



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

March 16, 1983

Charles W. Gilchrist  
County Executive  
Montgomery County Government  
Rockville, Maryland 20850

David L. Scull  
Council President  
Montgomery County Government  
Rockville, Maryland 20850

Gentlemen:

I have been asked by Chairman Palladino to respond to your letter of February 15, 1983, concerning the ongoing license renewal proceedings for the Armed Forces Radiobiology Research Institute (AFRRI) research reactor.

By way of background, I would point out that following the NRC's publication of a notice of opportunity for a public hearing in November 1980, 45 Fed. Reg. 78314 (Nov. 25, 1980), a local organization, Citizens for Nuclear Reactor Safety, Inc. (CNRS), made a formal request to intervene in the AFRRI license renewal proceeding. In accordance with NRC regulations, a public prehearing conference was held on May 1, 1981, in Bethesda, Maryland. Subsequently, by order dated August 31, 1981, the three-member Atomic Safety and Licensing Board assigned to preside over the AFRRI proceeding admitted CNRS as a party to the proceeding. The Board also has approved a stipulation between CNRS and the other parties, the NRC staff and AFRRI licensee the Defense Nuclear Agency (DNA), that six CNRS contentions properly are subject to consideration by the Licensing Board and ruled that four other unstipulated contentions can be litigated. Discovery by the parties has been ongoing under a schedule established by the Licensing Board.

In your letter, concern was expressed that "summary disposition" of the renewal was to be made on February 18. February 18 was the date established by the Licensing Board for the filing of motions for summary disposition. Under NRC rule 10 CFR § 2.749, which is modeled after the motion for summary judgment in judicial proceedings, any party to a licensing proceeding may contend with regard to any contested matter that there is no genuine issue of material fact and therefore the Licensing Board should, as a matter of law, enter a decision in its favor on that issue. In this instance

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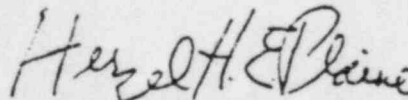
both the NRC staff and DNA have filed such motions relating to nine of the ten CNRS contentions. Summary disposition motions on the tenth issue, emergency planning, will be entertained by the Licensing Board only after the NRC staff has published its evaluation of the AFRRI emergency plan.

The Licensing Board presently is awaiting the CNRS response to the February 25 motions before making any ruling on summary disposition. If the Licensing Board finds that summary disposition is inappropriate as to any contested matter, it would then conduct an evidentiary hearing on that issue. This normally involves the filing of written direct testimony of witnesses and oral cross-examination of those witnesses at public hearing sessions. 10 CFR § 2.743. Any Licensing Board ruling on the motions for summary disposition as well as the Board's initial decision on issuance of the license renewal are appealable to the Atomic Safety and Licensing Appeal Panel and, ultimately, to the Commission.

Your letter also raised questions about the preparation of a full environmental impact statement for the renewal of the AFRRI license. In a letter to Congressman Michael Barnes dated February 20, 1981 (a copy of which was sent to the County Executive), NRC Commissioner Ahearne, then agency Chairman, explained that the NRC staff had determined in a generic environmental impact appraisal for research reactors that there would be no significant environmental impact associated with their licensing and, accordingly, that no environmental impact statement for the AFRRI facility was required. Commissioner Ahearne also noted that this staff determination would be subject to challenge in any Licensing Board proceeding and, indeed, it is the subject of one of the CNRS contentions admitted for litigation in the AFRRI proceeding. Accordingly, the NRC staff decision not to prepare a full environmental impact statement will be scrutinized in the context of the ongoing administrative hearing.

I hope this information has answered your questions concerning the AFRRI proceeding. Further, to keep you fully apprised of all future developments pertaining to this licensing action, your names have been added to the service list for the proceeding.

Sincerely,



Herzel H. E. Plaine  
General Counsel