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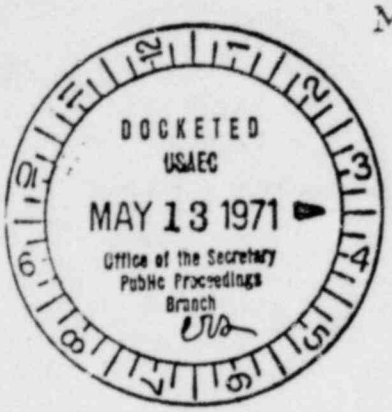

May 11, 1971

Arthur W. Murphy, Esq., Chairman
Atomic Safety and Licensing Board
Columbia University School of Law
Box 38, 435 West 116 Street
New York, N. Y. 10027

Re: Docket Nos. 50-329
50-330

Dear Mr. Chairman:

As counsel for the Saginaw, et al., Intervenors, I have just learned that recently a certain series of tests with respect to emergency core cooling systems has taken place at the Idaho Reactor Test Facility in Idaho Falls, Idaho. I do not know the results of this test nor the parameters of the test itself, but I have been informed that the results in terms of the effectiveness of the emergency core cooling system were dubious. I have also learned that the Regulatory Staff is engaging in a re-evaluation of the emergency core cooling system on existing plants.

As a matter of fact, Atomic Energy Commission trial counsel in the Indian Point case wrote the Board that the Staff could not at this point conclude as to the effectiveness of the emergency core cooling system. Further, on April 29, 1971, Mr. Engelhardt wrote a letter to the Palisades Board containing the following paragraph:

> "We are conducting a re-evaluation of the effectiveness of the emergency core cooling system for the Palisades Plant, and it is possible that this part of our submission will not be complete by June 17, 1971."

Mr. Engelhardt told me on the telephone today that the review being pursued by the Staff may also affect the Staff's position with respect to the emergency core cooling system for the Midland Units. Mr. Engelhardt said, however, that any re-evaluation would have to await the results of the Staff's study now in progress.

Since Mr. Engelhardt has informed the Palisades Board that the Staff review may not be complete by June 17, it follows that the Staff review will not be complete for any June 1 or June 8 hearing in Midland.

This matter is of utmost concern to the Intervenors, and it should be of utmost concern to everyone including the Applicant and the Board. If the aforementioned tests demonstrate the ineffectiveness of the emergency core cooling system in the event of a LOCA, then it would appear that the proposed units could not be licensed for a construction permit on the basis of its presently tendered design.

I have today informally asked the Atomic Energy Commission to produce for my inspection a description of the test performed at the Idaho Test Facility as well as a statement of the results. Mr. Engelhardt did not know whether he could provide this information.

In order to save time, by this letter the Saginaw, et al., Intervenors move, pursuant to the Rules of Practice of the Atomic Energy Commission, for an immediate production of the test and its results which form the basis for re-evaluation by the Regulatory Staff of the emergency core cooling system.

In addition, Mr. Chairman, the fact of this test and its possible ramifications should caution the Board not to accept quickly suggestions that discovery from the Atomic Energy Commission Staff by way of interrogatories and otherwise are not important to this proceeding. Moreover, we would point out that Applicant has not called this development to the Board's attention, and if Applicant states that it was not aware of the development, then that is only an additional reason for pursuing discovery against the Regulatory Staff.

It now appears, Mr. Chairman, that a substantial system, that is the emergency core cooling system, one that is

critically safety related, has not been fully reviewed finally by the Regulatory Staff. Indeed, if the emergency core cooling system is suspect, the most credible accident under any interpretation is the so-called "China" accident, and if this is correct, the whole process of discovery must be re-evaluated. Moreover, we call attention to the fact that Appendix A to Part 2 (II. f) strongly urges that the Staff Safety Evaluation be received 2 weeks prior to the time for the filing for Petitions to Intervene, a long period prior to any hearing. Thus, if the Staff Evaluation is still under way, the AEC rules themselves contemplate a postponement of the hearing.

It is in the best interests of everyone concerned that the Board not convene a hearing until this matter is resolved, and we offer this as an additional reason for following the formula test for the convening of a hearing as set forth in our draft proposed order included in our letter of May 5, 1971.

We should appreciate a prompt ruling in connection with the production of document motion contained herein.

Respectfully yours,

Myron M. Cherry

MMC/sm

cc: Dr. Clark Goodman
Dr. David B. Hall
Mr. Stanley T. Robinson, Jr.
All Counsel of Record