

May 8, 1980

Note to: Stuart Treby ✓  
William Olmstead  
Edwin Reis  
James Tourtellotte

Subject: IT IS BUDGET TIME AGAIN!

Attached are the 1979 revised templates showing manpower for various activities for a typical CP case and a typical OL case. Please review both and provide Mr. Karman your best estimate by May 13, 1980 of how, based on your experience in the last year, this has changed and your best estimate of what we should use for projections for FY 1982. I want you to give particularly thoughtful attention to the OL template. It strikes me as substantially understated for the kind of hearings we are likely to have in contested OL proceedings in FY 1982.

In addition, please give to Mr. Karman, by May 13, your estimate of the status of all cases assigned to your section as they will be on October 1, 1981. If possible, please identify such status in terms of the steps in a proceeding set forth on the typical case templates attached.

We will use the typical case templates for estimated work load on cases for FY 1981, unless you believe that a particular case will have special characteristics which would warrant greater manpower, an extended period of time, or more intense effort than an ordinary case (e.g., TMI-1 in FY 1981 will obviously entail greater manpower and intensity than a normal case). Therefore, please let us know if any of your cases have special characteristics from the standpoint of manpower needs in FY 1982.



Joseph F. Scinto

Attachment

cc: M. Karman

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PDR FOIA  
WEISSBI-104 PDR

## OELD

## REVISED CP TEMPLATE

Showing Manpower for Various Activities and Duration  
in Calendar Time for Such Activity For a Typical Case

(Does not include travel time in transit)

	<u>Manweeks</u>	<u>Duration</u> <sup>1/</sup>	<u>Milestone</u>
1. Review of Documents for PDR release	1	spread over 5 mos.	
2. Response to Petitions to Intervene	6	2-4	starts 2 mos. after CP docket
3. Discovery (Environmental)	5	4-12	
4. Review of DES	3		
5. Environmental Prehearing			
6. Pleadings	3.5		
7. Review of FES	1.5		
8. Prepare Environmental Witnesses	8		12-15
8A. Interlocutory Appeal	2		
9. Environmental Hearing	7.5	15-17	ASLB Hearing starts 15 mos.
10. Proposed Findings	6	18-19	LWA issues 20 mos.
11. Appeal	4.5	20-23	
12. Discovery (Safety)	3	23-28	
13. Review of SER	2		
14. Safety Prehearing	1		
15. Pleadings	3.5		
16. Prepare Safety Witnesses	4		

<sup>1/</sup> Time period during which work takes place in months after CP is docketed (Time 0).

Note: This chart is slightly revised from 1978 to reflect the added manpower effort experienced over 1977 and 1978. (See Memorandum 2/2/79, Treby to Engelhardt attached.) It also slightly changes the spread over which this effort takes place.

17. Safety Hearing	7.5	28-31	ASLB Hearings starts 28 mos.
18. Proposed Findings	3	32-33	
19. Appeal	4.5	35-39	Decision 34 mos.
20. Appeal to Commission	2	40-42	
	<u>78.5</u>		

1979  
OELD

Revised CP Time for Attorneys Spent in Transit  
(Not Covered by Work Effort Shown on  
Prior Template)

<u>Purpose</u>	<u>Transit Days</u>	<u>Time Period in Months</u>
1. Four trips to Negotiate contentions	2 2	4-10 23-26
2. Prehearings	2 2	8-10 24-26
3. Three trips for DES & FES	3	6-11
4. Four sessions of hearings	5 5	15-17 29-31
5. Appeals	1 1	20-23 35-39
6. Two trips for depositions or discovery	1 1	4-10 23-26
	TOTAL TRANSIT DAYS	25

GELD  
 REVISED OL TEMPLATE  
 Showing Manpower for Various Activities and  
 Duration in Calendar Time for Such Activity for a Typical Case

(Does not include travel time in transit)

	<u>Manweeks</u>	<u>Duration</u> <sup>1/</sup>	<u>Milestone</u>
1. Review of Documents for PDR release	1	spread	Notice 2 mos. after OL is docketed
2. Response to Petitions to Intervene	6	3-8	Starts 3 mos. after OL is docketed
3. Discovery	5	}	
4. Prehearings	1		
5. Pleadings	3.5		
6. Review of DES or FES	4.5		
7. Review of SER	2		
8. Review of Testimony	5		
9. Preparation of Witnesses	2.5		
9A. Interlocutory Appeal	2		
10. Hearings	12		
11. Proposed Findings	6	20-22	
12. Appeal	5	25-31	OL Hearing Decision 24 mos. after OL is docketed
13. Appeal to Commission - (Stay Request)	1	26	
(Appeal)	2	32-34	
	<u>58.5</u>		

<sup>1/</sup> Time period during which work takes place in months after OL is docketed.

1979

GELD

OL Time for Attorneys Spent in Transit  
(Not Covered by Work Effort Shown on Prior Template)

<u>Purpose</u>	<u>Transit Days</u>	<u>Time Period in Months</u>
1. Trips to Negotiate Four Contentions	4	4-11
2. Prehearings	2 2	4-6 12-14
3. Three trips for DES & FES	3	6-12
4. Multiple sessions of hearings	10	16-20
5. Appeals	1 1	10-12 26-30
6. Two trips for depositions or discovery	2	7-14
TOTAL TRANSIT DAYS	25	



UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

JAN 21 1981

MEMORANDUM FOR: Hugh L. Thompson, Jr., Acting Director  
Planning and Program Analysis Staff  
Office of Nuclear Reactor Regulation

FROM: E. A. Licitra  
Resource and Scheduling Branch  
Planning and Program Analysis Staff, NRR

SUBJECT: EFFECTS OF THE HEARING PROCESS ON LICENSING SCHEDULES

Per your request, I have made a review of the subject matter and my findings are presented below.

Section 2.104 of 10 CFR Part 2 states that a notice of hearing shall be published at least 15 days before the start of hearing (30 days for CPs). An application is considered ready for hearing after the ACRS supplement is published (for the safety phase which is usually controlling). The current Bevill schedules assume 1-2 months between supplement issuance and start of hearing. In the past two years, only one (Diablo Canyon for the seismic review phase) of three OL applications has completed this phase within two months (see Enclosure 1).

As would be expected, there is no guidance in the regulations regarding how much time to assume for the duration of a hearing. The current Bevill schedules assume 2-4 months to complete a hearing (after start). In the past two years, two (Diablo Canyon for the seismic review phase and McGuire) of three OL applications have completed this phase within four months (see Enclosure 1).

Following completion of the hearing, proposed findings by the staff (last input from parties) are due within 40 days (Section 2.754 of 10 CFR Part 2) and the Board Initial Decision is due 35 days thereafter (Section VI.(d). of Appendix A to CFR Part 2), representing a total span of about 2 1/2 months. The current Bevill schedules assume 2-3 months between the end of hearing and the issuance of an Initial Decision. In the past two years, none of three OL applications has had a Initial Decision issued within three months of the end of hearing (see Enclosure 1).

Based on the above, we are not allowing enough time for the hearing process in the current Bevill schedules. Diablo Canyon's total span (the shortest of the three OLs) from supplement issuance to Initial Decision (for the seismic review phase) is about 10 1/2 months as compared to the maximum of 9 months assumed in the Bevill schedules. It appears that at least an additional two months, and probably more, should be added to the Bevill schedules (including the remainder of the Diablo Canyon hearing process) to account for a longer hearing process.

DUPLICATE

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Following the TMI-2 accident, the Commission suspended the immediate effectiveness rule for Initial Decisions and defined a revised role for the Licensing and Appeal Boards and for the Commission during this suspension. (Appendix B to 10 CFR Part 2). Enclosure 2 presents my understanding of what Appendix B states regarding those roles.

As indicated in Enclosure 2, the Licensing Board is required to identify, with its Initial Decision, issues which (1) could affect whether a license should become effective before completion of full appellate review (Appeal Board Final Decision and Commission review) or (2) require prompt Commission policy guidance. This additional effort may add to the time the Licensing Board takes to issue an Initial Decision. My intuitive feeling is that the additional time will be less than a month.

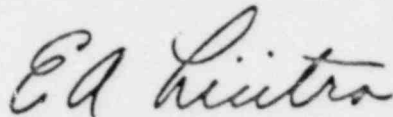
After the Initial Decision is issued, the Appeal Board has 60 days to decide whether a license should become effective before completion of full appellate review. Although not specifically addressed in Appendix B to 10 CFR Part 2, the implication is that appellate review by the Appeal Board does not start until after it decides whether the license should become effective before completion of appellate review. Appendix B provides the Commission the option of allowing the Appeal Board more time if the Board cannot decide the stay questions within 60 days. For schedule planning purposes, however, we should assume two months for the Appeal Board review of the stay questions.

Following receipt of the Appeal Board decision on the stay questions, the Commission will seek to issue its own decision within 20 days. Appendix B to 10 CFR Part 2 gives the Commission the option of taking more time if it cannot decide within 20 days. For schedule planning purposes, we should assume at least a month for a Commission decision.

Therefore, assuming a favorable decision by the Commission, the above spans for Appeal Board and Commission review of the stay questions would result in a license being issued about three months after issuance of the Initial Decision. In comparison, the current Bevill schedules assume 2-3 months for this process.



One final point; if the decision is made to stay the issuance of a license until the full appellate review is completed, this will probably add several more months to the schedule before a license can issue. In the case of Diablo Canyon, OELD recently estimated this additional time to be a minimum of 4-6 months, depending on whether the Commission decides to review the Final Decision.



E. A. Licitra  
Resource and Scheduling Branch  
Planning and Program Analysis Staff, NRR

Enclosures:

- (1) Actual Spans for the Hearing Process for Near Term OLS
- (2) Role of Boards and Commission During Suspension of Immediate Effectiveness Rule

cc: H. Denton  
E. Case  
D. Eisenhut  
R. Tedesco  
J. Roe

Enclosure 1

Actual Spans for the Hearing Process  
for Near Term OLS

	<u>Suppl to Start</u>	<u>Start to Finish</u>	<u>Finish to Decision</u>	<u>Total</u>
* Diablo Canyon	2 1/2 weeks	2 1/2 mo	7 1/2 mo	10 1/2 mo
** McGuire	3 mo	1 week	7 1/2 mo	11 mo
*** North Anna	2 1/2 mo	6 mo	6 mo	14 1/2 mo

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- \* Data for Diablo Canyon is based on the seismic review phase (starting with Supplement No. 8) and excludes the current effort on litigating TMI related issues.
  - \*\* Data for McGuire is based on the period prior to the Board reopening the hearing on the issue of hydrogen control.
  - \*\*\* Data for North Anna assumes Supplement No. 3 (which was the most recent one issued prior to the start of the safety hearing) is the starting point for the spans.

ENCLOSURE 2

Role of Boards and Commission  
During Suspension  
of Immediate Effectiveness Rule

A. Licensing Board Role

1. Issue Initial Decision as before.
2. In addition, the Licensing Board should
  - (a) analyze the evidence on those....issues which... present serious, close questions and which .... may be crucial to whether a license should become effective before full appellate review is completed.
  - (b) identify any aspects of the case which... present issues on which prompt Commission policy guidance is called for.

The Licensing Board may request assistance from the parties on these matters but they are not subject to discovery, examination, or cross-examination.

B. Appeal Board Role

1. Within 60 days (which allows time for service by mail and to hold any required oral arguments), the Appeal Board
  - (a) shall decide any stay motion (one that seeks to defer the effectiveness of an Initial Decision beyond the period necessary for Appeal Board and Commission action described in Appendix B to 10 CFR Part 2).
  - (b) on its own motion, if no stay motion is filed, shall decide whether a stay is warranted.
  - (c) will give particular attention to whether issuance of the license or permit prior to full administrative review may create novel...issues or prejudice review of significant... issues.

- (d) will inform the Commission...[of any] issues on which prompt... policy guidance...would advance the Board's appellate review (Final Decision).

The Appeal Board shall not decide that a stay is warranted without giving affected parties an opportunity to be heard.

2. If the Appeal Board cannot issue a decision on the stay questions within 60 days, it should explain to the Commission the cause of the delay. The Commission shall then either allow the Appeal Board more time or take other action (e.g., take the matter over itself). The running of the 60 day period does not make the Initial Decision immediately effective.
3. Unless otherwise ordered by the Commission, the Appeal Board will then conduct its normal appellate review (Final Decision).

C. Commission Role

1. The Commission will seek to issue a decision on the stay questions within 20 days of receipt of the Appeal Board decision.
2. If it cannot decide within 20 days, it will state the reason and give the time when a decision is expected. The Initial Decision will be considered stayed pending the Commission's decision.
3. After a decision on the stay questions, the Commission may give the Appeal Board instructions on its appellate review of the case (for issuing a Final Decision).