



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 16, 1994

Docket No. 50-289

(10 CFR 2.206)

Mr. Robert Gary
The Pennsylvania Institute for Clean Air
2211 Washington Avenue, #301
Silver Spring, Maryland 20910

Dear Mr. Gary:

On March 31, 1994, I issued Director's Decision No. DD 94-03 (Director's Decision) in response to your Petition dated July 10, 1992, which was submitted on behalf of The Pennsylvania Institute for Clean Air pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR). The Petition and various supplements thereto alleged a number of deficiencies in offsite emergency planning for the GPU Nuclear Corporation's Three Mile Island Nuclear Station, Unit 1 (TMI-1).

Your letter to Chairman Selin of April 6, 1994, your letter of April 7, 1994, titled "Principal Deficiencies in Director's Decision 94-03 Concerning PICA's Request Under 10 CFR 2.206," which was hand-carried by you to the Office of the Secretary of the Commission, and your "Statement Concerning the 10 Mile Rule" of April 20, 1994, have been referred to the staff for response.

Your letters of April 6, April 7, and April 20, 1994, raise several points not previously raised in regard to the 10-mile plume exposure pathway emergency planning zone (EPZ) and the financing of offsite emergency preparedness programs.

First, you stated that the City of Harrisburg should be either completely within or entirely outside of the 10-mile EPZ, in keeping with Long Island Lighting Company (Shoreham Nuclear Power Station, Unit 1), CLI-89-12, 26 NRC 383, 394-395 (1987), which interpreted 10 CFR 50.33 to call for adjustments to the EPZ on the basis of administrative considerations such as avoiding EPZ boundaries that arbitrarily carve out small portions of governmental jurisdictions. However, the exact size of the plume exposure pathway EPZ shall be determined in relation to local emergency response needs and capabilities as they are affected not only by jurisdictional boundaries, but also by such conditions as topography, demography, land characteristics, and access routes. *Id.* at 394. See also 10 CFR 50.33(g). The goal is planning simplicity and avoidance of ambiguity regarding the location of EPZ boundaries. Long Island Lighting Company, *supra*, at 395.

After the 1979 accident at TMI-2 and before restart of TMI-1, emergency planning for TMI-1 was examined in extensive evidentiary hearings before the NRC. The plume exposure pathway EPZ for TMI-1 was found to be in compliance with NRC regulations and to be adequate in providing reasonable assurance that

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the public health and safety will be protected. Metropolitan Edison Co. (Three Mile Island Nuclear Station, Unit 1), LPB-81-59, 14 NRC 1211, 1559 (1981), *aff'd*, ALAB-697, 16 NRC 1265 (1982); and ALAB-698, 16 NRC 1290 (1982). Before reaching that conclusion, the Atomic Safety and Licensing Board considered and denied requests to include within the EPZ the entire geographic extent of all political subdivisions that are bisected by a 10-mile circle around TMI-1. The Board found that "in every instance in which the EPZ boundary was not extended to include entire municipalities, the boundaries were established at roads or highways... . In this way, the plume EPZ boundary in any particular location is a clearly defined marker known to area residents...[which] is important for planning purposes because it will minimize confusion." *Id.* at 1556-57. The inclusion of a small portion of Harrisburg within the EPZ was not an arbitrary carving out of a governmental jurisdiction, but a reasoned decision consistent with emergency planning goals of simplicity and avoidance of ambiguity regarding location of EPZ boundaries. The Board also rejected requests to include the entire cities of Harrisburg and York and the urbanized areas surrounding those cities within the plume exposure pathway EPZ, concluding that there was no evidentiary basis to find inadequate the EPZ boundary lines which included portions of the urbanized areas in and around Harrisburg and York within the plume exposure pathway EPZ. *Id.* at 1557. No new evidence has been presented that would warrant revisiting that decision.

Second, you stated that "much" of the \$500,000 collected annually for TMI-1 emergency preparedness by the Commonwealth of Pennsylvania is actually spent on Pennsylvania Emergency Management Agency salaries and benefits, and that thus it is appropriate for the NRC to determine the real emergency preparedness funding needs of the Mayor and county executives. In view of the Director's Decision conclusion that adequate protective measures can and will be taken offsite in the event of a radiological emergency at TMI-1, there is no basis to determine the relative amount of direct and indirect State and local spending for offsite emergency preparedness planning, or to assume that additional local funds are required.

After the Director's Decision was issued, the NRC staff noted two errors in the Decision. By letter dated April 21, 1994, you were provided with errata pages 29 and 38. The correction to page 29 deletes a sentence that appeared at the end of Section III.A.7 and that stated: "The NRC has no statutory authority to implement such a request." Contrary to your letter of April 7, 1994, that deletion does not "suggest" that the NRC has the authority to federalize the collection and distribution of funds spent by States and localities for emergency preparedness. The Decision does not address the issue of whether the NRC has such authority. There was no need to address that issue in the Director's Decision because no evidence was presented to demonstrate that current funding is inadequate, and because I concluded that there is reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency at TMI-1.

May 16, 1994

Your letters of April 6, April 7, and April 20, 1994, also repeat several allegations made in your Petition, including and related to the 10-mile EPZ, the use of military trucks in evacuation planning, and the adequacy of the Federal Emergency Management Agency review of offsite emergency preparedness, and repeat several requests made in the Petition. The letters, however, provide no information or argument that was not already supplied and considered before the Director's Decision was issued.

For all the above reasons, your letters of April 6, April 7, and April 20, 1994, provide no basis for the NRC staff to reconsider the March 31, 1994, Director's Decision.

Sincerely,

Original Signed By
WILLIAM T. RUSSELL

William T. Russell, Director
Office of Nuclear Reactor Regulation

cc: See next page

See previous concurrence

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DATE	5/6/94	5/6/94	5/6/94	5/4/94	5/2/94
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NAME	JGoldberg	JCalvo	SVarga	LReyes	WRussell
DATE	5/6/94	5/6/94	5/6/94	5/9/94	5/16/94

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DOCUMENT NAME: G:\HERNAN\GARY.LTR

* See one suggested
change on p. 1.

Mr. Robert Gary

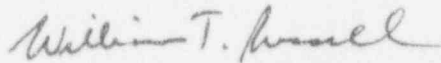
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For all the above reasons, your letters of April 6, April 7, and April 20, 1994, provide no basis for the NRC staff to reconsider the March 31, 1994, Director's Decision.

Sincerely,

A handwritten signature in cursive script, reading "William T. Russell".

William T. Russell, Director
Office of Nuclear Reactor Regulation

cc: See next page

Mr. Robert Gary

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Mr. Robert Gary

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The Honorable George W. Gekas
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Docket Files

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