



CHAIRMAN

UNITED STATES  
NUCLEAR REGULATORY COMMISSION  
WASHINGTON, D. C. 20555

February 7, 1991

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The Honorable William L. Clay  
United States House of Representatives  
Washington, D.C. 20515

Dear Congressman Clay:

I am responding to your letter of December 19, 1990, in which you expressed concern regarding the degree of control exerted by the Union Electric Company in the construction of the Callaway Plant, Unit No. 1. The Nuclear Regulatory Commission (NRC) agrees that the adequacy of construction control at nuclear power plants is an important issue.

The basis for your concerns about Union Electric's control over construction at Callaway appears to be the Missouri Court of Appeal's discussion of construction control in a personal injury action brought by a construction worker at Callaway. The issue addressed in that private litigation did not involve whether Union Electric properly assured the quality of the work on Callaway, but whether the company had control over the safety of construction personnel. The question of occupational safety (i.e., protecting construction workers from injury caused by unsafe working conditions unrelated to radiation hazards) does not fall within the scope of the NRC's responsibility. The NRC does not review the occupational safety practices followed during construction because the NRC's statutory mandate does not extend into this area of worker safety. The Missouri appellate court, at pages 17-18 of its opinion, recognized this distinction and stated that the (NRC) construction permit required Union Electric to have control over the quality of the work, not the safety of construction personnel.

The NRC and its predecessor, the Atomic Energy Commission (AEC), have long had a working arrangement with the Occupational Safety and Health Administration (OSHA) to cooperate in the areas of radiation protection and occupational safety. This cooperation started in the early 1970s and was in effect during the construction phase of the Callaway facility. In January 1983, this arrangement was incorporated into the NRC's inspection procedures. As shown in the recent Memorandum of Understanding between the NRC and OSHA dated October 21, 1988 (Enclosure 1), NRC personnel may identify nonradiological personnel safety concerns within the area of OSHA responsibility and bring such matters to the attention of a holder of a CP and, when appropriate, to OSHA's attention (55 FR 43950).

Union Electric's actions in overseeing Callaway's construction, including its contractual relationship with the Daniel International Corporation, did not constitute a failure to control construction under the NRC's regulations and standards. The NRC's regulatory role is to ensure that commercial nuclear power plants are designed, built, and operated in a manner that will adequately protect the public from any radiation hazards thereby created. Our requirements for issuance of a construction permit (10 CFR Part 50) specify the

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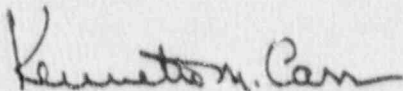
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information that must be submitted by an applicant. A brief discussion of this process is provided as Enclosure 2. The Atomic Safety and Licensing Board's (ASLB's) decision authorizing the issuance of a construction permit for Callaway is provided at Enclosure 3. In granting an operating license, the Commission must find that the facility has been constructed in accordance with the construction permit and that the facility can and will be operated in such a manner as not to endanger the public (10 CFR 50.57). The quality of the construction of Callaway was a particular issue in litigated proceedings before the grant of the operating license, and the ASLB determined that Union Electric properly controlled the quality of construction to permit the granting of an operating license. A copy of the ASLB's December 13, 1982 Decision (16 NRC 1826) in the Callaway Proceeding is provided as Enclosure 4.

Enclosure 5 provides more detail on Union Electric's control of construction of the Callaway facility and the steps taken by the NRC to ensure that Union Electric properly controlled the quality of construction.

Please contact me if you have any further questions on this matter.

Sincerely,



Kenneth M. Carr

Enclosures:  
As stated

cc: Representative Philip Sharp