



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D. C. 20555

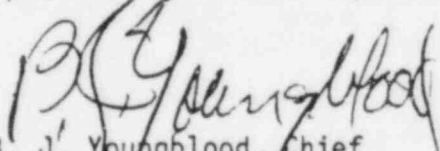
JUL 5 1984

Docket No.: 50-358

MEMORANDUM FOR: S. Treby, Assistant Chief Hearing Council, ELD
FROM: B. J. Youngblood, Chief, Licensing Branch No. 1, DL
SUBJECT: ENVIRONMENTAL ASPECTS OF CINCINNATI GAS AND ELECTRIC
COMPANY'S (CG&E) REQUEST TO WITHDRAW THE ZIMMER OL
APPLICATION

By motion dated March 20, 1984, CG&E, requested the Licensing Board to authorize withdrawal of its application to operate the Zimmer plant with nuclear fuel and stated its intent to convert the plant to burn coal. The NRR Staff in the Environmental and Hydrologic Engineering Branch have completed a review to determine the need for any conditions to protect the environment within the purview of the NRC. The review report is enclosed.

The staff concludes that there will be no significant detrimental environmental impact due to the termination of the operating license proceeding with the completion of applicant's restoration plan submitted June 1, 1984.


B. J. Youngblood, Chief
Licensing Branch No. 1
Division of Licensing

cc: D. Eisenhut
T. Novak
L. Kintner
R. Ballard
G. LaRoche
R. Warnick

Enclosure:
As stated

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ENVIRONMENTAL REVIEW OF
CINCINNATI GAS & ELECTRIC COMPANY'S
REQUEST TO WITHDRAW THE ZIMMER OL APPLICATION

Introduction

By motion dated March 20, 1984 filed with the Atomic Safety and Licensing Board, Cincinnati Gas and Electric Company requested the issuance of an order authorizing the withdrawal of the application to operate Zimmer as a nuclear plant. The NRC staff's response to this motion, dated April 9, 1984, advised the Licensing Board that the technical staff is conducting a review of the site to determine whether any conditions for the protection of the environment are necessary.

To accomplish a thorough environmental review we requested additional information regarding site restoration from the applicant on May 3, 1984. The information was transmitted to NRC by letter dated June 1, 1984 by James R. Schott, Zimmer Site Manager.

After evaluation of the additional information a site visit was made by NRC Staff on June 11-12, 1984. The primary objective of the site visit was to determine whether the site restoration plan considered all critical site areas. A particular effort was made to inspect areas of the site which potentially could be subject to continued erosion and contribute silt to surface waterbodies, as well as identify areas where standing water could result in saturated soils. The entire site, including the sedimentation pond was examined. The two areas with meteorological towers, which are offsite, were also examined.

Evaluation

The applicant's site restoration program transmitted by its June 1, 1984 letter consists of five components: (1) removal of all trailers and temporary buildings not believed useful for conversion of the site to a coal burning facility; (2) grading; (3) the addition of crushed rock; (4) limited modification to site drainage patterns; and (5) reseeding bare areas. All rented trailers were already removed from the site at the time of the site visit. All applicant-owned trailers had been moved from where they were being used and were stored in parking areas prior to sale. All cinder blocks, on which the trailers had rested were neatly piled and identified. These areas were now ready to be regraded, have additional crushed rock added or be seeded as shown on applicant's submittal of June 1, 1984, Plate 2. The NRC Staff did not identify any area that required attention that was not covered in the applicant's restoration plan.

In addition, NRR Staff flew the transmission lines from the Zimmer Station to the Silver Grove substation and from the Silver Grove substation to the Terminal Line substation. These transmission lines are currently energized and will continue to form part of the applicant's transmission grid. Outside of a few areas where trail bikes apparently have killed the herbaceous vegetation and soil erosion was evident, the transmission line right-of-ways are in excellent condition. The applicant will harrow and reseed the eroded areas.

Conclusion

The staff concludes that with implementation of the restoration plan there will be no significant detrimental environmental impact on or offsite during the period in which the site is sitting idle awaiting the start of construction activities related to conversion of the site to a coal burning facility. The restoration plan specifies that seeding should take place no later than the first week in October 1984 and that most trailers and miscellaneous buildings be removed by the end of December 1984.

Accordingly, the staff recommends with regard to environmental protection that termination of the operating license proceeding be conditioned upon implementation of the applicant's June 1, 1984 restoration plan. Implementation will be verified by NRC Staff inspection.

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

ATOMIC SAFETY AND LICENSING BOARD

Before Administrative Judges:
John H Frye, III, Chairman
Gustave A. Linenberger
Dr. Frank F. Hooper

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OFFICE OF SECRETARY
DOCKETING & SERVICE
BRANCH

In the Matter of
THE CINCINNATI GAS & ELECTRIC
COMPANY, et al.

(Wm. H. Zimmer Nuclear Power
Station, Unit 1)

Docket No. 50-358-OL

(ASLBP No. 76-317-01-OL)

August 29, 1984

MEMORANDUM AND ORDER
(Ruling on Applicant's Motion to Withdraw Application)

On March 20, 1984, Applicants moved for an Order authorizing withdrawal of their application for an operating license for this facility and dismissing this proceeding. In support of their motion, Applicants represented that:

- 1) All fuel would be removed from the site by August 31, 1984;
- 2) The nuclear steam supply system would be modified to prevent its operation as a "utilization facility" (defined by § 11(cc) of the Atomic Energy Act) by:
 - a) severing and welding caps on the two main feedwater lines and four main steam lines; and
 - b) removing the control rod drive mechanisms;
- 3) The balance of the plant will be used to the extent possible as part of a fossil-fired generating station; and

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4) Applicants have no objection to the dismissal of the application "with prejudice."

Only the NRC Staff responded to this motion. In its April 9, 1984, response, Staff points out that § 11 (cc) of the Atomic Energy Act defines a "utilization facility" as one which is capable of making use of special nuclear material. Therefore, according to Staff, because the facility is essentially complete, it must be disabled so that it cannot make use of special nuclear material. Staff found that the modifications which Applicants represented they would make would accomplish this purpose. Staff therefore urged that the motion be granted subject to the condition that these modifications be made and to the condition that the fuel be shipped from the site by August 31, with implementation of the conditions to be verified by Staff.

Staff also noted that it had no objection to dismissal of the application with prejudice and urged that we include such a condition. Staff gave no reasons for this position.

Finally, Staff noted that it was reviewing the site to determine whether conditions for the protection of the environment were necessary. Staff indicated that it would advise the Board of its conclusions in this regard.

On August 2, 1984, Applicants filed certain information with the Board relevant to their motion. In this filing, Applicants advised us that they had shipped their fuel off-site and had accomplished the modifications to the nuclear steam supply system which they represented they would make. Applicants therefore renewed the request contained in

their motion. On August 7, the Board Chairman wrote counsel for Applicants indicating that the Board would act on the motion promptly upon receiving Staff's conclusions with regard to the need for conditions to protect the environment.

On August 17, the Staff filed a further response to the Applicants' motion. Staff noted that it had conducted an inspection and verified that the feedwater and main steam lines had been severed and capped, and that the Applicants were in the process of removing the control rod drive mechanisms. During the inspection, Staff verified that the fuel had been removed from the site. This inspection was conducted from April 27 through July 16, 1984. Staff attached a copy of Inspection Report 50-358/84-05 to its response.

Staff also advised us that it had reviewed certain additional information relevant to environmental protection which Applicants furnished in response to Staff's request and had visited the site. Staff concluded that, based upon this review, withdrawal of the application should be conditioned on implementation of Applicants' June 1, 1984, restoration plan (which was furnished with the information Staff requested), such implementation to be verified by Staff. Staff furnished its environmental review and the affidavit of Germain La Roche in support of its conclusion.

After receiving Staff's August 17 response, we inquired of Applicants' counsel whether he wished to reply and were informed that he did not.

We agree with Staff that it is necessary that the nuclear steam supply system be modified to prevent its utilization of special nuclear material and that the reactor fuel be shipped off-site. We are satisfied that these steps have been accomplished. Having heard no objection from Applicants, we will condition our authorization to withdraw the application on implementation of the June 1, 1984, site restoration plan, such implementation to be verified by Staff.

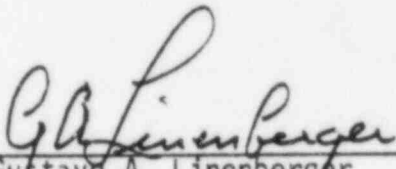
Applicants do not object to the authorization of withdrawal of the application with prejudice and have included such a provision in the draft order accompanying their motion. That provision states that the authorization is ". . . with prejudice to future reapplication by the Applicants for the construction and operation of any nuclear power facility at the same site." Staff, without elaboration, urges that the authorization be so conditioned. Ordinarily such a condition would only be imposed if substantial prejudice would otherwise result to a party who opposed the application. See Puerto Rico Electric Power Authority (North Coast Nuclear Plant, Unit 1) ALAB-662, 14 NRC 1125 (1981) and Philadelphia Electric Co. (Fulton Generating Station, Units 1 and 2) ALAB-657, 14 NRC 967 (1981). Here no party has seen fit to attempt to make such a showing. And despite years of consideration of both the construction permit and operating license, no final agency decision has been rendered which disapproves these applicants, this site, or this reactor. In these circumstances, we view the attachment of such a condition to the authorization to withdraw the application as unnecessary. Therefore we have not included such a condition.

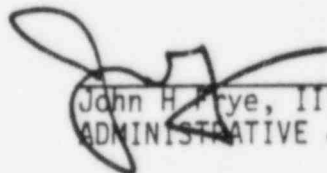
In consideration of the foregoing, it is this 27th day of August, 1984, ORDERED that:

Applicants' motion for authorization to withdraw their application and for termination of this proceeding is granted subject to the condition that Applicants are to implement their June 1, 1984, site restoration plan and Staff is to verify that this has been accomplished within six months of the date of this Memorandum and Order.

Dr. Hooper concurs but was unavailable to sign this Memorandum and Order.

THE ATOMIC SAFETY AND
LICENSING BOARD


Gustave A. Linenberger
ADMINISTRATIVE JUDGE


John H. Frye, III, Chairman
ADMINISTRATIVE JUDGE

Bethesda, Maryland
August 29, 1984

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of)

CINCINNATI GAS AND ELECTRIC)
COMPANY)

(William H. Zimmer Nuclear)
Power Station))
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Docket No.(s) 50-358

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document(s) upon each person designated on the official service list compiled by the Office of the Secretary of the Commission in this proceeding in accordance with the requirements of Section 2.712 of 10 CFR Part 2 - Rules of Practice, of the Nuclear Regulatory Commission's Rules and Regulations.

Dated at Washington, D.C. this

30th day of Aug 1974.

Peggy H. Downing

Office of the Secretary of the Commission

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

In the Matter of

CINCINNATI GAS AND ELECTRIC COMPANY

(William H. Zimmer Nuclear Power Station)

Docket No. (s) 50-3580L

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