

1 UNITED STATES OF AMERICA
2 NUCLEAR REGULATORY COMMISSION

3 ***

4 AFFIRMATION SESSION

5 ***

6 PUBLIC MEETING

7 ***

8 Nuclear Regulatory Commission

9 Room 1F-16

10 One White Flint, Bldg. 1

11 11555 Rockville Pike

12 Rockville, Maryland

13
14 Friday, April 3, 1998

15
16 The Commission met in open session, pursuant to
17 notice, at 10:30 a.m., the Honorable SHIRLEY A. JACKSON,
18 Chairman of the Commission, presiding.

19 COMMISSIONERS PRESENT:

20 SHIRLEY A. JACKSON, Chairman of the Commission

21 GRETA J. DICUS, Member of the Commission

22 NILS J. DIAZ, Member of the Commission

23 EDWARD McGAFFIGAN, JR., Member of the Commission

1 ALSO PRESENT FOR THE NUCLEAR REGULATORY COMMISSION:

2 ANNETTE VIETTI-COOK, Assistant Secretary

3 KAREN D. CYR, General Counsel

1 P R O C E E D I N G S

2 [10:30 a.m.]

3 CHAIRMAN JACKSON: Good morning, ladies and
4 gentlemen.

5 This is an Affirmation Session. We have two items
6 to come before us this morning. Before I ask the Assistant
7 Secretary to lead us through the items for affirmation, do
8 any of my colleagues have any opening comments they would
9 like to make?

10 [No response.]

11 CHAIRMAN JACKSON: If not, please proceed.
12 MS. VIETTI-COOK: The first item for affirmation
13 is SECY-98-024, Final Amendments to 10 CFR Parts 60, 72, 73,
14 74, and 75, "Physical Protection for Spent Nuclear Fuel and
15 High-Level Radioactive Waste."

16 This rulemaking provides amendments to 10 CFR
17 Parts 60, 72, 73, 74, and 75 to clarify and make consistent
18 physical protection requirements for independent storage of
19 spent nuclear fuel and high-level radioactive waste. All
20 Commissioners have voted to approve the publication and
21 implementation of these final amendments subject to the
22 changes and clarifications attached.

23 In addition, the staff should report when it will
24 be able to proceed with physical protection rulemaking for
25 Part 50 licensees who have ceased operations and are storing

4

1 the spent fuel in the pool, and who remain under the
2 physical protection requirements of 10 CFR 73.55 with
3 exemptions on a case by case basis. The staff should
4 explain the criteria for granting exemptions to 10 CFR 73.55
5 requirements in the interim period before the rulemaking is
6 completed.

7 Would you please affirm your votes?

8 CHAIRMAN JACKSON: Aye.

9 COMMISSIONER DIAZ: Aye.

10 COMMISSIONER DICUS: Aye.

11 COMMISSIONER MCGAFFIGAN: Aye.

12 MS. VIETTI-COOK: The second item to come before
13 the Commission is SECY-98-021, Louisiana Energy Services,
14 Review of LBP-96-25 (NEPA Issues); Review of LBP-97-8
15 (Environmental Justice).

16 The Commission is being asked to act on an order
17 addressing the environmental questions raised in these two
18 Atomic Safety and Licensing Board (Board) decisions
19 regarding the proposed Claiborne Enrichment Center (CEC)
20 that Louisiana Energy Services (LES) plans to build near
21 Homer, Louisiana. The Commission granted these petitions
22 for review by LES and by the NRC staff to consider first the
23 issue of whether the Final Environmental Impact Statement
24 (FEIS) failed to discuss adequately the need for the CEC,
25 the alternative of no action, and the CEC's secondary

5

1 benefits, and second, whether the Final Environmental Impact
2 Statement failed to address adequately the "environmental
3 justice" issues.

4 The Commission (with all Commissioners agreeing
5 and one exception, as noted below) has voted to approve the
6 attached order affirming in part, reversing in part, and
7 remanding for further proceedings the Board's NEPA rulings
8 in LBP-96-25 and LBP-97-8. Specifically, the Memorandum and
9 Order affirms the Board's findings regarding the likely
10 price effects of the CEC but provides additional guidance to
11 the Board that in performing ultimate cost-benefit balancing
12 under NEPA, the Board must consider in addition to the price
13 effects, the other benefits of the CEC. It also affirms the
14 Board's decision to require the NRC staff to revise the
15 current FEIS "no action" discussion to reflect an evaluation
16 of both the costs and the benefits of not building the CEC
17 and to reconsider the Final Environmental Impact Statement's
18 current discussion of resumed logging. It reverses the
19 Board's decision to invalidate the Final Environmental
20 Impact Statement's reliance on the CEC's secondary benefits
21 and reverses the Board's decision to require a thorough NRC
22 inquiry into possible racial discrimination in the siting of

23 the CEC. It affirms the Board's decision that the NRC staff
24 should revise the Final Environmental Impact Statement to
25 provide more analysis of the CEC's effect on pedestrian

6

1 traffic between the nearby communities and to analyze local
2 property value effects more thoroughly.

3 Chairman Jackson disapproved only section 5.a of
4 the Commission order (with respect to LBP-97-8) titled,
5 "Racial Discrimination in Siting." She would have affirmed
6 in part and reversed in part the Board's requirement of a
7 further NRC staff investigation into the Claiborne
8 Enrichment Center siting. In light of the alleged
9 irregularities, gaps, and inconsistencies in the siting
10 process, it was her preference that the NRC staff should
11 further investigate the siting process without focusing on
12 LES's alleged intentional racial motives, to ensure that the
13 siting criteria were reasonable and applied equitably.

14 Would you please affirm your votes?

15 CHAIRMAN JACKSON: Aye.

16 COMMISSIONER DIAZ: Aye.

17 COMMISSIONER DICUS: Aye.

18 COMMISSIONER McGAFFIGAN: Aye.

19 MS. VIETTI-COOK: That's it.

20 CHAIRMAN JACKSON: Is there anything else to come
21 before us today?

22 MS. VIETTI-COOK: No.

23 CHAIRMAN JACKSON: If not, we are adjourned.

24 [Whereupon, at 10:37 a.m., the meeting was
25 concluded.]