

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of:)
)
PROPOSED RULEMAKING ON THE STORAGE) PR-50, 51 (44 FR 61372)
AND DISPOSAL OF NUCLEAR WASTE)
)
)
)
)

MOTION

The California Energy Commission (CEC) and the California Department of Conservation (CDC) request a 30-day extension of time for filing their cross-statements of position, now due September 5, 1980, and their suggestions for additional areas of inquiry, now due October 6, 1980. The CEC and CDC seek extension of the deadline for filing their cross-statements until October 3, 1980, and their suggestions for additional areas of inquiry until November 6, 1980. This request is necessitated by the failure of the Nuclear Regulatory Commission to copy and serve upon the CEC and CDC the ~~position~~ statements of the other participants in accordance with the NRC's Order of January 28, 1980.

Pursuant to notices of intent to participate received by the NRC on November 27 and November 29, 1979, the CEC and CDC became full participants in this proceeding. In its Order of January 28, 1980, the NRC announced its decision that "statements of position and cross-statements filed with the Secretary will be copied and served by the NRC on all full participants." By letter received by the NRC on January 31, 1980, Lawrence Coe Lanpher of Washington, D.C.,

provided notice that he would serve "as additional counsel for the California Energy Commission and for the California Department of Conservation." (Emphasis added.) Mr. Lanpher did not represent himself as substitute counsel for either the CEC or the CDOC.

That the NRC understood Mr. Lanpher's position as additional counsel, not the primary representative of the CEC or the CDOC, is indicated by the NRC's subsequent service of the Department of Energy's statement of position (filed April 15, 1980) on both the CEC and the CDOC at their California addresses. Similarly, the NRC served both agencies with the preliminary statement of the U.S. Geological Survey (filed April 15, 1980).

The CEC and the CDOC each submitted a statement of position to the NRC on July 7, 1980. Since then, each agency has awaited receipt from the NRC of the statements of position filed by the other participants. No such statements have been received from the NRC by either agency.^{1/}

Upon inquiry to the NRC, we learned on August 4, 1980, that the California agencies had been removed from the NRC's service list.^{2/} Without request by either the CEC or the

1. The statements of the State of New York and the Tennessee Valley Authority were mailed directly to the California agencies by the institutional authors.

2. The NRC distributed its revised service list on May 28, 1980, but distribution was limited to entities included on the revised list. Thus, because the revised list removed California agencies, neither the CEC nor the CDOC received notice of its removal from the list. This grossly incompetent procedure guaranteed that those removed from the list would receive no notice of that action.

CDOC and contrary to previously established practice, the NRC apparently decided to serve the statements of position for the California agencies only upon their additional counsel in Washington, D.C.; Mr. Lanpher. Mr. Lanpher reasonably assumed that, consistent with the NRC's previously established practice, the statements of position had also been served upon the California agencies. The NRC's failure to send these documents to the CEC and the CDOC prevented these agencies from commencing review of the statements of position until August 5, 1980--approximately one month late.

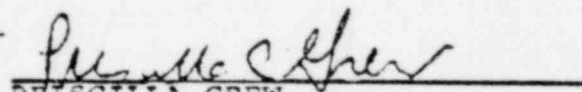
The complexity of the statements of position filed by the other participants, and the NRC's failure to serve these statements on the California agencies in conformity with established practice, require the CEC and the CDOC to request this extension of time for filing their cross-statements and suggestions for additional areas of inquiry. This extension would not unreasonably disrupt the proceeding; the NRC has issued no schedule beyond the present October 6, 1980, deadline for suggestions on additional areas of inquiry.

Dated: August 12, 1980.

Respectfully submitted,



EMILIO E. VRANINI, III
Commissioner
California Energy Commission

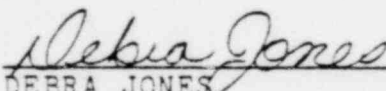


PRISCILLA GREW
Director
Department of Conservation

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the original attached LETTER and MOTION OF THE CALIFORNIA ENERGY COMMISSION AND THE DEPARTMENT OF FORESTRY on all parties on the attached list of participants by mailing thereof to each such party.

Dated August 28, 1980, at Sacramento, California.


DEBRA JONES



UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of:)
)
STORAGE AND DISPOSAL OF) Parts 50, 51
NUCLEAR WASTE)
)
(Waste Confidence Rulemaking))
)

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