

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION



In the Matter of

THE CINCINNATI GAS & ELECTRIC
COMPANY, et al.

(Wm. H. Zimmer Nuclear Power
Station)

Docket No. 50-358

DR. FANKHAUSER'S RESPONSE TO OTHER PARTIES' COMMENTS ON CONTENTION FIVE

Pursuant to the atomic safety and licensing board's July 14, 1980 order, Dr. Fankhauser is responding herein to comments made by other parties on Contention 5, while reserving his right to further respond to comments that may be made by the State of Kentucky at a later time.

It has been suggested that Dr. Fankhauser is attempting to expand his Contention 5 so that it be included within the parameters of 10 C.F.R. §73.37 in order to avoid summary disposition of this contention. This position, assumed by the applicants, misses the import of Contention 5. While 10 C.F.R. §73.37 requirements are included in Contention 5, Contention 5 includes several other elements beyond the threat to urban areas of sabotage. Along this same reasoning, Dr. Fankhauser adopts the position MVPP that 10 C.F.R. §50.40 (c) and federal law empower the Commission to protect the public by insuring that the issuance of an operating license will not be inimical to the common defense and security or to the health and safety of the public. It is conceded by all parties that operation of the Zimmer Nuclear Power Station will result in the necessity of transporting irradiated fuel at some future point. If the

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Commission does not address all possible threats to health and safety caused by the transportation of irradiated fuel beyond those outlined in 10 C.F.R. §73.37, it will be in violation of 10 C.F.R. §50.40 (c). The Commission's inaction on Contention 5 at this time will result in local governments, without the expertise and assistance of the Commission, either having to make plans to deal with potential hazards of transportation of irradiated fuel or alternatively simply taking steps to outlaw the transportation of these materials through their locales.

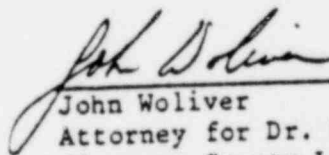
It is clear that in the event of a transportation accident, appropriate and timely reaction by an effective populace would vastly improve their ability to protect themselves. An awareness that such shipments would be taking place is crucial to efficient community reaction to any radioactive spills. Proper training of local agencies (police, fire department and life squad) in the fields of radiation monitoring, handling of spilled radioactive materials, and handling and decontamination of affected individuals, would also be vital to the preclusion of avoidable effects of a transportation accident. For example, a common practice used to deal with accidents involving certain non-radioactive materials is to hose them off the highway into local sewers or waterways. Such a practice could seriously exacerbate contamination from spilled radioactive materials. While the applicants may have no idea where they will ship spent fuel from the Zimmer Power Station, it is most likely that routes will include one of the following:

- a. Through or near downtown Cincinnati via a highly congested road such as Eastern Avenue;
- b. Around Cincinnati via Interstate-275; or
- c. Across the Ohio River via barge to a rail link.

The first two routes would clearly involve heavily populated areas and heavily traveled routes. The third could have a far reaching effect in the event of an accident by contaminating the drinking water of millions of persons living downstream from Zimmer in the Ohio and Mississippi valleys. Consultations with local officials will be important to identify unique local factors and most appropriate routes to be used for shipment.

Dr. Fankhauser also incorporates the views of the City of Mentor concerning the Commission's adherence to the narrow scope of 10 C.F.R. §73.37 by ignoring the potential hazards to rural areas. If the Commission only deals with transportation hazards in the context of 10 C.F.R. §73.37, it in effect is admitting that certain hazards associated with the transportation of irradiated fuel exist, but it is only taking action to protect those persons who reside in urban areas. The Constitutional consequences of this position are obvious. By not affording residents of non-urban areas the same degree of protection and planning it is providing to urban areas, this position would be violative of the Fifth Amendment to the United States Constitution. Dr. Fankhauser reiterates and incorporates herein these very concerns graphically and cogently expressed by the City of Mentor. See Mentor's Response To Licensing Board Order Of July 14, 1980 Relating To Off Site Shipment Of Spent Fuel, at p. 2-3.

Respectfully Submitted,



John Woliver
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Certificate of Service

Copies of the foregoing were mailed to all parties in
the proceeding this 26 day of August, 1980.

John Woliver

John Woliver



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Notice of Changed Address

John Woliver, attorney for Dr. Fankhauser hereby gives notice that for purposes of service in this proceeding his mailing address now is: John Woliver
Legal Aid Society
P.O. Box #47, 550 Kilgore Street
Batavia, Ohio 45103

His telephone number remains 513-732-2422.

John Woliver

John Woliver
Attorney for Dr. Fankhauser