



The SASSAFRAS AUDUBON SOCIETY
of LAWRENCE · GREENE · MONROE · BROWN ·
MORGAN & OWEN COUNTIES
INDIANA

PUBLIC DOCUMENT ROOM

October 20, 1979



In the Matter of

PUBLIC SERVICE COMPANY OF INDIANA
(Marble Hill Nuclear Generating Station,
Units 1 and 2)

Docket NO. 50-546
50-547

(Order confirming suspension of
construction)

SASSAFRAS AUDUBON SOCIETY MOTION OPPOSING NRC STAFF MOTION TO DENY
HEARING ON MARBLE HILL

I

POOR ORIGINAL

The Sassafras Audubon Society opposes the Motion of the Nuclear Regulatory Commission (NRC) staff to deny our request for a Hearing on the NRC Order of August 15, 1979 confirming suspension of safety-related construction of Marble Hill Nuclear Generating Station, Units 1 and 2.

II

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The Motion of the NRC staff to deny the request must be viewed in the context of SAS's efforts to secure a Hearing on serious problems associated with Marble Hill's construction and operation.

The Staff notes on pages 11-12 of the Motion to Deny, the availability of 10 CFR 2.206 "whereby petitioner's (SAS) interest will be protected."

Earlier on page 9, footnote 15/ of the Motion to Deny, the Staff had noted that "SAS had a petition under 10 CFR 2.206 pending before the Director of NRR on matters unrelated to the construction problems addressed in the August 15th Order."

While no date is given in Footnote 15/ for the SAS petition, the REQUEST SAS filed under 10 CFR 2.206 with Mr. Harold R. Denton, Director of Nuclear Reactor Regulation (NRR), on June 29, 1979, TO SUSPEND AND REVOKE CONSTRUCTION PERMIT AND TO RE-OPEN SAFETY HEARINGS ON MARBLE HILL NUCLEAR GENERATING STATION contained, contrary to what is stated in footnote 15/ of the Staff Motion to Deny, a section on construction problems entitled METICULOUS ENGINEERING, CONSTRUCTION, AND QUALITY ASSURANCE FOR MARBLE HILL?.

A second request was made to Mr. Denton on July 27, 1979, asking that the Report of the National Board of Boiler and Pressure Vessel Inspectors to the American Society of Mechanical Engineers (ASME) on widespread problems in quality control and materials handling at Marble Hill, be considered part of the section of the petition of June 29, 1979 on METICULOUS ENGINEERING, CONSTRUCTION, AND QUALITY ASSURANCE FOR MARBLE HILL?.

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Mr. Denton acknowledged receipt of SAS's two requests at the time of issuance of Mr. Victor Stello Jr.'s ORDER CONFIRMING SUSPENSION OF CONSTRUCTION of August 15, 1979, and noted that the part of Mr. Stello's Order suspending construction on the basis of construction deficiencies, granted SAS part of the relief requested.

SAS's reply to Mr. Denton of September 4, 1979 added several new items, 1) siting criteria, 2) site evacuation, and 3) need for Marble Hill's power?, to the list of those submitted previously for justification of a Hearing on Marble Hill. A protest was made at the same time of the NRC decision to restrict a possible hearing on the Marble Hill project to the failure of PSI to institute a quality-assurance program for the construction of Marble Hill and requested a Hearing on whether the construction license of Marble Hill should be revoked.

Mr. Denton acknowledged receipt of SAS's letter of September 4th on October 11, 1979 and said that we would be informed of the decision regarding our requests "within a reasonable time."

One point must be stressed. SAS is seeking a Hearing at a meaningful point in the licensing process (page 1, paragraph 4, Request of June 29, 1979).

The Staff notes in the Motion to Deny (pages 11-12) that SAS "will have an opportunity at the operating license stage to request a hearing", as if that possibility were a factor weighing against intervention at this time! Such an "opportunity" is fatuous in view of the question which exists at this point as to whether further construction of Marble Hill should be permitted.

III

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The Motion to Deny SAS a Hearing is characterized by the redundancy of three principal themes: 1) the petitioners do not object to and, indeed, are in favor of the action ordered; 2) SAS does not state how its interest may be affected by the Order; and 3) a hearing on the Order is discretionary (resumption of construction can be summarily authorized without a prior hearing.) These principal themes will be addressed in order.

SAS does not object to the suspension of safety-related construction at Marble Hill, and as Mr. Denton noted in his letter of August 15th, the suspension granted part of the relief SAS requested on June 29, 1979. It is misleading and erroneous, however, for the Staff to infer that we "favor" the Order in whole or in part since it is so strikingly circumscribed in terms of our requests and objectives.

We contest the factual sufficiency of Parts II and III of the Order for they do not give an adequate account of the exposure of serious constructional deficiencies at Marble Hill nor of the extent of the violations of quality-control procedures. Appendix A, as noted in SAS Request for a Hearing on the Order of Suspension, is an impressive account of non-compliance of PSI personnel and personnel under contract with PSI with 10 CFR Part 50 Appendix B, whether complete or not, but there is no assessment of what this means in terms of the quality of completed construction at Marble Hill.

SAS is particularly concerned with item (1), page 5, of the 9 items listed in the Order of Suspension which the Director is to consider in his determination as to whether PSI can resume safety-related construction. Item (1) is concerned with the extent to which the Licensee (PSI) has: "Reviewed the work completed as of the date

of this order to determine whether the Licensee's quality assurance program was adequate to assure such work was properly performed, and described what repairs, if any, are required."

We can scarcely be expected to accept PSI's assessment and assurance concerning the quality of work completed as of this date at Marble Hill. PSI officials continue to state publicly that no safety problems have been associated with the construction and have described repairs they were making on the honeycombing as "overkill."

Contrary to the Staff's assertion on page 3 of the Motion to Deny that SAS seeks to "present its version of recent construction problems at Marble Hill", SAS seeks to achieve through the hearing process and through introduction of investigative reports, expert testimony, etc., as complete & factual record as possible for the assessment of the extent and seriousness of constructional deficiencies at Marble Hill and the extent to which they have been and can be repaired and mitigated.

We do not believe that the public will be apprised of the actual condition of the construction at Marble Hill without a hearing. The public press and news media do not constitute an adequate forum with their limited investigation and limited reporting. SAS learned in Mid-June 1979 that little could be learned from the public file in the Jefferson County-City of Madison Public Library of constructional deficiencies at Marble Hill such as were revealed at that time through worker affidavits. In fact, the role of worker affidavits in securing a more thorough investigation of the quality of construction and quality-control program of PSI cannot be underestimated.

The Staff mentions on page 13 of the Motion to Deny that it is continuing its investigation of construction at Marble Hill. Other investigations of Marble Hill are in progress, that of the Senate Subcommittee on Nuclear Regulation, the Justice Department's investigation of construction practices and of worker allegations of "cover-ups", the American Society of Mechanical Engineers (ASME) of charges in the Report of the National Board of Boiler and Pressure Vessel Inspectors, etc. These investigations relate in one form or another to the Order of Suspension and safety-related construction of Marble Hill and Reports of these investigations should form part of the record of a Hearing on that subject. The Kemeny Committee Report on Three-Mile Island-2 will possibly have recommendations applicable to the situation at Marble Hill, as well.

Through the process of discovery and a Hearing to develop a factual record, the public can develop an informed opinion with which to judge and evaluate future action with regards Marble Hill.

IV

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The Staff notes on page 6 of the Motion to Deny that the Commission applies judicial concepts of "standing" in determining rights to a hearing and to intervention in an existing hearing under Section 189 a. of the Atomic Energy Act and 10 CFR 2.714 of the Commission's Rules of Practice. SAS must therefore show that it would be adversely affected - injured - by the Order of Suspension to compel the holding of a Hearing under Section 189 a. On page 8 the Staff reiterates that there must be a concrete harm to SAS "which will or could flow from a result unfavorable to them - whatever the result might be. On page 11 of the same motion the Staff refers

to various factors which weight in favor of intervention, listing under (2): The nature and extent of the petitioner's property, financial or other interest in the proceeding.

We contend that the potential exists for the Society (which is its members) to be injured under the Order of Suspension were the Director to exercise his authority under the provision on page 7, V, paragraph 2, and reauthorize resumption of safety related construction at Marble Hill, in spite of filing of requests for a hearing or pendency of a proceeding on the order.

If such action were taken under this Order, it could be without an adequate assessment of the quality of safety-related construction of Marble Hill and the extent to which it can be repaired, and a decision made merely on PSI's submission in writing under oath to the Director of Inspection and Enforcement a description of its revised quality assurance program and steps taken to assure quality-construction in the future.

The public has the right to know the results of the investigations of construction at Marble Hill and from expert appraisal the extent to which poor construction practices have lowered the quality of safety-related construction and the extent to which the public's health and safety may be affected as a consequence from "normal operations" through accidents of various dimensions up to and including a Class 9 accident. This we had hoped to learn in part at least from a Hearing. But since we must show injury to qualify for a hearing (catch-22) we must rely on such information as was provided by an NRC inspector who noted that: radiation will leak through seams and honeycomb patches at a lot larger rate than if it was solid concrete and done right; if air bubbles are large (and undetected) they will affect the structural stability of the plant; the consequence of not repairing surficial honeycombs will be difficulties in cleaning up after radioactive spills, leakages, etc, and request answers from the NRC staff to the questions asked about the construction (quality) in our Request for a Hearing on the Order.

The probability of major nuclear accidents including a Class 9 accident has not been accurately calculated according to the Risk Assessment Review Group, nor have the potential consequences of serious accidents which have been minimized up to this point by the NRC. They can be expected to happen and have serious consequences which may vary according to atmospheric conditions.

What is the point beyond which the public can feel "safe" from radiation releases from Marble Hill during an accident of the severity of Three-Mile Island with (perhaps) more porous concrete construction a factor and unfavorable atmospheric conditions prevailing at the time of the accident? SAS's membership is mainly confined to South Central Indiana with some members living as far south as Seymour and New Albany, approximately 30 miles from Marble Hill. Given the absence of realistic predictions of accidents and their potential under various conditions, can the NRC say with certainty that such an accident would not injure citizens in South Central Indiana?

SAS's members do reside in PSI's service area and there are economic factors involved with Marble Hill's construction problems more immediate than the potential financial burden which physical and mental injury from a nuclear accident might impose on citizens. Ratepayers in PSI's service area are and will be bearing the increased rates resulting from its construction. A question has arisen, however, as to who should bear the costs of stoppage of construction at Marble Hill?

PSI has reported to the public that stoppage of construction at Marble Hill is costing \$12 million per month and that this must be borne by their customers. SAS is

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investigating this issue believing that ratepayers should not be liable for the gross mistakes and the open recalcitrance of management toward correcting their mistakes, as exhibited by PSI at Marble Hill, resulting in forced suspension of construction. The Pennsylvania Public Utilities Commission is considering a similar question regarding charges placed on utility customers of Metropolitan Edison because of the TMI 1 shutdown. Their decision will be of interest to PSI customers.

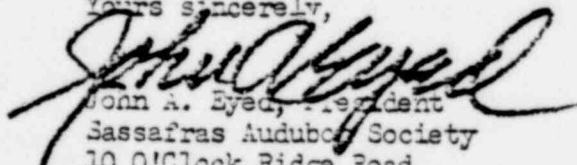
PSI customers obviously have a legitimate concern in the quality of safety-related construction at Marble Hill as it may effect economic injury to them not only during construction from forced suspension of construction but from the potential during operation of contributing to the cause of nuclear accidents and heightening their consequences. The potential also exists for a lower-quality concrete construction than is desirable to increase the aging rate of plants. The ground of economic injury should provide sufficient "status" and "right" to request a hearing on safety-related construction at Marble Hill.

V

The unseemly emphasis of the Staff in their Motion to Deny on the discretionary powers of the NRC in granting intervention and in granting discretionary hearings raises the question as to whether our efforts to "qualify" for a Hearing is an exercise in futility, and as to whether the Commission and Staff would grant a "discretionary hearing" on the Order to Suspend however worthy the status of the intervenors and however substantial the issues which prompted the Order (catch-22).

Nevertheless, a Hearing is warranted on the quality of the safety-related construction completed at Marble Hill as it concerns the public's health and safety prior to a decision on resumption of construction. It should not be simply a closed matter between PSI and the NRC.

Yours sincerely,


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Copies of the Sassafraes Audubon Society Motion Opposing the NRC Staff Motion to Deny a Hearing on the NRC Order of August 15, 1979 have been sent to the following:

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