

REGULATORY DOCUMENT FILE COPY

November 14, 1980

Mr. Philip Fryberger
Cornelius, North Carolina

Dear Mr. Fryberger:

Your letter dated September 29, 1980 to the Nuclear Regulatory Commission, received on October 7, 1980 has been referred to me for response.

Your letter requests that the hearing regarding the McGuire facility be reopened to consider problems associated with the low pressure containment and the danger of a hydrogen explosion at the McGuire Nuclear facility. You also express concerns about emergency plans to be implemented for the McGuire Nuclear facility.

An Initial Decision approving the operation of the McGuire facility in the proceeding was issued by the Licensing Board on April 18, 1979. In the Initial Decision, the Licensing Board, on the basis of specific findings of fact and conclusions of law ordered that the Director of Nuclear Reactor Regulation, upon making the requisite findings with respect to uncontested matters not embodied in the Initial Decision, was authorized to issue an operating license for the McGuire facility. However, the Board stayed the effectiveness of the Initial Decision "until further order by the Board following the issuance of a supplement to the NRC Staff's Safety Evaluation Report ("SER") addressing the significance of any unresolved safety issues." In May 1980, the NRC Staff issued its Safety Evaluation Report Supplement No. 3 (SER, Supp. 3) addressing the generic unresolved safety issues. Based on issuance of SER, Supp. 3, on May 30, 1980, Duke Power Company filed a motion requesting the Licensing Board to terminate its stay of the Initial Decision.

In regard to the matter of containment rupture in the event of a TMI-2 type of accident, I have enclosed copies of Commission materials which address your concerns, i.e., "Proposed Interim Hydrogen Control Requirements for Small Containments" SECY-80-107 (February 22, 1980); "Additional Information Re: Proposed Interim Hydrogen Control Requirements", SECY-80-107-A (April 22, 1980); and "Additional Information re: Proposed Interim Hydrogen Control Requirements, SECY-80-107 B (June 20, 1980). I have also enclosed a copy of "Further Commission Guidance for Power Reactor Operating Licenses, Statement of Policy", (45 Fed. Reg. 41732; June 20, 1980). ("Policy Statement").

As explained in the Policy Statement with respect to TMI-2 issues:

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"the Commission believes that where the time for filing contentions has expired in a given case, no new TMI-related contentions should be accepted absent a showing of good cause and balancing of the factors in 10 C.F.R. 2.714(a)(1). The Commission expects strict adherence to its regulations in this regard."

On August 15, 1980, CESC, the Intervenor in this proceeding, filed a motion to reopen the McGuire proceedings with respect to matters involving hydrogen generation and the potential for breach of containment. These motions are currently pending before the Licensing Board for resolution. Thus, CESC's concerns, which are similar to yours, are being considered with respect to the questions of whether the record will be reopened.

With respect to your concerns about Duke Power Company's evacuation plans, the NRC Staff is currently reviewing Duke's evacuation plans for the McGuire facility to determine whether they meet the emergency planning requirements of the U.S. Nuclear Regulatory Commission as set forth in 10 CFR Part 50 of the Commission's regulations.

I am also enclosing a copy of the Commission's Rules of Practice contained in 10 CFR Part 2, for your use in the event you desire to formally petition to intervene in the proceeding before the Licensing Board and request a hearing. These procedures also explain the "good cause" showing requirement and the other criteria that must be met before a late petition to intervene will be granted. I recommend that you also read Appendix A to 10 CFR Part 2 for a general understanding of the practice and procedure governing Commission proceedings.

If you have further questions regarding this matter, you may contact the undersigned at (301) 492-7502.

Sincerely,

Edward G. Katchen
Counsel for NRC Staff

Enclosure: As stated

cc (w/o encl.):
Robert M. Lazo, Esq.
Dr. Emmeth A. Luebke
Dr. Cadet H. Hand, Jr.
J. Michael McGarry, III, Esq.
William Larry Porter, Esq.
Mr. Jesse L. Riley
Atomic Safety & Licensing Board Panel
Atomic Safety and Licensing Appeal Board
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Mr. Philip Fryberger

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Send as Moore letter

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OFFICE	Secretary	<i>DEADLINE</i>	<i>Ketchen</i>
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DATE	11/5/80		