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UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION
before the
ATOMIC SAFETY AND LICENSING BOARD

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of)	
MAINE YANKEE ATOMIC POWER COMPANY)	
(Maine Yankee Atomic Power Station))	Docket No. 50-309-OLA (Spent Fuel Compaction)

APPLICANT'S ANSWER TO "SMP MOTION
FOR MORE COMPLETE AND MORE
SPECIFIC DISCLOSURE BY APPLICANT"

The intervenor Sensible Maine Power ("SMP") under the date of August 27, 1982, has submitted a curious pleading entitled "SMP Motion for More Complete and More Specific Disclosure by the Applicant." No authority is cited apart from the general regulation regarding the procedure for filing motions. See 10 C.F.R. § 2.730. For the reasons stated herein, the applicant says that the motion should be denied.

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Stripped of its rhetoric, the SMP motion is nothing other than a request for discovery. The NRC Rules of Practice, however, are quite specific as to the methods and procedures by which discovery is sought, see 10 C.F.R. 2.740-44; nothing in the Rules of Practice authorizes the curious approach attempted here. If what SMP really hopes to obtain is discovery in aid of a search for a contention, it is well established that discovery is not available for that purpose. See Northern States Power Co. (Prairie Island Nuclear Generating Plant, Units 1 & 2), ALAB-107, 6 AEC 188, reconsideration denied, ALAB-110, 6 AEC 247, aff'd, CLI-73-12, 6 AEC 241 (1973); Wisconsin Electric Power Co. (Koshkonong Nuclear Plant, Units 1 & 2), CLI-74-45, 8 AEC 928 (1974). See also BPI v. AEC, 502 F.2d 424, 428-29 (D.C. Cir. 1974). Finally, nothing in the decisions cited by SMP even approaches being authority for the unusual request that it has made. The rulings in Virginia Electric & Power Co. (North Anna Power Station, Units 1 and 2), CLI-76-22, 4 NRC 480 (1976), have no application to such a request. Nor can it be thought that constitutional principles of due process, which were enacted at a time before discovery was

permitted in any litigation, require the type of discovery sought by SMP here, particularly given that even today the norm for agency litigation remains that no discovery is available at all.

In all events, under the NRC Rules of Practice and the Orders of this Board, there will come a time when SMP is free to propound any discovery it pleases. Neither has that time occurred yet, nor does anything authorize SMP to demand that others frame its discovery for it.

For the foregoing reasons, the "SMP Motion for More Complete and More Specific Disclosure by Applicant" should be denied.

Respectfully submitted,



Thomas G. Dignan, Jr.
R. K. Gad III
Ropes & Gray
225 Franklin Street
Boston, Massachusetts 02110
Telephone: (617) 423-6100

Date: September 7, 1982

Certificate of Service

I, Robert K. Gad III, hereby certify that on September 7th, 1982, I made service of the within "Applicant's Answer to 'SMP Motion for More Complete and More Specific Disclosure by Applicant,'" by mailing a copy thereof, postage prepaid, to:

Robert M. Lazo, Esquire
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

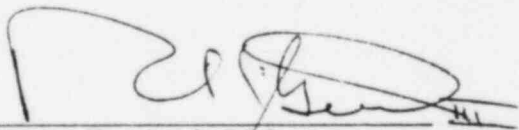
Dr. Cadet H. Hand, Jr.
Director, Bodega Marine Laboratory
University of California
P. O. Box 247
Bodega Bay, California 94923

Administrative Judge Peter A. Morris
Atomic Safety and Licensing Board Panel
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Jay M. Gutierrez, Esquire
Office of the Executive Legal Director
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

David Santee Miller, Esquire
213 Morgan Street, N.W.
Washington, D.C. 20001

Rufus E. Brown, Esquire
Deputy Attorney General
Department of the Attorney General
State House - Station #6
Augusta, Maine 04333


Robert K. Gad III