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December 8, 1981

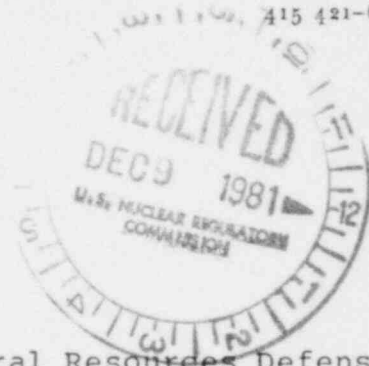
The Honorable Nunzio J. Palladino
Chairman
Nuclear Regulatory Commission
Washington, D.C. 20555

Dear Mr. Chairman:

We are writing on behalf of the Natural Resources Defense Council, Inc. (NRDC), which is a party to the suspended NRC licensing proceeding for the Clinch River Breeder Reactor Plant (In the Matter of United States Department of Energy, Project Management Corporation, Tennessee Valley Authority (Clinch River Breeder Reactor Plant), Docket No. 50-537).

On November 30, 1981, the Applicants in this proceeding filed a request for a virtually unprecedented emergency exemption from NRC licensing requirements under 10 CFR § 50.12. We did not receive a copy of this request until Thursday, December 2nd. On Monday, December 7th, NRDC learned inadvertently that the NRC Commissioners will meet tomorrow to determine the proper procedure for handling this exemption request. We have received no formal notice of this NRC meeting, and it is our understanding that notice of the meeting will not be published in the Federal Register until after the meeting has taken place. Although NRC regulations (10 CFR §§ 2.730(c), 2.710) provide a party with 15 days to file an answer in opposition to any motion, the NRC Commissioners apparently intend to decide the procedural issues only six days after NRDC received notice of the exemption request, and without giving NRDC any opportunity to adequately respond to the procedural or substantive issues raised by the Applicants' exemption request.

Such developments fly in the face of any notion of orderly administrative procedure or adequate public participation. They would effectively serve to prevent NRDC from opposing DOE's effort to circumvent NRC's normal licensing procedures. The exemption requested by DOE has been granted only once in the history of the NRC and its predecessor agency, and then only after a five-day evidentiary hearing by the relevant



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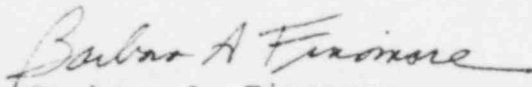
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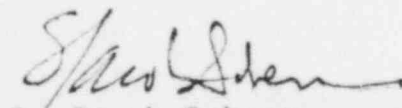
Licensing Board. If the NRC is to retain any semblance of objectivity in its CRBR licensing process, it has no alternative other than to allow NRDC and other parties until at least December 15th in which to respond to the procedural arguments made by DOE in its 66-page exemption request. Unless NRDC is given an adequate opportunity to present its procedural arguments, the Commissioners will be in the position of deciding a crucial question, at an unannounced meeting, solely on the basis of DOE's unsubstantiated and unchallenged assertions. Such a decision cannot help but erode the confidence of the public in the independent judgment of the NRC.

The attached DOE memorandum reveals that the untenable situation in which the Commission finds itself today is due in large part to DOE's calculated manipulation of the timing of the exemption request. Although DOE claims that immediate action by the Commissioners is essential because there is no time to reconvene the CRBR Licensing Board, DOE has deliberately withheld its request to resume the CRBR licensing proceedings until after it had filed its exemption request. This calculated gameplan demonstrates that DOE's primary concern is avoidance of full NRC review of environmental and site suitability factors wherever possible. These matters are the subject of at least three of NRDC's contentions in the suspended CRBR proceedings. It appears that the only "emergency" involved in this case is one of DOE's own making.

Procedural fairness dictates that all parties to the proceedings be allowed a reasonable time in which to respond to DOE's exemption request, particularly in light of DOE's attempt to manipulate the process. NRDC therefore requests that it and other parties to this proceeding be given until at least December 15th to file responses to DOE's exemption request concerning the proper procedure to be followed and that the Commissioners defer any consideration of the DOE request until that time.

Sincerely,


Barbara A. Finamore


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Department of Energy
Washington, D.C. 20585

November 12, 1981

MEMORANDUM FOR: Deputy Secretary

FROM : Under Secretary

SUBJECT : Action Planning for CRBRP Construction

Since CRBRP is a very controversial project, I believe a well defined action plan is required which will produce the desired results. Shelby Brewer has developed such a plan with weekly, and in some instances, daily milestones.

The following are principal tasks to assure that CRBRP site work and mat placement are accomplished in 1982 and 1983, respectively.

1. Request for Licensing Procedural Exemption

A 10 CFR 50.12 exemption request will be submitted after the DOE and NRC appropriation bills are enacted. The request has been reviewed by General Counsel. It is supported by a Site Preparation Analysis Report which establishes the negligible environmental effects of the proposed actions. String support from the CEQ is required for success. Therefore, it would help if you would telephone Alan Hill as soon as you and the Secretary concur in the request.

2. Environmental Impact Statement Supplement

The notice of intent to supplement the Program EIS was published in the Federal Register on November 2. The first draft will be available November 16 for internal review. The public comment period should close January 15, 1982, and a supplement will be published March 1, 1982. This schedule provides very timely support for both the exemption request and the environmental hearings process.

3. Environmental Hearings

Tenney Johnson will ask NRC to reactivate the Atomic Safety Licensing Board seven days after the exemption request has been forwarded to NRC. General Counsel's letter would provide the schedule for hearings to support an LWA-2 for placement of structural concrete by 1983. Further, Nuclear Energy has initiated regular technical meetings with NRC staff to identify and resolve licensing issues. Dave Goeser of Westinghouse has the lead for this activity.

4. EPA Water Discharge Permit

The CRBRP Director will request an EPW water discharge permit at the same time the exemption request is made. The EPA water discharge permit is required for site preparation and can be granted under the authority of Charles Jeter, EPA Region IV Administrator. A call will be made by Shelby Brewer to Ann Gorsuch, EPA Administrator, to enlist her support for granting the permit quickly.

5. Site Preparation

An RFP for a site preparation contractor has been prepared and will be issued the same day as the exemption request. Bid invitations will follow in one month and an award in four months. Congressional action reducing the project's FY-82 budget to \$180 million will make this procurement tight but it should be top priority.

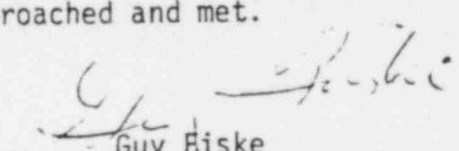
6. Independent Cost Estimate

Dean Mitchell, who works for Bill Heffelfinger, is conducting a thorough cost estimate review. The final report is due December 14. Options are being considered to slow long lead equipment procurements to allow actual construction activities to begin and catch up with design and equipment phases.

7. Review of Project Management and Contracts

The Project Director and the Assistant Director for Engineering have been replaced. Our goal is to focus intense project office effort on early site preparation, streamlining the design effort and resolving the steam generator issue. Additionally, we are exploring the possibility of a strong industry project office to overview and audit performance. General Counsel is reviewing the contracts and prior Congressional hearings to develop feasible options. Recommendations will be developed by early January.

I am working closely with Shelby to get a better understanding of key technical and political issues and, in particular, issues associated with management of the project. This has involved increasingly thorough and detailed briefings. I am receiving weekly reports on the status of our key tasks and plan to keep you fully informed as major milestones are approached and met.


Guy Riske

cc. B. Rusche
S. Brewer