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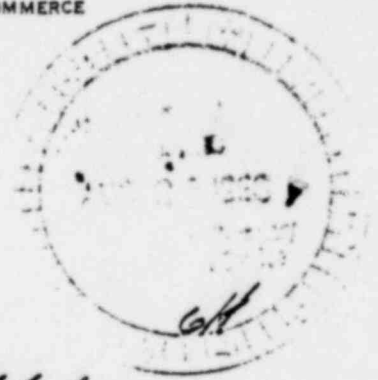
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CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
OF THE
COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE
WASHINGTON, D.C., 20515

MARK J. RAABE
CHIEF COUNSEL/STAFF DIRECTOR

August 20, 1980



Honorable John F. Ahearne
Chairman
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20555

DOCKET NUMBER
PROC. & UTIL. NO. 50-466/467

Dear Mr. Chairman:

I am writing to bring to your attention correspondence which I have recently received from Mr. Clarence Johnson representing TexPIRG, a Houston based consumer/environmental action organization. As you can see from the correspondence, Mr. Johnson is soliciting my assistance in urging the Commission to conduct Class 9 accident reviews for the proposed Allen Creeks Nuclear Generating Station and all other facilities where a significant licensing decision remains.

Underlying Mr. Johnson's request is his belief that the public in the Houston area deserve to know what the potential accident impacts of the Allens Creek project might be. I share that belief with Mr. Johnson. As such, I would appreciate your comments on the points raised by Mr. Johnson in his letter to me and would also appreciate a description of the actions anticipated by the Nuclear Regulatory Commission to inform the public in the Houston area of potential accident impacts of the Allens Creek Nuclear Generating Station. Obviously, if no such information can be provided short of the conduct of a Class 9 accident review, I believe that such a review would be appropriate and would urge the Commission to accept that policy.

I will appreciate your prompt attention to this request.

Sincerely,

Bob Eckhardt
Chairman

Subcommittee on
Oversight and Investigations

Enclosure

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W.O. McClain
Subcommittee
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TexPIRG
Box 237 UC
University of Houston
Houston, TX 77004

Honorable Bob Eckhardt
U.S. House of Representatives
515 Rusk
Houston, TX 77001

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Dear Congressman Eckhardt:

I was employed by TexPIRG, a Houston consumer/environmental action group, and presently assist the organization on a number of issues as an unpaid staff person. I have been asked by TexPIRG to seek your assistance on a matter of great concern to the population of the Gulf Coast.

TexPIRG is intervening in the construction permit hearing of HL&P's Allens Creek Nuclear Generating Station (NRC docket #50-466). However, a recent policy decision by the Nuclear Regulatory Commission (Re: Accident Considerations under the National Environmental Policy Act of 1969, 45 Fed. Reg. 40101, June 13, 1980) has exempted the proposed Allens Creek facility from environmental analyses of the possible consequences of a catastrophic accident.

Prior to Three Mile Island, the Nuclear Regulatory Commission's policy on accidents involving melting of the reactor fuel (called "Class 9" accidents in NRC terminology) was that such possibly catastrophic accidents are incredible and need not require environmental assessments of the accident's potential impact.

The TMI accident, of course, led to much concern over NRC policies, since that incident involved fuel melting and was therefore a "Class 9" accident. The Council on Environmental Quality informed the NRC in a letter dated Mar. 20, 1980 that the failure to consider impacts of Class 9 accidents "undermines the basic purposes of the National Environmental Policy Act to inform the public and other agencies fully of the potential consequences of federal proposals and to provide a basis for informed decision making." (Letter from Gus Speth to John Ahearne, p. 1).

On June 13, 1980, the NRC withdrew its former policy and ordered on-going environmental reviews of nuclear plants to analyze and report on the potential consequences of the full range of accidents, including Class 9 accidents. In its decision, the NRC found that its former policy led to accident assumptions "not sufficiently precise;" did not contribute "to objective consideration;" and did not "give adequate consideration to the detailed treatment of measures taken to prevent and mitigate the consequences of accidents in the safety review." (45 F.R. 40103).

In spite of all these admitted defects in its former policy, the NRC's statement exempts all nuclear facilities from the new accident reviews if a Final Environmental Statement (FES) has already been published. Thus, the NRC will not conduct an assessment of the possible consequences of Class 9 accidents for the Allens Creek site.

LETTER TO ECKHARDT, p. 2

The selection of the publication of the FES as the criteria for determining which facilities will have such reviews is purely arbitrary.

This is evident in the case of Allens Creek. The NRC staff's environmental review is not completed for the plant. In fact, the NRC staff is still in the midst of preparing an alternative site study. A construction permit has not been issued, nor has the Licensing Board conducted its necessary environmental hearings yet. Until the Licensing Board reviews and makes a final decision on the issues within the FES, the environmental review is not completed (10 CFR Part 51.52 (B)). Yet merely because a document has been printed for Allens Creek, the NRC will not conduct a review of the full range of accidents.

Thus the NRC merely insures that an ongoing environmental decision will be based upon a policy which the agency concedes is not proper nor conducive to objective reviews.

Indeed, the exemption for any licensing decision which has yet to be made (including such Texas projects as South Texas Project and Comanche Peak, as well as Allens Creek) is probably not in conformance with the National Environmental Policy Act. The Environmental Law Institute's study for the CEQ concluded:

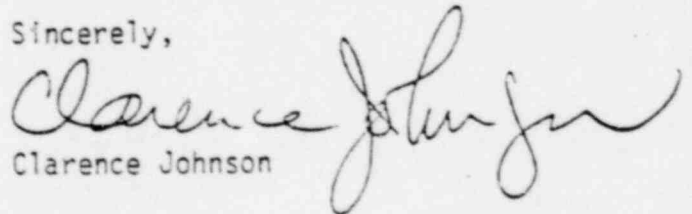
"The full disclosure requirement of NEPA is not adequately fulfilled where consideration of accidents in Classes 1, 2, and 9 are omitted and where the full range of accident impacts for all classes of accidents is not disclosed."

Allens Creek is proposed to be located within 40 miles of downtown Houston; and the NRC's loophole will mean that virtually no consideration of the potential accident impacts on Houston will be used by the NRC. The public in Houston deserves to know what these impacts will be.

The NRC is accepting public comment on its policy until Sept. 9. I urge you to write the Commissioners urging them to conduct Class-9 accident reviews for Allens Creek and all other facilities where a significant licensing decision remains.

If you or your staff have any questions regarding this letter, feel free to call me in Austin at 512-475-5881 or 512-477-4562.

Sincerely,

A handwritten signature in cursive script that reads "Clarence Johnson". The signature is written in dark ink and is positioned to the right of the typed name.

Clarence Johnson