

UNITED STATES
ATOMIC ENERGY COMMISSION
WASHINGTON, D.C. 20545

OCT 9 1973

Environmental Projects Personnel

ADEP PROJECT INSTRUCTION #56

KEEPING ASLBS' INFORMED

A Supplemental Decision (September 6, 1973) by the McGuire ASLB stated the following relative to new technical information which becomes available during the period that the ASLB is preparing its initial Decision.

"...But we must state that that change should have been brought to the attention of the Licensing Board much earlier than it was, and in any event prior to the issuance of its initial decision."

"In all future proceedings, parties must inform the presiding board and other parties of new information which is relevant and material to the matters being adjudicated."

"To avoid any ... understanding, we do not mean that necessary administrative actions by the regulatory staff should not go on while a proceeding is being adjudicated (see 10 CFR 2.717 (b)). But this does not mean that the staff or applicant can be permitted to leave the presiding body and the other parties to the proceeding in the dark about any change which is relevant and material to the adjudication. 15/"

"If the presiding board and other parties are not informed in a timely manner of such changes, the inescapable result will be that reasoned decision-making would suffer. Indeed, the adjudication could become meaningless, for adjudicatory boards would be passing upon evidence which would not accurately reflect existing facts. The disclosure requirement we impose is not the product of any overly procedural formalism on our part -- it goes to the very heart of the adjudicatory process. Its sacrifice for the sake of expediency cannot be justified and will not be tolerated."

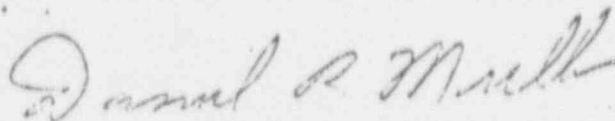
"15/ Any uncertainty regarding the relevancy and materiality of new information should be decided by the presiding board."

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If significant new technical information becomes available on your cases when they are in this stage of the licensing process, please do the following:

1. Decide whether the new technical information is sufficiently relevant to the issues of the case to warrant informing the ASLB.
2. Inform the OGC attorney on the case of your decision. (Note that he also has similar instructions on this.)
3. Prepare a brief memo (EP Branch Chief to OGC Section Chief) transmitting the new information.
4. Prior to sending the memo, route through me so that I can inform A. Giambusso.



Daniel R. Muller, Assistant Director
for Environmental Projects
Directorate of Licensing

cc: A. Giambusso
R. Boyd
T. Englehardt