

AA61-2

PDR

JAN 16 1984

NOTE FOR: Joseph Scinto
FROM: William J. Olmstead
SUBJECT: OGC BRIEF IN TURKEY POINT

Pursuant to Guy Cunningham's request, I have reviewed the draft brief for the Turkey Point lawsuit sent to ELD from Mark Chopko. I have a number of comments which I am submitting to you for incorporation in ELD comments back to OGC.

In the first full paragraph on page 5, it is stated: "... the NRC generally treats reversible action as presenting no significant hazards considerations ...". I think that the fact that the Turkey Point amendment is reversible probably helps the OGC position. This fact, however, is not one which effects the no significant hazards determination. The question of reversibility is one of sensitivity but not one which affects the application of the standards.

On page 6, it is stated that the staff treats issues raised in a request for hearing on a no significant hazards amendment as a "motion to reconsider". I do not believe this is accurate. The staff documents its finding as it receives comments. Presumably, the staff considers the comments. However, it does not formally apply any legal standards other than those set out in 50.92.

I would suggest revising the first sentence on page 9 to read: "the staff has encouraged utilities to reduce the embrittlement process." I do not believe the brief should imply that the staff is actively seeking ways to permit reactors to continue to operate in the face of safety questions. The parenthetical in the last sentence of that paragraph also needs revision. I would suggest that it state: "as noted, the welded middle of the vessel would be especially susceptible to a fracture in the event of pressurized thermal shock".

Footnote 4 on page 10, 5th line, should read "set of" instead of "set up".

The argument concerning the jurisdiction of district courts accurately reflects my understanding of OGC's position. I have no particular additions to suggest. However, if we lose on this argument, I assume we will have the opportunity to address the no significant hazards question in greater detail and more persuasively.



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