

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

Docket Nos. 50-516
50-517

8101120523

Licensing Board (Licensing Board) "final decision."^{3/} Appeals of that decision and an earlier "partial initial decision"^{4/} issued by the Licensing Board are pending before this Appeal Board. Applicants' filing further states that:

[s]ince the Jamesport nuclear units will not be built irrespective of the outcome of this appeal, the issues remaining before the [Appeal Board] are moot. Thus, the Applicants request an end to the appeal as well as to the construction permit proceeding as a whole.

The Staff, which has ascertained that the Jamesport site does not require any significant redress since no construction activities were carried out by Applicants, does not object to the above-noted requests.^{5/}

II. DISCUSSION

Rochester Gas and Electric Corporation (Sterling Power Project, Nuclear Unit No. 1), ALAB-596, 11 NRC 867 (June 17, 1980), also involved a cancelled nuclear project in New York State which failed to receive State Siting Board approval during an appeal from a Licensing Board decision providing for the grant of a construction permit. There the Appeal Board entered an Order

^{3/} "Initial Decision (Construction Permit)" LBP-78-41, 8 NRC 750 (December 26, 1978).

^{4/} "Partial Initial Decision (Construction Permit)" LBP-78-17, 7 NRC 826 (May 9, 1978).

^{5/} Staff's lack of objection to the requests should not, however, be taken as an endorsement of Applicants' statements in Part III of the filing regarding the asserted need for "licensing reform." Such statements are, in our view, irrelevant to Applicants' requests.

which: (1) vacated the Licensing Board's decisions on the ground of mootness; (2) terminated the construction permit proceeding; and (3) instructed the Director of Nuclear Reactor Regulation to revoke the two outstanding construction permits by reason of the Appeal Board's vacation of the Licensing Board's decisions. This proceeding is in a similar posture. In response to the Applicants' request, this Appeal Board should enter a similar order to the order entered in the Sterling proceeding.

III. CONCLUSION

Applicants' request for an end to the pending appeals as well as to the construction permit proceeding as a whole should be granted. The outstanding construction permits should be revoked.

Respectfully submitted,

Bernard M. Bordenick

Bernard M. Bordenick
Counsel for NRC Staff

Dated at Bethesda, Maryland
this 8th day of January, 1981

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING APPEAL BOARD

In the Matter of

LONG ISLAND LIGHTING COMPANY

and

NEW YORK STATE ELECTRIC & GAS
CORPORATION

(Jamesport Nuclear Power Station,
Units 1 and 2)

Docket Nos. 50-516
50-517

CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S RESPONSE TO APPLICANTS' REQUEST THAT THE PROCEEDING BE ENDED" in the above-captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 8th day of January, 1981:

* Dr. W. Reed Johnson
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

* Richard S. Salzman, Esq.
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

* Sheldon J. Wolfe, Esq.
Atomic Safety and Licensing Board
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Mr. Ralph S. Decker
Route 1, Box 190D
Cambridge, Maryland 21613

Hon. Peter Cohalan
Suffolk County Executive
County Executive/Legislative Bldg.
Veteran's Memorial Highway
Hauppauge, New York 11788

David H. Gilmartin, Esq.
Suffolk County Attorney
County Executive/Legislative Bldg.
Veteran's Memorial Highway
Hauppauge, New York 11788

Dr. E. Leonard Cheatum
Route #3, Box 350A
Watkinsville, Georgia 30677

Edward J. Walsh, Jr., Esq.
Long Island Lighting Company
250 Old County Road
Mineola, New York 11501

W. Taylor Reveley, III, Esq.
Hunton & Williams
P. O. Box 1535
Richmond, Virginia 23212

Mr. A. E. Kintigh
Vice President-Generation
New York State Electric & Gas Co.
4500 Vestal Parkway East
Binghamton, New York 13902

Environmental Protection and
Progress Committee
Local 25, I. B. E. W.
Box 997
41 Pinelawn Road
Melville, New York 11746

Joel Blau, Esq.
New York Public Service Commission
The Governor Nelson A. Rockefeller
Building
Empire State Plaza
Albany, New York 12223

Dr. Caryl R. Granttham
Co-Chairman, Concerned Citizens
of Suffolk County
Box 550
Jamesport, New York 11947

Ms. Jean H. Tiedke
Box 1103
Southold, New York 11971

Dr. Harris Fischer
Suffolk County Department
of Environmental Control
1324 Motor Parkway
Hauppauge, New York 11787

Irving Like, Esq.
Reilly and Like
200 West Main Street
P.O. Box 218
Babylon, New York 11702

Mrs. Laetitia deK. Bradley
144 Quaker Path
Setauket, New York 11733

Ms. Shirley L. Bachrach
Box 1054
Southold, New York 11971

Ms. Adelaide Flatau
30 Dartmouth Road
Shoreham, New York 11786

William C. Chapek
Box 997
Melville, New York 11746

Joseph C. Gramer, Esq.
425 Broadhollow Road
Melville, New York 11746

Carl G. Dworkin, Esq.
Senior Attorney for Energy
New York State Department of
Environmental Conservation
50 Wolf Road
Albany, New York 12233

Frederick H. Lawrence, Esq.
Huber, Magill, Lawrence
and Farrell
99 Park Avenue
New York, New York 10016

Ira Lee Zebrak, Esq.
Huber, Magill, Lawrence
and Farrell
99 Park Avenue
New York, New York 10016

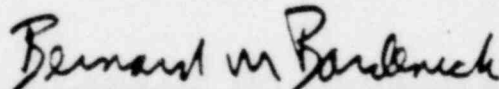
Dr. Arthur Tamplin
c/o Natural Resources Defense
Council
917 - 15th Street, N.W.
Washington, D. C. 20005

* Atomic Safety and Licensing
Appeal Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

* Atomic Safety and Licensing
Board Panel
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

* Docketing and Service Section
Office of the Secretary
U.S. Nuclear Regulatory Commission
Washington, D. C. 20555

Jeffrey Cohen, Esq.
Deputy Commissioner and Counsel
New York State Energy Office
Agency Building 2
Empire State Plaza
Albany, New York 12223


Bernard M. Bordenick
Counsel for NRC Staff