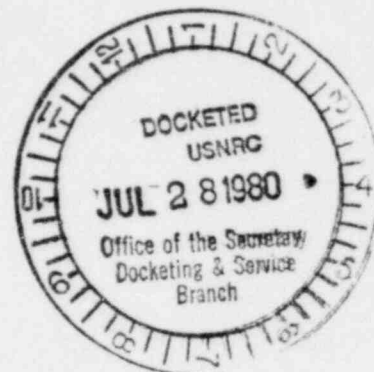


UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Alan S. Rosenthal, Chairman  
Dr. John H. Buck  
Dr. W. Reed Johnson



In the Matter of )

PORTLAND GENERAL ELECTRIC COMPANY, et al. )

(Trojan Nuclear Plant) )

) Docket No. 50-344  
) (Control Building)  
)  
)  
)

ORDER

July 28, 1980

The State of Oregon has filed exceptions to the Licensing Board's July 11, 1980 initial decision in this proceeding involving modifications to the Trojan facility's control building. LBP-80-20, 12 NRC \_\_\_\_\_. Simultaneously, Oregon filed a motion for reconsideration with the Licensing Board addressed essentially to the same points raised in the exceptions. In this connection, it explained to the Board below that the submission to us had been "for the purpose of avoiding waiver of [its] right to appeal."

The NRC staff has similarly moved the Licensing Board for reconsideration of the initial decision. But, rather than take

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a precautionary appeal, the staff sought and obtained an extension of the time for the filing of exceptions to abide the event of the determination below on its reconsideration motion.        This was the better course because it eliminated any possible question respecting whether, once an appeal has been taken from a licensing board decision, that board loses jurisdiction to reconsider the decision.

Be that as it may, we wish the Licensing Board to act on the merits of Oregon's motion. We accordingly authorize it to do so notwithstanding the pendency of that party's exceptions. In the meantime, the period prescribed by 10 CFR 2.762(a) for the filing of Oregon's brief in support of its exceptions is tolled. Within ten days following service of the Licensing Board's ruling on its reconsideration motion, Oregon shall (1) withdraw its exceptions; (2) amend them in light of the content of the ruling; or (3) notify us in writing that it intends to proceed with its appeal on the basis of the

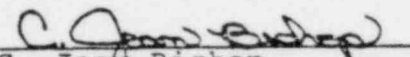
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       See our unpublished order of July 24, 1980.

exceptions as now formulated. If not withdrawn, the time provided by Section 2.762(a) for briefing the exceptions (as possibly amended) will then begin to run.

It is so ORDERED.

FOR THE APPEAL BOARD

  
C. Jean Bishop  
Secretary to the  
Appeal Board

Dr. Johnson did not participate in the consideration or disposition of this matter.