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UNITED STATES OF AMERICA '86 APR 16 08:11

NUCLEAR REGULATORY COMMISSION
OFFICE OF DOCKETING

Docket No. 50-346 ML

In the matter of:
TOLEDO EDISON CO. and CLEVELAND
ELECTRIC ILLUMINATING CO.
(Davis-Besse Nuclear Power
Station, Unit No. I)

APR 16 1986

PETITION OF SAVE OUR STATE FROM NUCLEAR WASTES, CONSUMERS LEAGUE OF OHIO,
ARNOLD GLEISSER, AND GENEVIEVE S. COOK FOR LEAVE TO INTERVENE ON THE RADIOACTIVE
SLUDGE DISPOSAL ISSUE AND FOR THE ADJUDICATION HEARING

Now Save Our State From Nuclear Wastes (hereinafter "SOS"), The Consumers League of Ohio
(here nafter "CLO"), Arnold Gleisser, and Genevieve S. Cook petition the Commission for
leave to intervene in the proceeding wherein Toledo Edison Co. and the Cleveland Electric
Illuminating Co. (hereinafter "Licensees") seek approval from the Commission to bury low-
level radioactive dredgings (from their settling ponds) on site at the Davis-Besse Nuclear
Power Station complex in Ottawa County, Ohio. Intervenors support the petition with the
accompanying Memorandum.

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MEMORANDUM

1. Intervenor

By a notice entitled "Environmental Assessment and Finding No Significant Impact" Dated October 8, 1985 and which appeared in the October 9, 1985 Federal Register (50 FR 41265) the Nuclear Regulatory Commission staff concluded that the open-pit burial of low-level radioactive sludge from the settling ponds at Davis-Besse would have no significant effect on the public health and environment.

Petitioner Save Our State From Nuclear Waste (SOS) is a non-profit Ohio environmental group, the address of which is 5005 S. Barton Rd., Lyndhurst, Ohio--44124 (Phone:(216) 291-1385). Chaired by Petitioner Arnold Gleisser, a retired high school teacher of the same address, and composed of 35 members, the SOS group works with public officials and innumerable environmental groups in the matter of nuclear issues of significant importance to the health and environment of the citizens across northern Ohio.

For example, SOS organized some 14 meetings across northern Ohio from Jefferson to Toledo in opposition to the 141 truckloads of highly radioactive reactor spent-fuel^{from West Valley, N.Y.} being transported to Illinois and Wisconsin. The trucks planned to cross northern Ohio through heavily populated metropolitan areas. The meetings were held in Mayors' offices, city Council chambers, and public libraries with the cooperation of city, county, and even state officials, as well as local citizens groups. The last meeting was in Toledo in conjunction with the Toledo Coalition for Safe Energy, Inc.

These educational public meetings resulted in having the 141 loads transferred to the Ohio Turnpike, monitored for radiation leaks at the state line, and escorted across Ohio by the State Highway Patrol. Also, local police and firemen, who would be first on the scene in case of a transportation accident involving a radiation spill, began to get training, equipment, and protective clothing for such emergencies.

SOS was also an active participant in the local effort to keep radioactive waste out of our salt mines along Lake Erie and under the lake in several areas. After all, Lake Erie provides drinking water for a few million people. Radiation heat can cause salt mine col-

lapse or subsidence, but the danger was averted by the active opposition of local Council members, our Congressmen, and several local citizens groups along with SOS.

Petitioner Consumers League of Ohio (CLO) is a non-profit Ohio corporation whose office address is 1365 Ontario St.--#317, Cleveland, Ohio--44114 (Phone: (216) 621-1175). It has a membership of about 350, one third of which is comprised of organized groups throughout Ohio, so that the combined membership would number in the thousands of Ohio citizens, including many in the Toledo and Davis-Besse areas. Its principal service is concerned with the health, safety, and protection of its members and the public in a diversity of issues.

These issues include product complaints and safety as well as equipment licensing and inspection, especially of various systems in which radiation is a factor. Another vital concern is the state and local controls for the safe transportation and disposal of various hazardous wastes, including the radioactive. Reliable insurance protection, especially in matters of health and emergencies, are also part of the CLO program. This includes the liability amendments now under discussion in Congressional committees over another extension of the Price-Anderson Act, which regulates and limits insurance coverage in case of a nuclear power accident.

The CLO supported the intervention of the Coalition for Safe Electric Power in the Davis-Besse construction license hearings in 1971-2. It also opposed the spent-fuel shipments across Ohio cities from West Valley, N.Y. CLO also opposed the use of Ohio salt mines for high-level rad-waste storage, especially those along Lake Erie, from which cities get their water supplies.

Petitioner Genevieve S. Cook was Educational Committee ^{Chairman} for the Coalition for Safe Electric Power when the group was an intervenor in the Davis-Besse construction license and environmental hearings. A retired school teacher, she has been a writer and speaker on various nuclear and toxic issues for the past 15 years, participating in innumerable programs around Ohio and western Pennsylvania. On several occasions she has debated Cleveland Electric and Westinghouse PR personnel, including television and radio programs. Some of these educational programs took place in Toledo in conjunction with the Toledo Coalition for Safe Energy and Audubon programs. She was also one of 3 speakers in the SOS meetings which opposed the West Valley spent-fuel shipments. Her service is principally concerned with the public health and safety with respect to all nuclear power issues and waste disposal.

2. Grounds for Intervention

Petitioners seek leave to intervene in this license modification proceeding and to oppose the granting of permission to the Licensees to dispose of the radioactive sludge-resin dredgings from the Davis-Besse settling ponds or any other radioactive materials in a shallow landfill dump on the Davis-Besse site.

OUR SPECIFIC INTERVENTION CONTENTIONS ARE:

1. There were several Davis-Besse site issues which would be part of the hearing record for the construction license but which were never considered in the correspondence between Toledo Edison and NRC's Mr. John F. Stolz concerning the site disposal of low-level radioactive wastes:
 - a. The Davis-Besse nuclear facility was built on the Navarre Marsh--not beside it-- despite wide protest and public objection.
 - b. The Navarre Marsh was a Wildlife Sanctuary and an International Bird Flyway. Stewart Udall, then Interior Secretary, said that had he known this, he would not have permitted the Licensees to trade the Darby Marsh for the Navarre.
 - c. Lake Erie fish spawning reefs lie off-shore in this area.
 - d. At the construction license hearings, Toledo Edison reassured the public that the nuclear plant would use only about 200 acres of the Navarre Marsh and the rest would be retained as a Wildlife reserve.
 - e. None of these details are to be found in the Davis-Besse Final Safety Analysis Report or the Final Environmental Statement.
2. The Navarre Marsh is in flood-plain area --an area subjected to extremely severe storms. A 1972 storm flooded the whole Navarre Marsh and broke the Davis-Besse dyke in 2 places.
3. Davis-Besse dykes were to be made higher and stronger. However, the dykes today show considerable deterioration. Also Lake Erie is 1 1/2 ft. higher today than its all time record and further increases in lake level are predicted.
4. Toledo Edison's estimate of radiation dose from the settling ponds and shallow sludge-resin landfill dump are applicable only to humans. There is no consideration of the role that wildlife would play in spreading the radiation, which would reconcentrate in their bodies from their food and water.
5. Runoffs from both the settling ponds and burial area would lead to reconcentration in fish also, destroying the local merchant fishing industries and endangering public food supplies.
6. The amount of sludge-resin waste that Toledo Edison wants to dispose of onsite has been vastly understated as evidenced when compared to such output from comparable reactors. This means the radiation amount has been understated also.
7. Toledo Edison is not talking about 34,000 ft.³ of waste but 6 times 34,000 ft.³ which totals 204,000 ft.³ for crude burial on a marsh.
8. We question whether any NRC research studies have ever been done on the area effects of of a shallow sludge-resin dump located on a marsh.
9. Cesium-137 has a half life of 30.2 years and would still be radioactive after 300 years.

9. What does the NRC staff mean specifically by "unrestricted use" of the landfill site after 30 years? Is Ohio getting a low-level rad-waste dump with no public hearings for official or local citizen input?
10. Both the Davis-Besse FSAR and the Final Environmental Statement-1973-(Docket No.50-346) (Construction) make no mention of either settling ponds or site disposal of these sludge-resin wastes. Both include provision for packaging the wastes for off-site shipment to a licensed low-level commercial landfill within 300 miles.
11. The 3 licensed rad-waste landfill facilities within 300 miles have been shut down and found to be leaking all over the area from radiated water run-off--the "bathtub effect." Maxi Flats Sheffield West Valley
12. It would appear that the NRC staff might be granting site disposal for Davis-Besse sludge-resin wastes without adequate on-site investigation because of a shortage of commercial licensed rad-waste burial facilities. Three more distant facilities are reported almost full.
13. TEC's operating license for Davis-Besse (License No. NPF-3) speaks of reprocessing high-level wastes and of shipping low-level wastes to a licensed landfill. It further states that there would be no significant effluent to the environment. Yet TEC's letter to Mr. Stolz of NRC (Docket No.50-346) (License No. NPF-3) (Serial No.972) of July 14, 1983 goes into great detail concerning the operation of Davis-Besse's settling ponds. There is almost no mention of the landburial plans in this application for such--no specifics. Even in subsequent correspondence there is a paucity of these specifics.
14. Nobody seems to know of any provisions for the use of settling ponds at Davis-Besse either. One must assume their use was arranged by means similar to the burial-on-site--and hearings, no public discussion--a public penalty for not reading the Federal Register.
15. Davis-Besse is a Babcock-Wilcox design facility with Problems. It was operated only 32% of the time its first 4 years. Presently it has been shut down since June 9, 1985. If any malfunction resulted in higher radiation levels in the sludge-resin batches, it is very likely that the batch would simply be disposed of via settling pond and landfill. TEC was fined \$900,000 by NRC this past year for its procedures.
16. Permission for Davis-Besse site disposal of sludge-resin wastes will establish a precedent for the same procedure at CAPCO's Perry nuclear facility. Or would Cleveland Electric Illuminating wish to use the Davis-Besse site for Perry's sludge-resin wastes since CEI is half owner of Davis-Besse?
17. There are no provisions for monitoring at Davis-Besse--both on-site and off-site for radiation migration through the soil, for leaching, flooding run-off, or erosion of the 5 inch cover material over the landfill. Also there is no report of lake water monitoring since the use of settling ponds nor of future plans for monitoring after the landfill would be in use.
18. There is no insurance coverage for damage to private property or for injury to the public from operation of this onsite disposal method use on a marsh.
19. Employees, far from being less exposed to radiation injury, might have greater exposure from on-site disposal since it entails double handling of these materials and probably daily exposure to rad-leakage into the air and water surrounding them.

3. Conclusion

Intervenors state that the foregoing contentions are grounds for adjudication, and demand same to occur prior to any dumping of radioactive material into the ground at the Davis-Besse site. If the Commission were to allow Licensees to accomplish the proposed dumping, Petitioners' interest in radiation-free air, water, and soil would be irreparably damaged.

WHEREFORE, Petitioners pray the Commission grant them leave to intervene upon all the foregoing contentions; that these matters be set for hearing; and that Licensees request be wholly denied.

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For the Intervenors

Certification

I hereby certify that a copy of the foregoing "Petition of Save Our State From Radioactive Wastes; The Consumers League of OHIO; Arnold Gleisser; and Genevieve S. Cook to Intervene on Radioactive Sludge-Resin Issue and for Adjudication" was sent by me via U. S. Mail, postage prepaid, to the following this 11-th day of April, 1986:

Shaw Pitman, Potts & Trowbridge
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Executive Legal Director
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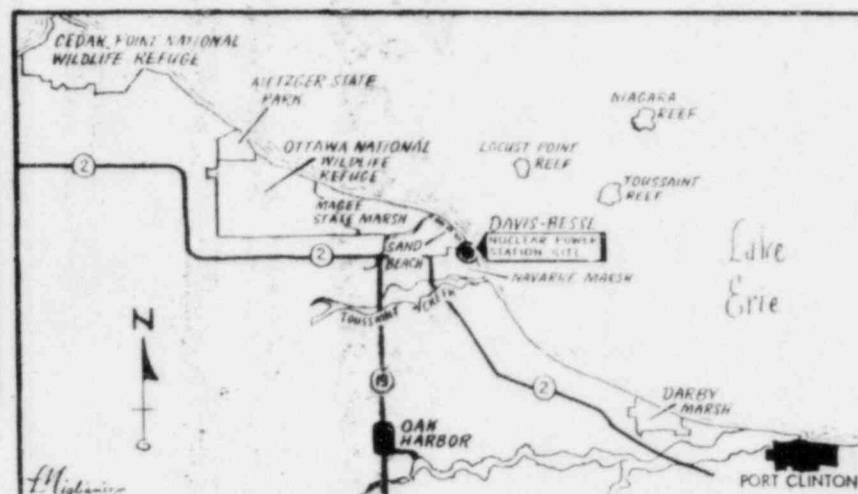
Nuclear Power Plant Site



FORMER REFUGE—Battered sign marks the boundary of a former wildlife refuge now owned by two Ohio utility companies. They plan to build a nuclear power plant there. Commercial fishing boat (background) maintains nets along the area where the plant is to dump huge amounts of hot water.



FISHING HOLE—The Tossaint Creek near its Lake Erie mouth is a popular fishing spot and close to the site of the proposed nuclear power plant.



Will A-Power Plant Kill Lake Sanctuary?

by RICHARD C. WIDMAN
and
WILLIAM D. MCCANN
Staff Writers

PORT CLINTON, O. — Along the south shore of Lake Erie, between here and Toledo, lie some 12,000 acres of state and federal marshlands—the remnants of a vast natural wildlife sanctuary.

In the midst of these lands, unscarred by today's big-city asphalt and concrete jungles, the Toledo Edison Co. and the Cleveland Electric Illuminating Co. are moving to build a \$240-million nuclear power plant.

The companies plan to build the plant on a 900-acre site of Navarre Marsh, acquired from the U.S. Bureau of Sport Fisheries and Wildlife in exchange for a private preserve, Darby Marsh, owned by Toledo Edison.

The unused portion of the plant site marshland—perhaps some 400 acres—will continue under federal jurisdiction as a wildlife refuge.

NAVARRE MARSH IS JUST west of the Toussaint Creek. Darby Marsh is several miles to the east.

The utility companies are confident the plant will cause no harm to the environment. But a growing number of biologists, conservationists and state and federal offi-

cials say the plant could cause some harm—either by releasing small amounts of radioactive waste into the air and water or by dumping tremendous amounts of heated water into the lake.

The U.S. Atomic Energy Commission has announced it will hold a public hearing on the plant this fall. This hearing will involve the construction itself and radiation safety. It would be up to the Ohio Water Pollution Control Board to hold any hearings on facilities to control hot water discharges.

No one can predict for sure, however, just how extensive any damage might be.

The plant would produce much-needed power to run industry's machines and the homeowner's electric lights, toasters, air-conditioners and other appliances.

BUT IN ORDER TO PRODUCE this energy, the plant must draw from the lake more than a billion gallons of water a day to cool its condensers.

The water would be put back out at a temperature increase of 12 degrees, further affecting a lake which many scientists and conservationists say is "dying."

Karl E. Bednarik, nationally-known waterfowl biologist and manager of Ohio's Magee Marsh, which is near the plant site, told The Plain Dealer that the plant's hot water discharge could create a "biological desert" in part of western Lake Erie.

Bednarik said if a utility company contention that fish would "swim away" from the hot water were correct, then no plant or animal life could live there except green algae scum. The heated water could nurture the growth of such scum, he said.

A GROWING PROBLEM ALONG the lake's shore, the algae growths foul swimming beaches and boats and, according to scientists, exhaust oxygen in the water, resulting in fish kills.

"I'm not against progress but every safeguard that could go in should go in," Bednarik remarked. "And that includes cooling facilities."

In their official report to the Ohio Water Pollution Control Board, the utilities stated their case for not spending an estimated additional \$17 million to \$19 million for towers to cool the water.

A principal objection, their officials said, is that the towers would create a visible "fog" over the area a few days a year. Under certain wintertime conditions, this would cause icing on Ohio 2, which runs within a mile of the plant site.

"WE ALREADY HAVE GROUND fog here much of the time anyway, and people have learned to drive carefully because they expect some ice on the highway," Bednarik commented.

Bednarik also pointed out that Ohio 2 is scheduled for relocation in the next few years.

This was confirmed by a spokesman for the Ohio Department of Highways who told The Plain Dealer that the relocated highway would be "several miles" from the nuclear plant. The relocation project has a top priority, he added.

Western Lake Erie once yielded more top-quality fish to commercial fishermen and sports anglers than any other body of fresh water in the world, according to government reports.

But pollution has nearly wiped out the multimillion-dollar commercial fishery. Every year that goes by finds more fishermen lifting their nets for the last time.

THEY HAVE WATCHED THE STURGEON, the eel and the whitefish disappear from the lake. Catches of the last remaining prime species, the walleye—called "pickert"—in the restaurant trade—have declined from millions of pounds annually to a fraction of the former haul.

Three major lake reefs, important to the spawning of the walleye and other fish species, are within six miles of the site of the proposed nuclear plant.

According to a study ordered by Toledo Edison, or submission to the Ohio Water Pollution Control Board, under unfavorable wind and water conditions the hot water could reach the reefs with a temperature increase of one or two degrees.

The report said:

A prolonged rise might induce earlier spawning if the rise were uninterrupted, but it is more likely that the spawners would move out rather than spawn in warmer water."

Harvey Cover, 30, of Oak Harbor, some 11 miles west of Port Clinton, has been going out in commercial fishing boats with his father since he was five years old.

THE COVERS OPERATE OUT OF the Toussaint Creek.

The exact spot in the lake where the nuclear plant will discharge hot water is where the Covers set their seine nets for their livelihood.

Harvey Cover says the hot water will drive the fish away, if it first does not kill them.

"If they put in the cooling towers, I could stand the fog," Cover remarked. "But if they don't, I'll starve."

The lake around here already turns green every summer from the algae, and the nuclear plant could only make it worse," he said.

Cover pointed out that the Toussaint Creek is a major catfish spawning stream. He said the hot water would be discharged only 300 feet from the mouth of the creek.

THE PREVAILING LAKE CURRENT "will push some of the hot water up the Toussaint and will keep the catfish from running up it to spawn," Cover said.

Supplying live bait, fishing tackle and boats and motors has long been important to the economy of this area.

Warren Musser operates a combination grocery store and bait and tackle store in Oak Harbor, which depends heavily on visiting anglers, tourists and summer cottage owners.

Plain Dealer photos
(Richard C. Widman)

"I have lived around water and fished all my life," Musser said. "If a cooling system does not go in at the nuclear plant, I'll sell this place and go to Canada."

Musser said he was convinced the plant's hot water discharge would "wreck the fishing around here."

HE SAID HE WAS TRYING TO organize opposition to the plant, unless cooling facilities are built.

S. R. Brown, an Ohio pioneer and naturalist, traversed the southern shore of Lake Erie many times. Writing in 1885, he recorded his wonder at the wild marshes and beaches, and the seemingly unlimited abundance of wildlife.

He noted "a natural meadow 90 miles long and from two to 10 feet wide, extending from the mouth of the Portage River (about 12 miles east of Toussaint Creek) to south of Detroit, Mich., containing not less than 200,000 acres."

"We found the grass to be higher than our heads and as thick as a mat, confined together by a species of pea vine," Brown wrote.

HE SAID THAT NEAR THE MOUTH OF the Toussaint Creek the grass "was about seven feet high and so thick that it would easily sustain one's hat—in some places a cat could have walked on its surface."

In the last century, residents along the lake shore speared the great sturgeon as they migrated up the streams.

These fish were smoked for food, rendered for oil and their bladders were converted into isinglass.

The sturgeon were a nuisance to the commercial fisherman, however, because they damaged the nets. They threw the fish onto the beach to rot or fed them to hogs.

Like the tall grass, the sturgeon are gone now.

In the autumn and again in the spring, migrating birds once blacked out the sun over the marshes.

AMERICAN BUSINESS TYCOONS built plush hunting clubs in the marshes and hunters sent trainloads of the abundant wildfowl to eastern cities.

The ducks and the geese still come today, although in fewer numbers, and thousands of birds are hatched every year in the complex of state and federal refuges near the nuclear plant site.



PROTECTED WILDLIFE—Wildlife including many types of waterfowl, abounds in the marshland between Toledo and Port Clinton.

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