohio on December 8, 1970 regarding the proposed plant.

It is my contention that the 1954 Atomic Energy Act is unconstitutional since the act was based on the assumption that Article I, Section 8, Clause 1 of the United States Constitution contains a grant of power to Congress to provide for the common defense and general welfare of the nation and to appropriate money from the Treasury for the broad and undefined objects of common defense and general welfare. Yet, the historical evidence is overwhelming that the people of the several States when establishing the Constitution conferred no such powers to Congress. The intent of the people was to retain the right to assess their safety and well being except in certain cases where the federal government was granted authority. These cases are specifically enumerated in Article I, Section 8. The "common defense and general welfare" phrase in question, along with "to pay the debts," were included in the taxation power to define the purposes for which money was to be raised (revenue) and were not to define the objects for which money may be applied (appropriations).

Congress had no authority to pass a law empowering an agency of the Federal Government to assist in and promote the installation of civilian nuclear power throughout the nation. In so doing, however, Congress had assumed the right to determine that nuclear power was safe for the people. But the people of the several States have not granted the Federal Government this right, since an amendment to the Constitution is required. Hence, the people have retained the exclusive right to determine whether and on what conditions civilian nuclear power has merit deserving of application; i.e., they have retained the right in this instance to decide whether civilian nuclear power is safe for them.

As a citizen of Ohio with a wife and two children, I am very much determined to work toward a healthy environment for my family's well being and provide in a safe way the things which my family needs. I view the 1954 Atomic Energy Act as an illegal hindrance in the way of my efforts; for my lawful representatives in the State legislature have not been asked nor have they granted an amendment to the Constitution empowering Congress to pass such a law. There is much that concerns me about civilian nuclear power and there is much public contro-

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versy stemming from testimony of those who appear to have qualifications in the disciplines involved in these controversies.

The safety of my family and the citizens of Ohio as it relates to the Davis-Besse Plant involves a multitude of disciplines and considerations. Nuclear power plants will generate a staggering amount of radioactivity, almost all of which must be contained, and will add substantial heat to the environment. There are questions relating to; (1) ability of fuel elements cladding, reactor piping, and plant systems and containers to contain the radioactivity; (2) the consequences of postulated amounts of radioactivity escaping and released to the environment; and (3) the safety of disposing the waste for periods of hundreds of years; (4) the safety of shipping dangerous nuclear material; (5) the possibilities of sabotage, airplane crashes, and earthquakes; (6) the question of proper training for reactor plant operators and of possible mismanagement; (7) the question of terrorists stealing fissionable material for bombs; and (8) the question of whether or how civilian nuclear power can be effectively regulated by government agency for the infinite future in view of possibilities for corruption. In addition to these questions, there is evidence that the chief advantage of nuclear power, its ability to produce power without the polluting gases that are produced with fossil fuels, is not being used to retire substantial amounts of fossil power in order to reduce air pollution in our cities. Hence, in view of the risks of civilian nuclear power program there does not appear to be any clear environmental benefit in fact.

As a nuclear engineer myself, I have some expertise in some of the areas cited above; but I cannot determine in my mind as yet as to whether civilian nuclear power is safe. I trust that were the right of the people to assess their safety, as it relates to civilian nuclear power restored, a safe determination will be made. For the debate which would ensue would be free and thorough, eliciting expert opinions from all sides.

Undoubtedly, the AEC considers nuclear power necessary and safe. If so, the officers of the AEC, as they are bound to support the Constitution, should urge Congress to propose the necessary Amendment to the States. In the ensuing debates within each State throughout the nation the people will form their judgment. The AEC, believing that civilian nuclear power is safe, would be able to present and argue their justification before the people's forum - the Constitutional process.

Accordingly, at the public hearing in Port Clinton, I intend to present the evidence supporting my position and appeal to the members of the hearing board, as they are presumably bound by oath to support the Constitution, to refuse the construction permit and to recommend to their higher authority that Congress proceed in a constitutional

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manner concerning a national program of civilian nuclear power. In appearing before the hearing board, therefore, I will be exercising my right to assess and provide for my family's safety as it relates to civilian nuclear power in my State--a right which has not been granted to the Federal Government by the people. The future well-being of my family is considered at stake.

Sincerely yours,

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