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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of	)	
GENERAL ELECTRIC COMPANY	)	Docket No. 70-1308
(General Electric Morris Operation	)	(Expansion Amendment)
Spent Fuel Storage Facility)	)	

NRC STAFF'S ANSWER TO APPLICANT'S  
MOTION TO WITHDRAW APPLICATION  
AND DISMISS PROCEEDING

On August 27, 1982, Applicant, General Electric Company, filed "Motion of General Electric Company to Withdraw Application and Dismiss Proceeding" ("Motion"). In its Motion, the Applicant requests that the presiding Atomic Safety and Licensing Board ("Licensing Board") "enter an order, pursuant to 10 C.F.R. § 2.107, granting it leave to withdraw the application filed in this matter and dismissing the matter without prejudice" (Motion, at 1).

On April 30, 1977, the Applicant filed a proposal to increase the storage capacity of its Morris Operation by constructing another spent fuel storage basin that would be connected to and be an integral part of the existing storage facility. A notice of "Consideration of Proposed Modification to GE Morris Operation Fuel Storage Facility" was published in the Federal Register on August 18, 1977 (42 Fed. Reg. 41675).

Pursuant to that notice, the State of Illinois and the Natural Resources

Defense Council filed petitions for leave to intervene and requests for hearing. Subsequently, but prior to any ruling on the petitions for leave to intervene, the Applicant filed a motion to suspend the proceeding indefinitely, based primarily upon the October 18, 1977, announcement by the Department of Energy ("DOE") of a new government policy concerning spent fuel. See "Motion of General Electric Company to Suspend Indefinitely," November 8, 1977. On December 14, 1977, the Licensing Board issued an "Order Granting Motion to Suspend Indefinitely".<sup>1/</sup> To date, no safety or environmental hearings have been held on the Applicant's proposal and no authorization for expansion of the spent fuel storage capacity of GE Morris pursuant to that proposal has been issued.

In the instant motion, the Applicant cites the DOE policy on spent fuel and the promulgation of 10 C.F.R. Part 72 which would "require a new application in the event that General Electric desired to pursue expansion of spent fuel storage capacity at its Morris Operation."<sup>2/</sup> (Motion, at 2).

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<sup>1/</sup> Neither the NRC Staff nor the petitioners for leave to intervene objected to that motion. See, Licensing Board's Order, supra.

<sup>2/</sup> 10 CFR Part 72, "Licensing Requirements for the Storage of Spent Fuel in an Independent Spent Fuel Storage Installation," became effective on December 12, 1980. On May 4, 1982, the Commission issued a renewal, pursuant to 10 CFR Part 72, of GE's license for the Morris Operation.

As noted, a notice of hearing on the Applicant's proposal was not published in this proceeding, since the proceeding was suspended prior to a ruling on the petitions for leave to intervene and requests for hearing. Accordingly, under 10 C.F.R. § 2.107(a), withdrawal of the application may be on such terms and conditions as the Commission may prescribe. The Staff has not determined that any particular conditions should attach to the withdrawal of the application. Thus the Applicant may withdraw its application, without prejudice. In these circumstances, the Licensing Board should terminate the proceeding. Westinghouse Electric Corporation (Alabama Nuclear Fuel Fabricating Plant), "Memorandum and Order," August 11, 1982 (unpublished).<sup>3/</sup>

Respectfully submitted,

*Marjorie U. Rothschild*

Marjorie U. Rothschild  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
this 10th day of September, 1982

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<sup>3/</sup> That proceeding was in a similar posture to this proceeding in that, the Applicant (Westinghouse) requested permission to withdraw its application for a special nuclear materials license after petitions for leave to intervene had been filed but before a notice of hearing had been issued. The Licensing Board dismissed the application of Westinghouse "without prejudice." Memorandum and Order, at 2.

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Storage Facility)	)	

NOTICE OF APPEARANCE

Notice is hereby given that the undersigned attorney herewith enters an appearance in the captioned matter. In accordance with § 2.713(a), 10 C.F.R. Part 2, the following information is provided:

Name	-	Marjorie Ulman Rothschild
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Admission	-	Supreme Court of the State of Florida
Name of Party	-	NRC Staff U.S. Nuclear Regulatory Commission Washington, DC 20555

*Marjorie Ulman Rothschild*  
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Marjorie Ulman Rothschild  
Counsel for NRC Staff

Dated at Bethesda, Maryland  
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GENERAL ELECTRIC COMPANY

(GE Morris Operation Spent Fuel  
Storage Facility)

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) Docket No. 70-1308  
) (Expansion Amendment)  
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CERTIFICATE OF SERVICE

I hereby certify that copies of "NRC STAFF'S ANSWER TO APPLICANT'S MOTION TO WITHDRAW APPLICATION AND DISMISS PROCEEDING," and "NOTICE OF APPEARANCE" for Marjorie U. Rothschild, in the above captioned proceeding have been served on the following by deposit in the United States mail, first class, or, as indicated by an asterisk, through deposit in the Nuclear Regulatory Commission's internal mail system, this 10th day of September, 1982.

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