

6/22/81

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of)
) Docket No. 50-155-OLA
CONSUMERS POWER COMPANY) Spent Fuel Pool
) Expansion
(Big Rock Point Nuclear)
Power Plant))

APPLICANT'S MOTION FOR AN EXTENSION
OF TIME TO RESPOND TO INTERVENOR
CHRISTA-MARIA'S "REQUEST FOR
PREPARATION OF ENVIRONMENTAL
IMPACT STATEMENT"

Consumers Power Company ("Applicant") has received a pleading entitled "Request for Preparation of Environmental Impact Statement" from Intervenor Christa-Maria. Although contrary to the Commissioner's Rules of Practice, the copies served on Applicant are unsigned, undated, and lack a certificate of service, the envelope bears a U.S. postmark dated June 15, 1981. Therefore, pursuant to 10 CFR §§2.730 and 2.710, Applicant would have until June 30, 1981 to respond. This is a request for a two-week extension of that filing date.

Intervenor's request, relying on a footnote in the Appeal Board's recent decision in this case, ALAB-636, argues that the Licensing Board has the discretion to command preparation of an environmental impact statement addressing



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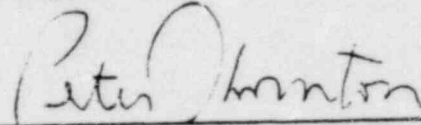
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the environmental effects of continued operation of the Big Rock Point Plant, even though the Appeal Board has ruled that NEPA does not require this result. The request raises complicated issues of law, including whether this Board has been delegated such discretion by the Commission, and whether the Board has the authority to commit Staff resources to such a major undertaking. Further, even if the Board has such discretion, the question arises whether Intervenor has any threshold obligation to produce some factual basis in support of its request, beyond the rhetorical and unsupported suggestion that the environmental effects of continued operation the Big Rock Point Plant may be compared to human ingestion of rat poison. Finally, in light of the delay which has already occurred in this case and the impending loss of full core discharge capability at the plant, Applicant's response will argue that it would not be an appropriate exercise of discretion, assuming such discretion exists, for the Board to order preparation of an environmental impact statement at this late date.

Applicant requests a two-week extension, until July 14, 1981, to permit a thorough and adequate response to Intervenor's request. In light of this Board's recent ruling dated June 16, 1981 granting Intervenor's request for

a continuance, granting Applicant's request for a two week extension of time will have no schedule impact.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Peter J. Hanton", is written over a horizontal line.

One of the Attorneys
for Applicant

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CERTIFICATE OF SERVICE

I hereby certify that copies of APPLICANT'S MOTION FOR AN EXTENSION OF TIME TO RESPOND TO INTERVENOR CHRISTA-MARIA'S "REQUEST FOR PREPARATION OF AN ENVIRONMENTAL IMPACT STATEMENT" in the above-captioned proceeding were served on the following by deposit in the United States mail, first class postage prepaid, this 22nd day of June, 1981:

Herbert Grossman, Esq.
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U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

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Mr. Frederick J. Shon
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A handwritten signature in cursive script, reading "Peter Thornton". The signature is written in dark ink and is positioned above a horizontal line.

Peter Thornton