

1/23/82

DOCKETED
USNRC

'82 SEP 27 11:29

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

OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of : Docket No. 50-358-0L
: :
: :
THE CINCINNATI GAS & ELECTRIC :
COMPANY, et al. :
: :
(Wm. H. Zimmer Nuclear Power :
Station) :

David Fankhauser's Memorandum In Support Of Miami Valley Power Project's
Petition For Reconsideration Of The Commission's Order Of July 30, 1982.

On July 30, 1982, the Commission issued an order directing the Atomic Safety and Licensing Board to dismiss the eight contentions raised as Board contentions pertaining to quality assurance of the Zimmer Nuclear Power Station. While these eight contentions were originally raised as contentions of another intervenor, Miami Valley Power Project (MVPP), Intervenor David Fankhauser, as a participant in these proceedings of the past six years and is a resident of the Zimmer area, shares MVPP's expressed concerns over the quality assurance program at the Zimmer Power Station.

While it is acknowledged by all parties and the Commission that the quality assurance conditions at Zimmer are of great importance and concern, the Commission in its order implicitly and explicitly suggests that further hearings on these contentions are not necessary in light of continued monitoring and investigation by the NRC staff. This expressed view by the Commission, suggests

8209280379 820923
PDR ADOCK 05000358
PDR
6

DS03

that its own established hearing processes are not an efficient means of establishing the facts. This position contradicts the very important status placed upon the hearing process as the foundation of administrative actions. Very clearly, Congress intended that important safety related issues such as the quality assurance questions at Zimmer be given a complete public examination through the NRC hearing processes.

Assuming arguendo that the Commission is correct in assuming that the continued Staff audit of the quality assurance issues would prove more productive and provide greater assurance of the public health and safety rather than having further hearings on the matter, this still does not warrant precluding the public participation and open examination of the issues provided by the hearing processes. The public at large, and the citizens of Clermont County in particular, should be given the right to participate in and view such a hearing. No other method of examining the issues will provide a proper measure of public participation and scrutiny into these very critical issues.¹

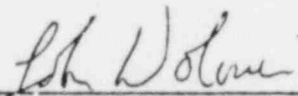
Recently, NRC officials have suggested that an independent audit of the quality assurance problems be performed. Such a suggestion seemingly contradicts the Commission's expressed confidence in the NRC staff's ability to deal with this issue through its own internal monitoring practices and procedures. Inherent in any suggestion of an independent audit of these issues, is the

1. In a recent hearing held by the City of Cincinnati on the quality assurance problems at Zimmer, it was reported that a NRC witness, when asked how severe the quality assurance problems were, testified that some of the problems were larger than a breadbox. Intervenor Fankhauser submits that the public should be given honest and forthright answers by this federal agency rather than clever replies such as the one described above.

assumption that the NRC internally cannot manage this monitoring activity or it lacks the public credibility to perform its job adequately. It should be noted that the suggestion by NRC officials that an independent audit be made occurred subsequent to the Commission's July 30, 1982, order. While an independent audit into these issues may be a good idea, such a suggestion calls into question some of the assumptions and conclusions contained in the July 30, 1982, order.

Finally, it should be noted that past hearings before the Board on various issues such as the evacuation and emergency plans, have been very productive and have rendered visible shortcomings in some of the staff's and FEMA's internal oversight activities. Intervenor Fankhauser submits that there is every reason to believe that future hearings may be just as productive. The public at large deserves as much.

Respectfully submitted,



John Woliver
Attorney for David Fankhauser
P.O. Box 279, 233 East Main Street
Batavia, Ohio 45103

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing document has been served by ordinary U.S. Mail postage prepaid upon the following persons this day of 23rd September, 1982:

John H. Frye III
Chairman, Atomic Safety
and Licensing Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Dr. Frank F. Hooper, Member
Atomic Safety and Licensing
Board
School of Natural Resources
University of Michigan
Ann Arbor, Michigan 48109

Dr. M. Stanley Livingston
Atomic Safety and Licensing
Board
1005 Calle Largo
Santa Fe, New Mexico 87501

Alan S. Rosenthal, Esq..
Chairman, Atomic Safety and
Licensing Appeal Board
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Deborah Webb
7967 Alexandria Pike
Alexandria, Kentucky 41001

Andrew B. Dennison, Esq.
Attorney at Law
200 Main Street
Batavia, Ohio 45103

Troy B. Conner, Esq.
Conner, Moore and Corber
1747 Pennsylvania Ave., N.W.
Washington, D.C. 20006

Lynne Bernabei, Esq.
Government Accountability Project/IPS
1901 Q Street, N.W.
Washington, D.C. 20009

Chase Stephens
Docketing and Service Branch
Office of Secretary
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Chairman, Atomic Safety and
Licensing Appeal Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

Chairman, Atomic Safety and
Licensing Board Panel
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

George Pattison
Prosecuting Attorney of
Clermont County
462 Main Street
Batavia, Ohio 45103

Stephen F. Eilperin
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Howard A. Wilber
Atomic Safety and Licensing Appeal
Board
U.S. Nuclear Regulatory Commission
Washington, D.C. 20555

Brian Cassidy, Esq.
Regional Counsel
Federal Emergency Management Agency
Region I
John W. McCormick POCH
Boston, MA 02109