



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

April 17, 1987

The Honorable Daniel J. Evans  
United States Senate  
Washington, D.C. 20510

Dear Senator Evans:

This is in response to your letter of February 24, 1987, requesting a report on the legal and institutional aspects under the jurisdiction of the Commission on the possible conversion of WNP-1 to a defense materials production reactor.

As to the current status of WNP-1, the Board of Directors for the Washington Public Power Supply System determined in 1982 that construction of WNP-1 would be suspended. Although construction was stopped (63% completed) on May 1, 1982, the application for an Operating License (OL), together with the Final Safety Analysis Report (FSAR) was submitted to the NRC on May 14, 1982. On January 11, 1983, the owners requested an extension of the construction completion date under their construction permit to June 1, 1991. The Commission approved the extension request on June 16, 1983. On October 14, 1983, the Licensing Board responsible for the WNP-1 hearing on the OL application issued an order which had the effect of suspending proceedings until such time as the NRC staff had reviewed the WNP-1 application and FSAR. The order directed the applicant to provide quarterly reports concerning the status of construction. We understand that the owners currently plan to bring the site to minimum maintenance (or mothballed) status by June 1988.

In summary, the current status of WNP-1 is that the construction permit is still in effect (with no substantive construction in progress) and the licensing proceeding is being held in abeyance. Accordingly, the site is still under the jurisdiction of the NRC.

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As to legal and institutional issues, while we see no insurmountable problems, it should be noted that fundamental questions of public policy and perception would attach to the conversion of a civilian power plant facility to military use. In any event, certain issues would need to be resolved among the responsible parties should such a conversion proposal be made.

Due to the proscription in section 57(e) of the Atomic Energy Act against special nuclear material produced in a licensed facility being made available for nuclear explosive purposes, the reactor would have to be operated under the authority of section 110 of the Act. Under that provision, as implemented in 10 CFR 50.11(b)(2), such facilities are exempt from NRC licensing and regulation. This means that the current licensing proceeding would have to be terminated. The applicant would be expected to request withdrawal of its application pursuant to 10 CFR 2.107(a) and termination of its construction permit. Under its delegated authority from the Commission, the Licensing Board would normally act on the withdrawal request. Under 10 CFR 2.107, the Board could permit withdrawal under such conditions as it might prescribe. Under recent NRC practice, conditions have been imposed for "stabilization" of the site in order to satisfy environmental concerns, e.g., erosion or esthetics. Stabilization has not meant necessarily that the site would be required to be restored to its natural state, but rather to an environmentally acceptable state. With the approval of the application withdrawal request and upon request of WPPSS, the construction permit could be terminated. After satisfaction of the conditions imposed on withdrawal, NRC jurisdiction over the site would end under normal circumstances.

However, because the WNP-1 site is within one mile of the WNP-2 site, which is a commercial, licensed operating reactor, the operation of the WNP-1 converted reactor, and/or ancillary activities, could have potential impact on the operations of WNP-2. There would need to be an NRC review of the safety implications, if any, that further construction and operation of WNP-1 might have on WNP-2. This would include possible adjustment of the WNP-2 exclusion area under 10 CFR Part 100 and licensee access to the WNP-1 site to work on the WNP-2 makeup water line which crosses WNP-1. There would also need to be some adjustment made to the scope of Price-Anderson coverage for public liability and compensation for damages at WNP-2, perhaps including deletion of WNP-1 from the current planned coverage.

Should you require more detailed or different information regarding this matter, I would be happy to provide it. A detailed and more definitive evaluation would likely require submittal of a more detailed proposal from DOE and/or the WNP-1 permittee.

Sincerely,

*Lando W. Zech Jr.*  
Lando W. Zech, Jr.