

27 August, 1980

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD (ASLB)

In the Matter of	*	
PUERTO RICO POWER AUTHORITY	*	DOCKET NO. 50-376
Applicant	*	
	*	Proposed North Coast
GONZALO FERNOS, <u>PRO SE</u> , ET AL.	*	Nuclear Plant (Unit 1)
Intervenors	*	Isote Ward, Arecibo, Puerto Rico
	*	
* * * * *		

MOTION OF CLARIFICATION

TO THE HONORABLE BOARD :

● COMES NOW the undersigned Intervenor, Pro Se, and in representation of Members of Citizens for the Conservation of Natural Resources, Inc. (CCNR), and respectfully states, alleges and prays :

● 1.- The Licensing Board's ORDER of August 19, 1980,\* received on August 25, 1980, inter alia: (a) grants the parties 30 days to initiate and complete discovery procedures and 15 days thereafter to respond thereof ; (b) states that no prehearing conference shall be held unless requested by any party ; (c) orders parties to meet informally within 30 days of completion of discovery procedures to agree upon stipulations of fact, upon admissibility of documents, identity of witnesses and setting a hearing schedule ; (d) the Board also indicates Intervenors and Applicant need not request procedural assistance, as it is automatically granted under 10 CFR § 2.708 (d).

● 2.- In ruling its ORDER of August 19, 1980, the Licensing Board stated :

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\* The ORDER was issued pursuant to ASLAB ORDER of August 11, 1980, in which the Appeal Board totally reversed and remanded ASLB ORDER of May 29, 1980 ( LBP-80-15, 11 NRC 765, 1980.)

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" In that credibility may be a factor to be weighed by this Board, we intend to conduct an evidentiary hearing on the issue of whether Applicant has abandoned any intention to build the North Coast Nuclear Plant, Unit 1." (Emphasis added).

Credibility indeed is a factor to be weighed by any adjudicatory forum, but with regard to the above-captioned case, Intervenors wish to underline that it is the credibility of Applicant's testimony and documental evidence which is under scrutiny in view of the fact that Applicant alone is pursuing a license to build and operate a nuclear plant. Intervenors' credibility, naturally, is not at stake. We are only denouncing Applicant's contradictory actions, inaction and unwarranted secrecy.

● 3. - Inasmuch as an intention, whether of abandonment or persistence, to build a nuclear plant is too much of a subjective matter to be determined, Intervenors do not expect the ASLB to rule solely and directly on Applicant's intention. Such an intangible issue might not be susceptible to be proven through established evidentiary procedures, except through an indirect method. For example, one may have the most honest, sincere and persistent intent to build a castle on the Moon, but through the lack of technological knowledge, means and readiness, it can be proved that such an intent operates in a vacuum completely detached from reality. Therefore, it must perforce be that Applicant's intention, honest, sincere, and persistent as it may seem, is merely illusory. That is, no matter how vehemently Applicant swears under oath that it intends to build the Nuclear Plant, if circumstantial evidence strongly indicates otherwise, the Licensing Board must conclude that the application cannot be processed in any other way and must be dismissed for lack of any real, plausible intent by Applicant to build the Nuclear Plant. Consequently, Intervenors wish the Licensing Board to clarify its statement : " there is only a single issue to be tried..." We expect that the so-called " single issue " has as broad a sense as can reasonably be established, and that it is meant in a way so as to enable Intervenors to exhaust all avenues of indirect proof indicative of Applicant's

abandonment of intent to build the Nuclear Plant, and is not construed to mean that Intervenor has to reach the subconscious mind of Applicant to prove the lack of such intent.

● WHEREFORE, Intervenor respectfully pray the Honorable Licensing Board to clarify the scope of the "single issue" to be weighed by the ASLB in order to reach its conclusion with regard to Intervenor's Petition of April 30, 1980, expanded as deemed necessary.

● In San Juan, Puerto Rico, this 27th day of August, 1980.



Gonzalo Fernós, Pro Se, and  
representing Members of CCNR,  
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Santurce, Puerto Rico 00912  
Tels. (809) 727-0087 / 727-2287

#### CERTIFICATE OF SERVICE BY MAIL

● I HEREBY CERTIFY : That on this same date original and 2 copies of the above motion entitled : MOTION OF CLARIFICATION have been filed by first class mail with the Nuclear Regulatory Commission, Docketing and Service Section ; one copy served by air mail on each of the following : Alan S. Rosenthal, Esq., Chairman, ASLAB ; Dr. John H. Buck, Member, ASLAB ; Michael C. Farrar, Esq., Member, ASLAB ; Sheldon J. Wolfe, Esq., Chairman, ASLB ; Dr. Richard F. Cole, Member, ASLB ; Mr. Gustave A. Linenberger, Member, ASLB ; Edwin J. Reiss, Esq., Counsel for NRC Staff ( All the above bearing same address as follows : United States Nuclear Regulatory Commission, Washington, D.C. 20555 ) ; Maurice Axelrad, Esq., 1025 Connecticut Avenue, N.W., Washington, D.C. 20036 ; José F. Irizarry, Esq., Legal Counsel for Applicant, Puerto Rico Electric Power Authority, GPO Box 4267, San Juan, Puerto Rico 00936 ; Eng. Alberto Bruno Vega, Executive Director, Puerto Rico Electric Power Authority, GPO Box 4267, San Juan, Puerto Rico 00936.

Gonzalo Fernós