

UNITED STATES
NUCLEAR REGULATORY COMMISSION

January 25, 1980

ADJUDICATORY ITEM SECY-A-80-12

COMMISSIONER ACTION

For: The Commissioners

From: James A. Fitzgerald, Assistant General Counsel

Subject: REVIEW OF ALAB-576 (In the Matter of Sacramento
Municipal Utilities District)

Facility: Rancho Seco Nuclear Generating Station

Review
Time Expires: February 11, 1980

Purpose: To inform the Commission of a minor procedural decision EX-5

Discussion:

The restart of Rancho Seco, in the aftermath of the post-TMI corrective actions required of B&W reactors, is the subject of a proceeding now underway before a Licensing Board. The California Energy Commission (CEC), a participant in that proceeding, requested that emergency planning be included in the scope of the proceeding. The Licensing Board denied CEC's request, and at the behest of CEC, referred the issue to the Appeal Board, which requested briefs from the parties.

On January 14, 1980, CEC moved to terminate the referral, stating that recent NRC actions (a proposal for rulemaking on emergency planning, and the scheduling of a series of meetings with state and local officials) had satisfied their concerns in this area. In ALAB-576, the Appeal Board accepted CEC's request and terminated the referral. In so doing, it stated explicitly that its action reflected no judgment on the correctness of the Licensing Board decision below.

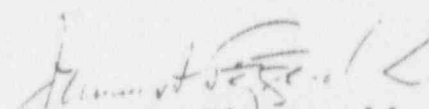
In our view,

Information in this record was deleted
in accordance with the Freedom of Information
Act, exemptions 5
FOIA 92-436

Contact:
Mr. Crane, OGC
9307010228 930317
PDR FOIA
GILINSK92-436 PDR

5/3
2/1/228

Recommendation:


James A. Fitzgerald
Assistant General Counsel

Attachment: ALAB-576

Commissioners' comments should be provided directly to the Office of the Secretary by c.o.b. Friday, February 8, 1980.

Commission Staff office comments, if any, should be submitted to the Commissioners NLT February 1, 1980, with an information copy to the Office of the Secretary. If the paper is of such a nature that it requires additional time for analytical review and comment, the Commissioners and the Secretariat should be apprised of when comments may be expected.

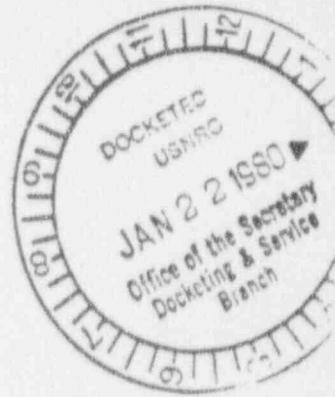
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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING APPEAL BOARD

Richard S. Salzman, Chairman
Dr. John H. Buck
Thomas S. Moore



In the Matter of

SACRAMENTO MUNICIPAL UTILITY DISTRICT

(Rancho Seco Nuclear Generating Station)

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JAN 22 1980

Docket No. 50-312 (SP)

Messrs. Christopher Ellison, Sacramento, California,
and Lawrence Coe Lanpher, Washington, D. C., for
the California Energy Commission, intervenor.

Messrs. Gerald Charnoff, Thomas A. Baxter and
Lex K. Larson, Washington, D. C., for the
Sacramento Municipal District, licensee.

Mr. Stephen H. Lewis for the Nuclear Regulatory
Commission staff.

MEMORANDUM AND ORDER

January 21, 1980

(ALAB-576)

On December 14, 1979 at the behest of the California Energy Commission (CEC), the Licensing Board referred for our consideration its ruling that CEC's contentions on emergency planning would not be considered in this special proceeding. LBP-79-33, 10 NRC _____. We accepted the referral and allowed the parties until January 14, 1980 to brief the

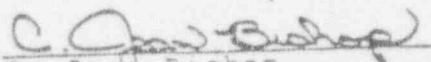
question. On that date, however, CEC moved that we terminate action on the referral. The basis for its motion is the announcement by this Commission of its proposal to undertake a rulemaking proceeding on the subject of emergency planning and its scheduling of a series of meetings with state and local government officials (including one in California) looking toward that end.

The motion to terminate our consideration of the referred question is granted. This action renders it unnecessary for us to decide either the correctness of the result reached by the Board below or the grounds upon which it rested that result.

Dismissed without prejudice.

It is so ORDERED.

FOR THE APPEAL BOARD


C. Jean Bishop
Secretary to the
Appeal Board