

we concluded that that probability was sufficiently low to satisfy the established Commission guideline. We went on to note, however, that those data may not have continuing validity. In this connection, we observed that "it is possible that there has been in the interim (or will be in the future) a substantial change in, e.g., the number of heavy aircraft operations at Harrisburg or the nation-wide aircraft crash rate. Such a change might materially affect the probability estimates contained in this record." 16 NRC at ___ (slip opinion, p. 51). See also, id. at fn. 50. Accordingly, we imposed a license condition designed "to insure that, should the now-disabled Unit No. 2 return to service, "any significant changes in [nation-wide] crash rates or number of Harrisburg operations are taken into account in determining whether the [Commission] guideline continues to be satisfied." Id. at ___ (slip opinion, p. 52).

Because our jurisdiction in this proceeding is confined to Unit No. 2, we lacked the authority to impose a similar condition with respect to Unit No. 1. In footnote 61 at the end of ALAB-692, however, we suggested that the NRC staff might wish to consider taking that step itself prior to any resumption of Unit No. 1 operation. It was this suggestion that apparently undergirded the applicants' initial thought of calling for our reexamination of the license condition. Although their concern was not spelled out in detail in the

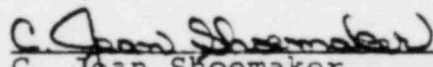
papers which produced the October 20 order, the applicants did convey the impression that, as they read the condition, it imposed an unnecessarily onerous burden upon them.

2. Attached to the notification that the applicants have now decided not to seek reconsideration of ALAB-692 was an exchange of correspondence with the staff, memorializing an agreement reached respecting the content of the condition that will be imposed upon the Unit No. 1 operating license at this time. We need not recite the terms of the agreed-upon condition here. Once again, Unit No. 1 is not involved in this proceeding and, thus, our approval of the condition as applied to that unit is not required (nor, indeed, has it been explicitly sought). But, in supplying to us the exchange of correspondence, the applicants may have been seeking our at least tacit acknowledgement that, in fact, the condition conforms to what we have ordered in connection with any subsequent resumption of Unit No. 2 operation. In any event, our silence would be susceptible of being interpreted as such an acknowledgement.

In the circumstances, we are constrained to record expressly that we have not passed upon the agreed-upon Unit No. 1 condition. Now, as before, our concern is with Unit No. 2 alone. As to that unit, the responsibilities of the applicants are clear. First, they must report heavy aircraft operations at Harrisburg at the intervals and in the manner specified in ALAB-692. See 16 NRC at ____ (slip

opinion, pp. 52-53). Second, prior to the return of Unit No. 2 to service, and at least every three years thereafter, the applicants must update their crash probability analysis. Id. at ___ (slip opinion, p. 53). In doing so, they are to take into account then current Harrisburg Airport traffic figures as well as any significant changes in nation-wide crash rates. We did not, however, intend to impose an additional obligation to redetermine the spatial distribution of aircraft crashes. There was no suggestion in ALAB-692 that that element of the probability analysis might significantly change with the passage of time. Rather, we referred to the possibility of a significant change only with regard to Harrisburg traffic and nation-wide crash rates.

FOR THE APPEAL BOARD


C. Jean Shoemaker
Secretary to the
Appeal Board