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UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

BEFORE ADMINISTRATIVE JUDGES:  
Helen F. Hoyt, Chairperson  
Dr. Richard F. Cole  
Jerry Harbour

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In the Matter of  
PHILADELPHIA ELECTRIC COMPANY  
(Limerick Generating Station,  
Units 1 and 2)

Docket Nos. 50-352-OL  
50-353-OL

ASLBP No. 81-465-07 OL

February 5, 1985

MEMORANDUM AND ORDER REGARDING GRATERFORD PRISON\*

The entire Board denies the motion of the Graterford inmates for the full disclosure of the Graterford evacuation plan. We base our decision, which we announce today, on the following facts:

1. The movants have been repeatedly urged to specify the information they need based on expert opinion which is beyond that provided in the "sanitized" version of the Graterford Plan. Even today, this has not been done.

2. Case law based on the site security plan, while a guide, does not meet the issue here where this Board is concerned with hardened criminals, many of whom are capital cases. Those responsible for these prisoners' safety and welfare, the Department of Corrections, have formulated an evacuation plan with the Commonwealth of Pennsylvania's

\* Delivered to parties at hearing on January 29, 1985. Tr. 20,479-81.

experts on emergencies, including radiological emergency response plans, to best insure the safety of these prisoners, the prison staff and the general public whose welfare, even absent an emergency, would be impaired if this complete evacuation plan were to be disclosed at this time.

3. This case is one of first impression. The Nuclear Regulatory Commission is an agency in the business of regulating nuclear power. No member of this Commission's Board possesses any expertise whatsoever in matters dealing with the prisoners and their welfare. We, therefore, adopt what the Supreme Court said in *Bell versus Wolfish*, 441 US 520 (1979). We defer to those prison administrators who are responsible for maintaining internal order and discipline. We, too, are ill equipped to deal with matters of safety to prisoners and the general public, and accordingly, defer to those responsible state agencies and authorities, who perform these functions well and true.

4. The need to protect the general public far outweighs the needs of the Graterford prisoners to have present access to full details of an evacuation plan which is to be implemented only in the event that a nuclear accident were to occur at Limerick.

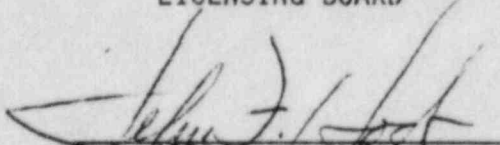
5. Any contention based on the detailed information contained in the plans would, of necessity, violate even the most rigidly drawn protective order. Certainly the Board does not hold to the belief that an attorney would overtly disclose the plans, but to discuss any matter, underline any matter, with the prisoners in framing a contention might

lead to an inadvertent disclosure which would compromise the integrity of the plan.

In addition, any litigation of the full Graterford plan would build a record of information susceptible to yet more disclosures and potential harm to the general public.

In accordance with the provisions of this Board's earlier orders, the Graterford Prisoners must file with the parties any contention based upon the Graterford emergency plan for the prison made available by the Commonwealth of Pennsylvania's Department of Corrections to the Prisoners counsel no later than the close of business on February 18, 1985. This means that any contention filed must be received in hand at the Washington offices of this Board no later than 5:00 PM (EST) on the named date.

FOR THE ATOMIC SAFETY AND  
LICENSING BOARD



Helen F. Hoyt, Chairperson  
Administrative Judge

Dated at Bethesda, Maryland  
this 5th day of February.