

10/03/80

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)	
)	
GENERAL ELECTRIC COMPANY)	Docket No. 70-1308
)	(Renewal of SNM-1265)
(GE Morris Operation Spent Fuel)	
Storage Facility))	

NRC STAFF MOTION TO SET ASIDE SCHEDULE
FOR SUMMARY DISPOSITION

INTRODUCTION

On September 19, 1980, in an affirmation session, the Commission approved the new Part 72 to Title 10 of the Code of Federal Regulations, entitled "Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation."^{1/} The Supplementary Information accompanying the approved new regulation states that the G.E. Morris license renewal, currently under review pursuant to 10 CFR Part 70, will proceed pursuant to 10 CFR Part 72.

On September 9, 1980, the Atomic Safety and Licensing Board had issued orders compelling discovery against intervenors State of Illinois and Rorem, et al. As part of those orders, the Board set October 20, 1980 as the date for filing motions for summary disposition and November 10, 1980 as the date for filing answers thereto. For the reasons set forth below, the Staff moves that the Board set aside the current schedule for summary disposition.

^{1/} When Part 72 is published, the Staff will provide copies to the service list of the regulation as it appears in the Federal Register.

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DISCUSSION

The contentions admitted into this proceeding were based on 10 CFR Part 70. The new regulation, 10 CFR Part 72, has been promulgated and determined by the Commission to be applicable to the G.E. Morris Operation license renewal.^{2/} Certain provisions in 10 CFR Part 72, different from those in Part 70, will require the applicant to supplement the information submitted to the Staff. The Staff will need to review this additional information before it can complete its safety evaluation and issue its Safety Evaluation Report. In light of the new governing regulation and the supplemental information the Applicant will be required to file in support of its application for renewal of its license to store spent fuel at the Morris facility, it is likely the intervenors will review their previously filed contentions and may seek to supplement them by modification, amendment or withdrawal.^{3/}

Under these circumstances, there is no benefit in pursuing summary disposition on the existing contentions on the current schedule.

^{2/} Since the Commission has specifically directed that this license renewal action proceed pursuant to 10 CFR Part 72, and since that regulation has not been published as of this date, the current schedule for summary disposition puts the parties in an untenable position. The only effective regulation which could apply to the case at hand, 10 CFR Part 70, may no longer be used.

^{3/} Should the Intervenor seek to amend their contentions, they will have to file a motion requesting permission from the Board pursuant to 10 CFR 2.714(a)(3) which requires that the factors in 10 CFR 2.714(a)(1) be addressed.

CONCLUSION

For the reasons set forth above, the Staff moves that the Board issue an order setting aside the current schedule for summary disposition.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Richard G. Bachmann", written in dark ink on a white background.

Richard G. Bachmann
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 3rd day of October, 1980

