

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

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USNRC

'82 NOV 16 P1:09

In the Matter of)
)
UNITED STATES DEPARTMENT OF ENERGY)
)
PROJECT MANAGEMENT CORPORATION) Docket No. 50-537
)
TENNESSEE VALLEY AUTHORITY)
)
(Clinch River Breeder Reactor Plant))

RECEIVED
GENERAL INVESTIGATIVE
DIVISION
NOV 16 1982

THE CITY OF OAK RIDGE'S STATEMENT RELATIVE
TO THE SOCIOECONOMIC IMPACT OF THE
CLINCH RIVER BREEDER REACTOR PLANT

The City of Oak Ridge, Tennessee wishes to advise the Board of the City's position with respect to the impact of the Clinch River Breeder Reactor Plant (CRBRP) on our community. The City has been and remains a strong advocate of the development of the Clinch River Breeder Reactor. It is an important project for the nation's energy future and should be constructed. Oak Ridge is proud to be considered a suitable site and welcomes the construction of the Clinch River Breeder Reactor within its boundaries.

Although the City of Oak Ridge is a strong proponent of the Clinch River Breeder Reactor, the City is of the opinion that the issue of in-lieu-of-tax payments to the City should also be addressed in this proceeding. The local tax impact of the development of the CRBRP as a federal project with tax immunity, compared to such a development if it were privately owned, should be monitored. Mitigation of impacts should be required in the form of appropriate payments in lieu of taxes by the Department of Energy, (DOE), under the provisions of congressional authorization. Such required monitoring and mitigation should be incorporated into and made a part of the CRBRP's construction and operating license.

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For many years, the City has reported the difficulties encountered by a municipality deprived of a normal resource base because of federal tax immunity for the major portion of local industry. The City has repeatedly expressed its desire that no such immunity be provided to the Clinch River Breeder Reactor or, if technically immune, that payments in lieu of taxes be made as if the project were developed privately. The Nuclear Regulatory Commission, (NRC), staff has recognized the nature of the problem, but has noted NRC's inability to require DOE payments of any specific amount and appears willing to assume that the matter will be resolved equitably upon DOE's own initiative within the flexibility provided by 42 USC § 2391. As stated in the Supplement to Final Environmental Statement, "A public project would not be subject to either local property or sales and use taxes. These two taxes would represent the majority of public revenues attributable to a private project. On the other hand, DOE has the statutory authority to make financial assistance payments to affected jurisdictions and has expressed to NRC its intent to exercise this authority in the case of the CRBRP."¹

Although Congress provided guidance to the Atomic Energy Commission in 1954 which would suggest considerable limitations regarding payments in lieu of taxes to states and localities, it specified that "such payments may be in the amounts, at the times, and upon the terms the Commission deems appropriate...."² Subsequent legislative action has given the Secretary of Energy the authority to pay just and reasonable sums to affected local governments in lieu of taxes, with one of the primary considerations being: "the approximate real property taxes and assessments for local improvements which would be paid to the governmental entity upon property within the community if such property were not exempt from taxation by reason of Federal ownership."³

The City of Oak Ridge has three major objections regarding the treatment of the tax equity question in the socioeconomic impact analysis of the Clinch River Breeder Reactor which underlie the need for monitoring and mitigation. First, although the problem of tax immunity is recognized, its treatment is superficial. The nature of the CRBRP as a federal project, granted tax immunity, has a dramatic socioeconomic impact on the taxpayers of the community--industrial, commercial, and residential--compared to the circumstances if it were a private development or developed under a plan for in-lieu-of-tax payments based on full tax equivalency. The differences in the share of the municipal burden which must be borne by local taxpayers is a significant socioeconomic impact. The difference in municipal support between public and private development has been recognized in NRC staff reports on the CRBRP,⁴ but it has not been addressed in the proposed monitoring of impacts to be mitigated.

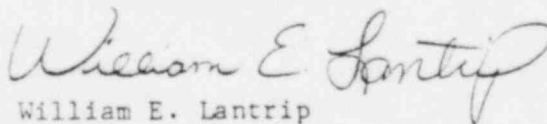
Second, the City expresses grave doubts regarding the ability of any entity to comprehensively monitor all of the socioeconomic impacts of the Clinch River Breeder Reactor in terms of individual service categories. The costs of actually monitoring the use of all municipal services and facilities by employees who are residents, those who are not, their relatives, and their friends would be prohibitive. Multiple, unanticipated social impacts will go unmonitored, unrecorded, and, unless proper mitigation measures are instituted, uncompensated.

Third, the existing financial assistance agreement between the City and DOE does not constitute a realistic, legally binding, or dependable method for assuring either mitigation of identifiable impacts or continued financial assistance payments in lieu of taxes to the City. This is apparent when one considers

that, while DOE has the statutory authority to continue assistance payments, subject to congressional appropriation, at the amounts and in the manner it determines appropriate, the existing financial assistance agreement is short term and will expire in 1984; and there exists no assurance that any payments will be received after that date. The NRC staff has recognized that the City presently receives in-lieu-of-tax payments, has apparently assumed that these payments will continue to be received, and to this end has attempted to compare CRBRP with a privately constructed facility. However, the NRC staff has not attempted to quantify the difference in revenues which would be received by the City if the CRBRP was privately constructed. For this reason, monitoring is essential.

The NRC staff has suggested that monitoring be undertaken with respect to service impacts associated with the construction and operation of the CRBRP. The applicant has agreed that this is appropriate. In addition to the monitoring of these impacts, the City requests that monitoring of the fiscal impact of the development of the CRBRP as a federal project be required and that such monitoring compare the municipal revenues generated by the CRBRP with those which would have been generated under taxable status. Mitigation of impacts should be in the form of appropriate payments in lieu of taxes by the Department of Energy under the provisions of congressional authorization. While the City of Oak Ridge recognizes that financial assistance payments are made to the City pursuant to congressional authorization and in the manner set forth in such statute; and further recognizes that funds made available are subject to continuing appropriation, DOE as an Applicant for licensing of a facility under the NRC's jurisdiction should nevertheless be required to declare its intent to provide mitigation as herein prescribed.

Respectfully submitted,



William E. Lantrip
City Attorney
City of Oak Ridge

Endnotes

¹U.S. Nuclear Regulatory Commission, Supplement to Final Environmental Statement (October 1982), p. 4-20.

²August 30, 1954, c. 1073, ch. 14, section 168, 68 Stat. 952. Emphasis added.

³42 USCS § 2391 (a)(1).

⁴U.S. Nuclear Regulatory Commission, Final Environmental Statement Related to Construction and Operation of Clinch River Breeder Reactor Plant (February 1977), pp. 4-7, 4-14, 4-15; U.S. Nuclear Regulatory Commission, Supplement to Final Environmental Statement Related to Construction and Operation of Clinch River Breeder Reactor Plant (Supplement #1; October 1982), p. 4-21.

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CERTIFICATE OF SERVICE

Service has been effected by deposit in the United States Mail, first class, on this date, the 12th of November 1982, to the following:

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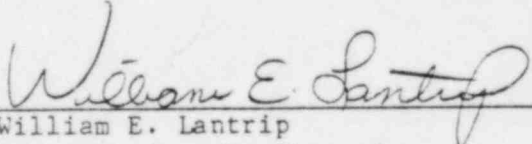
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