

## MEMO ROUTE SLIP

Form AEC-93 (Rev. May 14, 1947)

See me about this.

For comment.

For action.

Note and return.

For signature.

For information.

TO (Name and unit)

INITIALS

REMARKS

*Howard Shapar*

DATE

*See Mr. Price's note,  
50-263*

TO (Name and unit)

INITIALS

REMARKS

*Howard Shapar*

DATE

*Mr. Price says file this  
+ incoming now, and second  
part of reply when it goes  
out.*

TO (Name and unit)

INITIALS

REMARKS

*V*

DATE

*3/17/69*

FROM (Name and unit)

REMARKS

*H L Price**Done 3/17/69**Jeanne Cook*

PHONE NO.

DATE

*3/17/69*

Acton

102P  
3/14

Mr. Price -

This Badalich letter has been signed by the  
Chairman.

Do you want to file this in the Public  
Document Room now, or wait to consider it  
when we send Badalich our comments on the  
report?

Jeanne  
3/14/69

~~to Howard Shapiro -  
How about this?  
(H)  
3/14~~

50-263

MAR 12 1969

Mr. John P. Badalich  
Executive Director  
Minnesota Pollution Control Agency  
459 Board of Health Building  
University Campus  
Minneapolis, Minnesota 55440

Dear Mr. Badalich:

With your letter of February 17, 1969, you enclosed, for our review and comment, a special report to the Minnesota Pollution Control Agency on "Radioactive Pollution Control in Minnesota." That report is now under review by our staff and you may expect to hear from us as soon as the review has been completed.

In your letter you state that your Agency's waste disposal permit for the Northern States Power Company's Monticello Nuclear Power Plant "will entail setting effluent and emission levels of radioactivity more stringent than those levels of discharge allowed under the AEC standards." You advise us that your Agency is preparing radioactivity standards that "will be more stringent than the radioactivity standards promulgated by the AEC." You also refer to a statement attributed to Mr. Howard Shapar, our Assistant General Counsel, Licensing and Regulation, and request documentation in support of his position.

The statement made by Mr. Shapar, with which we agree, was as follows:

"In the absence of a section 274 agreement with the AEC, the states do not have jurisdiction to establish water quality standards pertaining to, or to regulate, the radiological effects of releases of effluents containing byproduct, source, or special nuclear material. Even in those states which have entered into section 274 agreements with the AEC, it is the AEC rather than the state which regulates the discharge of radioactive effluents from production and utilization facility sites (e.g., power reactors)."

*This rpt is under review + all eyes are on it. If anyone rep to see rpt, call ODP + it can be sent to PDR.*

*2 copy: ODP*

✓

OFFICE ▶						
SURNAME ▶						
DATE ▶						

Mr. John P. Badalich

- 2 -

The following enclosed material is generally consistent with that statement:

- (1) Opinion of the Attorney General of Michigan, dated October 31, 1962;
- (2) Opinion of the Attorney General of South Dakota, dated July 23, 1964;
- (3) A report, dated July 12, 1963, by the Committee on Atomic Energy of the New York State Bar Association: "State Jurisdiction to Regulate Atomic Activities: Some Key Questions."

I am also enclosing a copy of my letter to the President of the Council of The City of New York, dated June 11, 1963.

It may be mutually helpful to have a meeting to discuss these matters, and, in that regard, I hope that you will get in touch with Mr. Harold L. Price, our Director of Regulation, during your next trip to Washington.

Sincerely,

Chairman

Enclosures:  
As stated above.

cc: Mr. Robert C. Tuveson  
Chairman, Minnesota Pollution  
Control Agency, w/o encl.

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HLPrice  
HKShapar  
BHSchur  
REG Files *rec'd in files*  
OGC Files (Beth/G'town) *3-14-69*  
C. Henderson  
G. Ertter  
F. Western  
PAMorris  
EPrice

JAMcBride

PDR

- O.H. per J. Cook  
3-24-69

SENT 3/25/69  
4/2/69 Rpt.

OFFICE	OGC <i>[initials]</i>	OGC <i>[initials]</i>	DR <i>[initials]</i>	OGC <i>[initials]</i>	JAMcBride
SURNAME	HKShapar:mp	<i>[initials]</i>	<i>[initials]</i>	<i>[initials]</i>	PDR
DATE	3/3/69	3/4/69	3/10/69	3/27/69	- O.H. per J. Cook 3-24-69 SENT 3/25/69 4/2/69 Rpt.

March 4, 1969

NOTE FOR MR. PRICE -

Re the attached, I would suggest this be for discussion with the Commission at an Information Meeting, particularly if we are seriously considering either lowering our limits or requiring licensees in the future to bottle the effluent.

C. L. Henderson

*To Hal*

Mr. Price -

Since the incoming letter from Badalich did not seem to relate directly to the Monticello license, I asked OGC if they thought the letter should go in the Public Document Room. Mr. Shapar said:

"I think the February 17 letter from Badalich does not have to go into the Document Room but I think it should -- unless Mr. Price thinks otherwise. I think it should be checked out with Mr. Price."

Mr. Shapar says this letter, as well as our comments on the MPCA report, should also go in the Document Room if the incoming letter goes.

Should we file all the material?

→ { *Check with me on this -*

→ Jeanne  
3/4/69

*1/2 3/10/69*



STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY  
459 BOARD OF HEALTH BUILDING  
UNIVERSITY CAMPUS  
MINNEAPOLIS  
55440

February 17, 1969

Dr. Glenn T. Seaborg, Chairman  
U. S. Atomic Energy Commission  
Washington, D.C. 20545

Dear Dr. Seaborg:

Enclosed, for your review and comment, are two copies of the special report on a study of "Radioactive Pollution Control in Minnesota," prepared by Dr. Ernest C. Tsivoglou, Professor of Civil Engineering at the University of Georgia who was retained by the Agency to study the problem of radioactive pollution in Minnesota and report his findings and recommendations for minimizing the effects thereof.

Following review of this report, the Agency has directed me, with assistance from Dr. Tsivoglou, to prepare for their review and approval, a waste disposal permit for the Northern States Power Company's Monticello Nuclear Power Plant. As you may be aware of, it is required by Minnesota law that every person (municipality, industry or individual) discharging wastes into the state's surface or ground waters or into the atmosphere, must obtain a discharge permit from the Agency before such discharge is allowed. As you may also know, the NSP Monticello waste discharge permit was held up temporarily following completion of Dr. Tsivoglou's report which took about seven months to complete. The permit to NSP will entail setting effluent and emission levels of radioactivity more stringent than those levels of discharge allowed under the AEC standards.

Secondly, the Agency, in the very near future, will also be preparing for public hearing, standards for radioactivity based on the recommendations formulated in the Tsivoglou report. These standards are based on a premise that radioactivity releases shall be kept at the lowest possible level which will again indicate that these standards will be more stringent than the radioactivity standards promulgated by the AEC.

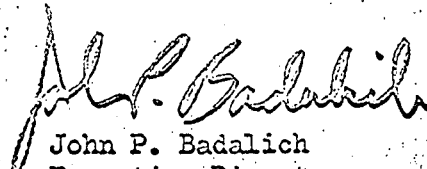
Dr. Glenn T. Seaborg, Chairman  
February 17, 1969  
Page 2

I would very greatly appreciate your staffs' comments and views regarding the above, at your earliest convenience, and also seek your cooperation in formulating these matters.

Recently, and following our Agency's last meeting on February 11, 1969, at which time the Tsivoglou report was accepted by the Agency, a Mr. Howard Shaper of your staff was accorded to have said that states have no right to set radioactive discharge controls more stringent than those presently adopted by the Federal Government. I have enclosed a copy of this newspaper article for your review. If this is the case, I would appreciate any documentation you may have in support of this position and the Federal Government's preemption of states rights to control this type of pollution of our environment.

May I hear from you at your earliest possible convenience regarding the matters outlined above and if you feel desirous that a meeting on this subject is necessary, we will certainly concur.

Very truly yours,

  
John P. Badalich  
Executive Director

JPB/ee  
Enc.

cc: Dr. Ernest C. Tsivoglou  
Mr. Robert C. Tuveson  
Mr. Harold Price



# AEC Lawyer Says State Cannot Regulate Discharge of A-Plants

By RON WAY

Minneapolis Tribune Staff Writer

Minnesota, like other states, is powerless to regulate radioactive wastes discharged by nuclear power plants, a lawyer for the U.S. Atomic Energy Commission (AEC) in Washington, D.C., said Wednesday.

The lawyer, Howard Shaper, said the AEC has sole jurisdiction in the matter. He added that the states could not set up discharge controls tighter than those adopted by the federal commission.

But the Minnesota Pollution Control Agency (PCA), which is in the process of drawing up radioactivity standards expected to be several times more stringent than the AEC's, apparently will contest the federal position.

"WE'RE NOT going to back down on this," PCA Chairman Robert Tuveson, Albert Lea, said yesterday.

"The people of Minnesota expect the agency to develop these standards."

Dr. Ernest Tsivoglou, a PCA consultant who last week recommended that the agency set standards 10 to 20 times more stringent than the AEC's, was more emphatic.

HE CALLED the issue presented at a PCA meeting Tuesday.

"very basic" to the "old negative practice of maximum pollution of the environment as against the modern approach of minimizing and reducing pollution to the full extent that is practical and reasonable."

Tsivoglou, who will assist the agency in drafting radioactive pollution control standards, called on the PCA to "pursue this case to a clear conclusion."

But he warned that the nuclear power industry is rapidly growing in Minnesota and delay in getting a final interpretation on the legal questions surrounding the issue may take "more time than is available."

PCA DIRECTOR John Badalich said his staff will be ready in a few weeks with a permit for Northern States Power Co. to operate its nuclear plant now under construction near Monticello, Minn.

Badalich said the permit will include standards for waste discharge that will be more stringent than AEC regulations.

Tsivoglou, professor of engineering at the Georgia Institute of Technology, also criticized a statement by NSP

An NSP spokesman said that if the PCA felt it necessary to set radioactive standards more stringent than federal standards, then the state agency should "prove the need for such restrictions."

Replied Tsivoglou: "It is not the proper or desirable function of the PCA to defend its desire to protect the public and the environment to the full extent that is feasible and reasonable."

