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January 28, 1986

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CABLE ADDRESS: ATOMLAW

Mr. Harold R. Denton
Director
Office of Nuclear Reactor
Regulation
U.S. Nuclear Regulatory
Commission
Washington, D.C. 20555

In the Matter of
Philadelphia Electric Company
(Limerick Generating Station, Units 1 and 2)
Docket Nos. 50-352 and 50-353

Dear Mr. Denton:

By letter dated January 17, 1986, Robert L. Anthony, on behalf of himself and Friends of the Earth in the Delaware Valley, filed an "appeal" with the Director, Office of Nuclear Reactor Regulation, asking that you find that Philadelphia Electric Company ("Licensee") is in violation of the conditions of Facility Operating License NPF-39 for the Limerick Generating Station, Unit 1 ("Limerick"). In effect, Mr. Anthony is seeking relief pursuant to 10 C.F.R. §2.206 "to stay the operation of the Limerick reactor immediately and suspend the license" on the basis of its pending application before the Delaware River Basin Commission ("DRBC") for an interim supplemental cooling water supply for Limerick Unit 1 during 1986.

For your information, Licensee filed an application with DRBC on December 16, 1985, which was furnished to the Commission and parties to the Limerick proceeding on January 23, 1986. The application was the subject of a hearing before DRBC on January 22, 1986 and is currently pending decision. DRBC indicated that it would act upon the application at its next meeting on February 26, 1986. It seeks, for 1986, the withdrawal of water from the Schuylkill River for consumptive use at Limerick Unit 1 by temporary substitution of in-stream monitoring of dissolved oxygen levels in place of the existing 59°F temperature constraint, similar to the relief granted in DRBC Docket No. D-69-210 CP (Final) (Revised) (May 29, 1985), and by transfer of the

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AD.

EB (LIAW)
PSB (L. HULMAN)
EICSB (SRINIVASAN)
RSB (ACTING)
FOB (VASSALLO)
AD - G. LAINAS (Ltr only)

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existing consumptive use allocations of Titus Generating Station Units 1, 2 and 3 and Cromby Generating Station Unit 2 to Limerick Unit 1 when existing DRBC docket limitations would otherwise preclude the consumptive use of Schuylkill water for Limerick, similar to the relief granted in DRBC Docket No. D-69-210-CP (Final) (Rev. No. 2) (August 9, 1985).

Mr. Anthony's instant request is much the same as the petition he filed on October 1, 1985 with the Director, asking the NRC to require Licensee to withdraw its applications to DRBC regarding an interim water supply for Limerick by a reduction in the Schuylkill flow constraint from 530 cfs to 415 cfs at the Pottstown gage and for approval of releases from the Beechwood Pit. This relief was denied by the Acting Director in the "Director's Decision Under 10 CFR §2.206," dated November 12, 1985.^{1/}

As in the instant matter, petitioner in the earlier matter alleges he was "concerned that the Licensee will receive authorizations from the DRBC regarding water usage which permit it to operate in a manner in violation of the environmental license conditions."^{2/} Nonetheless, the Acting Director denied the requested relief, ruling that whether Limerick would actually operate under any revised docket conditions which have any relevance to NRC license conditions is "highly speculative."^{3/} The Acting Director cited and relied upon an earlier decision where the Director held:

The requirements of the EPP are triggered at the time of the Licensee proposed action. The Licensee must meet these requirements and take appropriate actions prior to taking the action itself. Compliance with these requirements in a timely manner so as to gain

^{1/} Philadelphia Electric Company (Limerick Generating Station, Units 1 and 2), DD-85-18, 22 NRC _____ (1985). The decision was also published at 50 Fed. Reg. 47467 (November 18, 1985).

^{2/} Id. (slip op at 2).

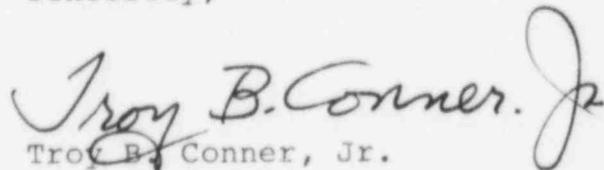
^{3/} Id. (slip op. at 3).

the relief of any changes sought is a matter for the Licensee's consideration.^{4/}

Accordingly, as the Director characterized an earlier petition filed by Del-Aware Unlimited, Inc. under Section 2.206, the instant request involves concerns which "are premature as evidenced by the lack of specificity that any of the Licensee's activities are being carried on in violation of Commission requirements."^{5/} If and when DRBC grants the relief requested by Licensee in its application of December 16, 1985, the Licensee will perform the environmental evaluation required by its license to determine whether DRBC's authorization involves any unreviewed environmental question. As a practical matter, this evaluation cannot be performed until the Licensee has had an opportunity to review DRBC's analysis in its decision, if favorable, as well as any conditions imposed in granting the requested authorization. Until DRBC has acted, however, the requirements of the license conditions cited by Mr. Anthony are not triggered.

Accordingly, the Licensee respectfully requests that the Director deny the request by Mr. Anthony on the ground that no license condition has been violated, that the concerns expressed by Mr. Anthony are premature, and that the allegations are without any factual or legal basis.

Sincerely,


Troy B. Conner, Jr.
Counsel for Licensee

TBC/df

^{4/} Id., citing Limerick, supra, DD-85-8, 21 NRC 1561, 1566 (1985).

^{5/} Limerick, supra, DD-85-8, 21 NRC 1561, 1566 (1985).