UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of	)	
	)	
WESTINGHOUSE ELECTRIC CORP.	)	Application No. XR-133
	)	Docket No. 110-00435
(Exports to South Korea)	)	

NRC STAFF ANSWER TO PETITION FOR LEAVE
TO INTERVENE AND REQUEST FOR HEARING
FILED BY CENTER FOR DEVELOPMENT POLICY

By petition docketed June 13, 1980, the Center for Development Policy (CDP) requested leave to intervene and that a hearing be held on Application No. XR-133, by Westinghouse Electric Corp., for a license to export two pressurized water nuclear reactors (KNU-7 and KNU-8) to be located at Yeonggwang (formerly Gyaema Ri), South Korea. Notice of receipt of the application was published in the Federal Register on February 28, 1979 (44 F.R. 11282).

Petitioner suggested that the following issues raised by the instant application must be made the subject of NRC public hearings:

1. The adequacy of the Reactors' physical security plan to withstand the risks it will face in civil war or open rebellion.

2. The nature and magnitude of risks and dangers posed by the population density around the reactors' site.

3. The threat to U.S. non-proliferation objectives with the possible South Korean purchase of critical reprocessing technology.

4. The likely environmental impact of the proposed reactors and disposition of their spent fuel.

5. Dangers to the health and safety of U.S. citizens, primarily the approximately 39,000 U.S. military employees and personnel stationed in South Korea, particularly those at the five U.S. bases within 50 miles.

6. Dangers to the health and safety of South Korean citizens.

7. Risks to the effective operation of U.S. military installations in South Korea.

8. Generic safety questions posed by all nuclear power plants and by Westinghouse reactors in particular.

The petitioner requested that the Commission:

1. Grant the petition to intervene;

2. Act to assure that the pertinent data regarding the issues addressed by petitioner be made available for public inspection as soon as possible;

3. Defer any action other than denial of the instant application until (a) petitioner and other interested members of the public have had at least 60 days to inspect and analyze the pertinent data which the Commission has considered or will consider in these matters and (b) a hearing has been held commencing no sooner than 30 days after expiration of such 60-day period at which petitioner and all other interested members of the public will be able to participate fully, the hearing to be based solely on public proceedings and a public record in which petitioner and all other interested parties will be able to present evidence and cross examine adverse witnesses.

4. Make available to petitioner and other interested members of the public the Commission's expertise and resources to assist them to thoroughly analyze and evaluate the issues discussed in the petition.

Background

The application in the instant proceeding requesting a license to export two pressurized water reactors to South Korea, with an expiration date of December 2026, was filed on January 26, 1979. Notice of receipt of the application was published in the Federal Register on February 28, 1979.

The Executive Branch judgment required by section 126a. of the Atomic Energy Act of 1954, as amended, along with an environmental document in accordance with Executive Order 12114 of January 4, 1979, was transmitted to the Commission on May 6, 1980. The Executive Branch concluded that the requirements of

the Atomic Energy Act, as amended by P.L. 95-242 (the Nuclear Non-Proliferation Act of 1978) have been met and that the proposed export would not be inimical to the common defense and security, provided that the period of the license is limited to 10 years, and recommended issuance of the license. It may be noted that the petitioner was one of the petitioners who sought leave to intervene in the matter of Westinghouse Electric Corp. (Exports to the Philippines), Application Nos. XR-130, XCOM-0013 and XSNM-1471, decided by the Commission in CLI-80-14 and CLI-80-15, May 6, 1980.

Paragraph 110.84(d) of 10 CFR Part 110 provides that the Commission will not grant a hearing request prior to receipt and evaluation of Executive Branch views on an export license application. The Staff has not yet transmitted its evaluation of Executive Branch views to the Commission. However, this answer addresses all questions presented by the petition.

I. The Petitioner Lacks Standing to Intervene As a Matter of Right.

Petitioner has requested a hearing as a matter of right under section 189a. of the Atomic Energy Act of 1954, as amended, (the Act)[1/] as well as a matter of Commission discretion.

Upon careful review and consideration of the instant petition and in consonance with the comprehensive analyses and decisions of the Commission in

1/ Petition, p. 2, footnote 2.

Edlow International,[2] Babcock & Wilcox[3] and Exxon Nuclear Company, Inc.[4] in which certain issues similar to those presented by the instant petition were considered, the NRC Staff believes that the petition for leave to intervene as a matter of right should be denied. In the main, and as more fully discussed below, petitioner has not established that its interests are such that the Commission should grant standing.

Section 189a. of the Act provides, in pertinent part, that "in any proceeding under this Act, for the granting... of any license... the Commission shall grant a hearing upon the request of any person whose interest may be affected by the proceeding, and shall admit any such person as a party to such proceeding." Thus, a statutory right to a hearing and participation as a party in the hearing is granted only to those persons who can show that they have an "interest [which] may be affected by the proceeding."

The Staff has addressed this statutory provision with respect to the standard established in 10 CFR §§ 110.83 and 110.84, which require that petitions for leave to intervene asserting that the petitioner has an interest that may be affected specify the facts pertaining to the nature of his interest, how it relates to issuance or denial of the export license, and the possible

2/ In the Matter of Edlow International Company, 3 NRC 563 (May 7, 1976).

3/ In the Matter of Babcock & Wilcox, 5 NRC 1332 (June 27, 1977).

4/ Exxon Nuclear Company, Inc. (In the Matter of Ten Applications for Low Enriched Uranium Exports to Euratom Member Nations), 6 NRC 525 (Oct. 4, 1977).

effect of any order on that interest, including whether the relief requested is within the Commission's authority and, if so, whether granting relief would redress the alleged injury.

Petitioner CDP describes itself as a project of the International Center, a nonprofit corporation, and as monitoring the flow of resources to developing nations, primarily from the United States, and conducting independent nonpartisan research and analysis of development policies and their implementation which is disseminated to the public and interested public officials and offices of government. It states that it is conducting comprehensive research and analysis of policies and risks posed by the export of nuclear reactors and related equipment and material from the United States to developing countries.

Petitioner CDP explains that it seeks to assure that the American public is as fully informed as possible about the environmental, public health and safety, and national defense and security implications of the proposed reactors and that the Commission, in disposing of the instant application, make all pertinent data and information available to the public and take into account all pertinent criteria, including all relevant public participation in these proceedings which can result from a well informed public opinion.

Further, it is asserted that because of the close military relationship between the United States and South Korea, the petitioner has an interest in

assuring the reactors not jeopardize the common defense and security, by threatening the continued operation of the U.S. military bases in South Korea, at Kunsan and Kwangju Air Force Bases and Little Luck, Site 44 and Tacoma Army Bases, all within 50 miles of the proposed site.

Petitioner alleges that it has a clear interest in the issuance or denial of the licenses in that (1) denial of the application would either delay or preclude construction of the reactors and thus assure that the possible risks to the petitioner, the United States, South Korea, their citizens, and particularly the U.S. citizens who are or may be stationed at the Air Force Bases and the three Army bases, at such time as the reactors might be built, would not be exposed to such risks and (2) if the Commission issued the requested license but made its issuance subject to the highest feasible public health and safety and common defense and security safeguards, both petitioner and all affected governments and public interests will be advanced.

While recognizing that standing requirements in the federal courts need not be transplanted in whole to administrative proceedings, the Commission and its predecessor, the U.S. Atomic Energy Commission, have applied judicial standing doctrines in defining the statutory right to a hearing and participation as a party under section 189a. of the Act.[5/]

5/ Edlow International, 3 NRC 569-578 (1976). In the Matter of Babcock & Wilcox, 5 NRC 1348 (1977). Exxon Nuclear Company, Inc., 6 NRC 529-532 (1977). See e.g., Northern States Power Co. (Prairie Island Nuclear Generating Station, Units 1 and 2), 6 AEC 188 (1973).

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5/ Edlow International, 3 NRC 569-578 (1976). In the Matter of Babcock & Wilcox, 5 NRC 1341-3 (1977). Exxon Nuclear Company, Inc., 6 NRC 530-2 (1977). See e.g., Northern States Power Co. (Prairie Island Nuclear Generating Station, Units 1 and 2), 6 AEC 188 (1973).

The leading judicial decisions in this field are Association of Data Processing Service Organizations v. Camp[6/] and Barlow v. Collins.[7/] The Supreme Court enunciated, through these decisions, a two-pronged test for determining whether persons have standing to obtain judicial review of federal agency action: (1) where they have alleged that the challenged federal action has caused them "injury in fact", and (2) where the alleged injury in fact is to an interest "arguably within the zone of interests to be protected or regulated" by the statutes claimed to be violated by the federal agency. 397 US at 152, 153.

Three later decisions by the Court provide useful guidance on the proper application of the "injury in fact" test. In Sierra Club v. Morton,[8/] the Court indicated that an organization's "interest in a problem", no matter how longstanding the interest may be and no matter how qualified the organization may be in evaluating the problem, is not sufficient for standing to obtain judicial review. Thus, the "injury in fact" which the Court spoke of in Data Processing and Barlow is something more than an asserted "injury" to the goals, purposes or policies of an organization.

The "injury in fact" test in Data Processing and Barlow also requires some nexus between the alleged "injury in fact" and the action complained of.

6/ 397 US 150 (1970).

7/ 397 US 159 (1970).

8/ 405 US 727 (1972).

Judicial guidance on this aspect of the first test is set forth in the case of Warth v. Seldin.[9/] As the Court made clear in Warth, specific facts must be alleged demonstrating both that the challenged action harms petitioner and that petitioner would benefit in a tangible way from the Court's intervention.

On June 1, 1976, in Simon v. Eastern Kentucky Welfare Rights Organization,[10/] the Supreme Court again squarely faced questions of standing and strongly reaffirmed the earlier principles laid down in Sierra Club, Data Processing, Barlow and Warth. Of particular interest in Simon is the Court's strong insistence that the required "injury in fact" must "fairly be traced to the challenged action of the defendant, and not [merely be] injury that results from the independent action of some third party not before the court.[11/] It must be shown that "the asserted injury was the consequence of the defendant's actions, or that the prospective relief will remove the harm.[12/]

A reasonable application of the judicial standing doctrines discussed above, as well as the Commission's determinations in Edlow International,[13/] Babcock

9/ 422 U.S. 490 (1975).

10/ 426 U.S. 26 (1976).

11/ Id., at 41.

12/ Id., at 45, citing Warth, 505.

13/ In Edlow International, the Commission remarked that: "an expansive rule of standing would be undesirable in the export licensing context, which involves sensitive questions of the nation's conduct of foreign policy." at 570.

& Wilcox and Exxon Nuclear Company, leads us to conclude that the petitioner here has failed to establish the requisite interest (and zone of interest) upon which to grant standing.

Petitioner CDP does not appear to be a membership organization or purport to represent persons whose interest may be affected; its interest in the proceeding is purely institutional. As already noted, allegations of an organization's generalized interest in a subject matter do not in themselves suffice to confer standing. Sierra Club v. Morton; Edlow International at 572-574; Health Research Group v. Kennedy, No. 77-0734, U.S. District Court for the District of Columbia (Legal Times of Washington, March 19, 1979, p. 17).

Accordingly, the interest asserted by petitioner CDP does not establish a claim of right under section 189a. of the Atomic Energy Act of 1954, as amended.

Further, to the extent that petitioner asserts interests related to the health, safety and environmental impact of the reactors, they are not within the zone of interests to be protected by the Act and other pertinent statutes, except to the extent that impacts on the territory of the United States and the global commons may be involved. Petitioner seeks directly a review and assessment by the United States of impacts occurring in another country from the operation of the reactors and the disposition of their spent fuel. (Petition, pp. 4, 12-13).

Addressing a similar question in Edlow International, the Commission emphasized that "standing cannot be claimed on issues which the Nuclear Regulatory Commission has no legal competence to decide."[14/] The NRC has held to the view that under the Atomic Energy Act, the Energy Reorganization Act, general principles of international law, and the National Environmental Policy Act (NEPA), it lacks authority to consider health, safety or environmental effects of its actions upon citizens of the recipient nation.[15/]

Petitioner also asserts risks to the health and safety of U.S. citizens, primarily the approximately 39,000 U.S. military employees and personnel stationed in South Korea, particularly those at the five U.S. military bases, as a basis for its interest in issuance or denial of the application (Petition, pp. 4, 13). However, although this is a matter over which the Commission could assert jurisdiction,[16/] there is no indication that the petitioner is authorized to represent those citizens or that they are members of CDP. Accordingly, petitioner's standing cannot be based upon the interest of those citizens.

14/ Edlow International at 574.

15/ Westinghouse Electric Corp. (Exports to the Philippines), CLI-80-14, Opinion of Commissioners Kennedy and Hendrie, p. 8, Opinion of Commissioner Gilinsky, p. 1.; Edlow International, 582, 585; Babcock & Wilcox, 1346, 1353.

16/ Westinghouse Electric Corp. (Exports to the Philippines), CLI-80-14, Opinion of Commissioners Kennedy and Hendrie, p. 19.

The petitioner also asserts an interest in assuring that the reactors will not jeopardize the common defense and security by threatening the continued operation of U.S. military bases close to the reactor site in South Korea. Thus, the petitioner claims to represent interests that are those of the nation as a whole, which the Commission, no less than the Congress and the Executive Branch, are sworn by oath to uphold. The Commission has concluded that in these circumstances, the need for separate representation and for adjudication rather than political oversight is not established (Edlow International, p. 571). This seems particularly so in view of the provision of section 126 of the Act which requires that the views of the Department of Defense, along with those of other Executive Branch agencies, be forwarded to the Commission before it takes action on an export license application. Further, the Commission has concluded in the recently decided Philippine reactor export case,[17/] on policy grounds, that it should not examine impacts on U.S. military bases abroad as part of the export licensing process. In any event petitioner has shown no injury in fact that would result from actions which would allegedly jeopardize the U.S. common defense and security.

Hence, petitioner has failed to establish that its interests in this regard and that of its members, are sufficiently within the zone of interests protected by pertinent statutes to be afforded intervention in this proceeding.

17/ Id., Opinion of Commissioners Kennedy and Hendrie, pp. 22-26, Opinion of Commissioner Gilinsky, p. 1.

To the extent that issue (4) - the likely environmental impact of the proposed reactors and disposition of their spent fuel - can be read as referring to impacts on the territory of the United States and the global commons, that issue, at least in part, is among those that the Commission considers in export licensing proceedings. In its Order of February 8, 1980 in Westinghouse Electric Corp. (Exports to the Philippines), the Commission invited comment on the health, safety and environmental effects that the proposed exports would have on the territory of the United States or the global commons. In its final decision in that case, CLI-80-15, the Commission stated that it will consider only those health, safety and environmental impacts arising from exports of nuclear reactors that affect the territory of the United States or the global commons. Subsequently, on June 30, 1980, in connection with SECY 79-495A, the Commission provided to the Staff further guidance as to what its environmental review should contain. It excluded consideration of the impact of spent fuel disposition.

The NRC Staff analysis of the impact of the proposed exports to South Korea, which will be forwarded shortly to the Commission, provides a "reasonable upper bound analysis" of the potential impact of a core melt accident involving the loss of containment integrity and an analysis of the impact of routine releases from comparable U.S. plants. The analysis is similar to that provided the Commission for the Philippine reactor export licensing proceeding. In discussing the issue of review of impacts on the global commons in the final decision on that case, it was stated, in the Opinion of Commissioners Kennedy and Hendrie, that (CLI 80-14, p. 28):

> The NRC review would be based upon generally available literature, such as generic environmental impact statements prepared by the Commission and other federal agencies, information contained in environmental assessments prepared by the Executive Branch pursuant to E.O. 12114, and calculations prepared by the NRC staff based on available analytical models for assessing the impacts of releases of radioactive and chemical effluents.

However, that Opinion did consider other information submitted by a participant in the proceeding (p. 38) and, in reiterating its prior general conclusion, added "other available information" to the items that would be relied on in reaching a conclusion as to the impact on the global commons from U.S. reactor exports.

Since the health, safety and environmental impacts revealed by the analysis in the instant case do not differ in any significant way from those in the Philippine reactor export case, which were considered by the Commission in its decision in that case, it appears doubtful that any additional information would aid the Commission in its decision on the issue of impact on the global commons and United States territory, or be in the public interest.

Issue (1) - the adequacy of the reactors' physical security plans to withstand the risks they will face in civil war or open rebellion, and issue (3) - the threat to U.S. non-proliferation objectives with the possible South Korean purchase of critical reprocessing technology - are related to matters which the Commission is required to consider in the context of an export licensing proceeding. Issue (1) - physical security in the recipient country - involves the third export licensing criterion in section 127, while issue (3) relates to the finding that the Commission must make as to whether the export would

be inimical to the common defense and security. It should be noted that the Commission determined that a written hearing on issues involving certain section 127 criteria and issues relating to the common defense and security would be in the public interest and would assist it in making required statutory determinations in Edlow International Co., Application No. XSNM-1222, in an Order dated December 8, 1978, 43 F.R. 58234. The Commission also held a discretionary hearing before enactment of the NNPA, on issues similar to those raised by the section 127 criteria and related matters pertaining to the common defense and security in Edlow International Co., License No. XSNM 845, decided at 5 NRC 1358.[18/]

18/ The issues on which a hearing was held on Application No. XSNM-1222 were:

> (1) the sufficiency, for purposes of the Nuclear Non-Proliferation Act (NNPA), of Indian Prime Minister Desai's assurances that "he will not authorize nuclear explosive devices or further nuclear explosions"; (2) the adequacy, for purposes of the NRC's determination under the NNPA, of the safeguards applied by the International Atomic Energy Agency at the Tarapur facility, and of U.S. government information on those safeguards: (3) the status of U.S.India negotiations regarding the return of spent fuel from Tarapur to the United States for storage; and (4) the need for the fuel requested.

The issues on which a hearing was held on Application No. XSNM-845 were:

(a) the significance of India's failure to ratify the NPT;
(b) the significance of India's failure to place international safeguards on all its nuclear facilities (commonly referred to as "full fuel cycle safeguards");
(c) whether the United States should require India to refrain from developing additional nuclear explosive devices;
(d) whether the U.S. should require India to accept bilateral safeguards, supplementing the international safeguards applied by the IAEA at Tarapur;
(e) whether the U.S. should require India to establish physical security requirements applicable to operations at Tarapur;

(CONTINUED)

A distinction may be made between the non-proliferation issues presented in the instant case and those considered in the Edlow cases. In XSNM-1222, the issues were directly related to section 127 criteria or directed at purely factual matters. In XSNM-845, the issues considered arguably pertained to the adequacy of the safeguards and related assurances applicable to the U.S. supplied fuel and produced special nuclear material (5 NRC 1366).

Here, however, Issue (1) - the adequacy of the reactors' physical security plans to withstand the risks they will face in civil war or open rebellion - is not based on concerns about physical security at the particular reactor site. Rather, the concerns appear to be based upon the apparent instability of the South Korean Government (Petition, p. 6). Judgments on that subject involve expertise in foreign affairs particularly available in the State Department. The Staff has requested information on this matter from the Executive Branch and will factor this additional information into its evaluation for the Commission. It is doubtful that any new information could

18/ (CONTINUED)

(f) whether the U.S. should require India to agree to U.S. control over the disposition of plutonium produced at Tarapur;
(g) whether the United States should require India to agree, prior to the shipment of nuclear fuel to Tarapur, to safeguards and physical security requirements for any future reprocessing of such material, should reprocessing be permitted; and
(h) whether past and present political differences between India and neighboring countries raises the possibility of international conflict which might disrupt implementation of safeguards and physical security measures at the Tarapur facility.

be provided by the petitioner which would augment that which will be provided by the Executive Branch.

Issue (3) - the threat to U.S. non-proliferation objectives with the possible South Korean purchase of critical reprocessing technology - is not related to any specific statutory determination required by the Act for issuance of an export license. Neither section 127 nor section 128 of the Act contain, as an export licensing criterion, the absence of a reprocessing facility in the recipient nation. The issue is pertinent only as it relates to the general standard, that the export not be inimical to the common defense and security. As noted below, petitioner's allegation appears to be based solely on speculation in the press. The Staff has questioned the Executive Branch on this matter and has been informed that its response will indicate that it has no information to substantiate this allegation.

It is not clear that participation in this proceeding by the petitioner and holding a public hearing on issues (1), (3) or (4) would assist the Commission in making the required statutory determinations, as provided in section 304(b) of the NNPA and 10 CFR §110.84(a). The petition does not explain how a hearing or intervention would assist the Commission in making those findings, as specified in §110.82(b)(3), but merely makes a conclusory statement to that effect and cites the NNPA, 10 CFR Part 110 and judicial decisions to the effect that public participation and input are encouraged, and states that the petitioner will represent a point of view "supportive of the widest

possible public participation and information" and "intelligently critical, from a public interest perspective, of the contentions of the applicant Westinghouse and other participants with a direct financial interest in these proceeding."

In the section of the petition on timeliness (pp. 6-12), allegations pertinent to some of the above issues are made, based upon articles in newspapers and magazines. However, petitioner does not relate those allegations to any particular expertise or other information that it might have on those issues.

In giving guidance to atomic safety and licensing boards in deciding whether interventions in domestic licensing cases should be permitted as a matter of discretion, the Commission said, in Portland General Electric Company (Pebble Springs Nuclear Plant, Units 1 and 2), 7 NRC 610, 617 that:

> Permission to intervene should prove more readily available where petitioners show significant ability to contribute on substantial issues of law or fact which will not otherwise be properly raised or presented, set forth these matters with suitable specificity to allow evaluation, and demonstrate their importance and immediancy, justifying the time necessary to consider them.

While petitioner has raised issues on matters within the Commission's jurisdiction in export licensing proceedings, it is questionable whether the petitioner will be able to make a substantial contribution on those issues. It has not shown that it has any special expertise or access to different sources of information to assist the Commission in making the required statutory determinations. Accordingly, the NRC Staff is of the view that,

on balance, the granting of the petition and holding of a hearing will not be in the public interest or assist the Commission in making the determinations required by the Act.

III. Good Cause Has Not Been Shown For The Untimely Filing Of The Petition.

10 CFR §110.82(c)(1) of the Commission's regulations specifies that hearing requests and intervention petitions will be considered timely only if filed not later than 30 days after notice of receipt in the Federal Register for those applications published in the Federal Register. Paragraph 110.84(c) of Part 110 provides:

> Untimely hearing requests or intervention petitions may be denied unless good cause for failure to file on time is established. In reviewing untimely requests or petitions, the Commission will also consider:
>
> (1) The availability of other means by which the requestor's or petitioner's interest, if any, will be protected or represented by other participants in a hearing; and
>
> (2) The extent to which the issues will be broadened or action on the application delayed.

As noted above, the Federal Register notice of receipt of the application was published on February 28, 1979, more than a year ago. The petitioner refers, as good cause for failure to file in a timely fashion, to three new developments: (1) the recent rebellion in South Cholla Province; (2) population statistics recently released by the State Department which suggest high population density in the area where the reactors would be sited and (3) evidence that South Korea is again considering the purchase of a reprocessing

facility. As noted above, the petitioner has not established an interest to be protected in the proceeding. Granting of the petition as to all issues would broaden the issues to those beyond the Commission's jurisdiction and would delay action on the application. The new information as to population density in the vicinity of the reactor site relates to matters outside the Commission's jurisdiction - the effect of the proposed exports on the health and safety of citizens of the recipient nations. Although the new developments with respect to the rebellion in South Cholla Province, and "evidence" that South Korea is again considering purchase of a reprocessing facility may be pertinent to Commission determinations under the Act, the petitioner has not shown that it can assist the Commission in making the required statutory determinations. Accordingly, NRC Staff is of the view that good cause has not been shown for the untimely filing of the petition.

IV. Conclusion

For the reasons stated above, the NRC Staff recommends that the Commission deny the petition for leave to intervene and the request for a hearing.

Should the Commission decide to grant a hearing, the NRC Staff is of the view that the petitioner's request for a hearing which "shall be based solely on public proceedings and a public record in which the petitioner and all other interested parties will be able to present evidence and cross-examine adverse witnesses" should be denied. Subsection 304(b) of the

Nuclear Non-Proliferation Act of 1978 specifically provides that the Commission shall promulgate regulations establishing procedures for granting of nuclear export licenses and for public participation in such proceedings, including public hearings and access to information as the Commission deems appropriate. Subsection (c) of that Act provides specifically that the procedures to be established shall not require the Commission to grant any person an on-the-record hearing in such a proceeding. Pursuant to subsections 304(b) and (c) of the NNPA, the Commission adopted regulations providing for hearing procedures in export licensing cases which exclude rights to cross-examine, decision solely on the hearing record, issuance of subpoenas and other characteristics of an on-the-record, trial type hearing. [10 CFR §§110.85, 110.110-110.113.] Accordingly, if the Commission orders a hearing in the instant proceeding, the NRC Staff is of the view that, under the applicable statute and Commission regulations, such a hearing should be one based upon the procedures provided for in the sections of 10 CFR Part 110 referred to above, rather than a trial-type, on-the-record hearing.

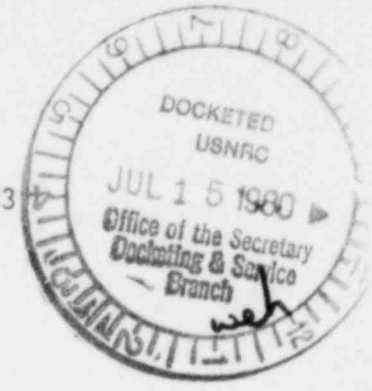
Respectfully submitted,

Joanna M. Becker

Joanna M. Becker
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 14th day of July, 1980.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF ANSWER TO PETITION FOR LEAVE TO INTERVENE AND REQUEST FOR HEARING FILED BY CENTER FOR DEVELOPMENT POLICY" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class or air mail, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 14th day of July, 1980.

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