

# Natural Resources Defense Council, Inc.

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September 4, 1981

Marshall Miller, Esq., Chairman  
Atomic Safety & Licensing Board  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Mr. Gustave A. Linenberger  
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Washington, D.C. 20555

Dr. Cadet H. Hand, Jr., Director  
Bodega Marine Laboratory  
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RE: Project Management Corp. et. al. (Clinch River  
Breeder Reactor Plant), Docket No. 50-537

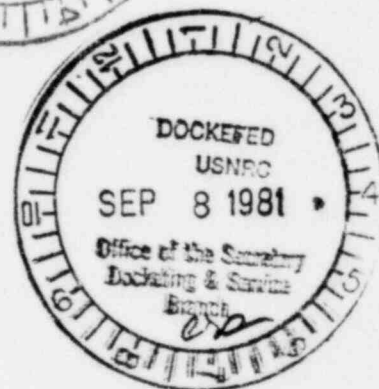
Gentlemen:

On August 13, 1981, W. Kenneth Davis, Deputy Secretary of the United States Department of Energy ("DOE") sent the enclosed letter to the Chairman of the NRC. The letter, which seeks to "accelerate" site preparation for the CRBR by "re-establish[ing] interaction" between the NRC and the DOE project staff, was not served on the parties to the CRBR proceeding. This is despite the fact that one month ago, the Natural Resources Defense Council requested to be kept informed of all meetings and correspondence between DOE and NRC concerning efforts to revive the CRBR licensing process and was assured by the NRC Project Manager that we would be.

The NRC rules, 10 CFR § 2.780, prohibit ex parte communications between parties to ongoing proceedings and the NRC Commissioners including "evidence, explanation, analysis or advice, written or oral, regarding any substantive matter at issue" in a pending licensing proceeding. In practice, all

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communication between parties and the Commissioners are served on all other parties. In addition, all parties are routinely given notice of and the opportunity to attend meetings between the NRC staff and other parties when information related to the issues in a case is exchanged.

In this case, the question of when and under what circumstances the CRBR license proceeding is to be revived is of crucial importance to all of the parties. This goes beyond a mere scheduling issue and rises to the level of substance since the decision to suspend the CRBR licensing proceeding was a policy decision made at the highest levels of the previous administration.

Now, according to Mr. Davis, the CRBR "is a vital element in fulfilling the Department of Energy's nuclear mission," with "extremely high priority." If so, the parties to this proceeding are entitled to know precisely what DOE's plans are with regard to the proceeding, particularly how the Department intends to "accelerate" the commencement of site preparation under the present circumstances.

We also question Deputy Secretary Davis's assertion that Congress has confirmed and endorsed the "extremely high priority" which the administration now places on the CRBR. In fact, the pertinent House Committee with jurisdiction over the project voted for the first time to deauthorize funds for the continuation of the CRBR. It was only in the confusion of the final overall budget reconciliation process that the CRBR managed to secure continued funding. A vote on the House floor to deauthorize the CRBR gained the support of 70 Republicans and lost by an extremely narrow margin of 20 votes. That hardly qualifies as clear Congressional endorsement.

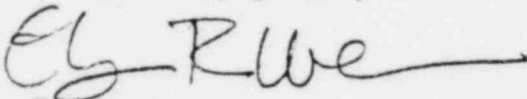
In addition, we note that Deputy Secretary Davis offers to loan expert personnel to NRC in order to enable NRC to form a knowledgeable, experienced staff for the CRBR license proceeding. It would obviously be improper for NRC to use personnel loaned from DOE to review the CRBR application since DOE is one of the applicants for the license.

Mr. Davis also offers to "provide extensive briefings for NRC staff." We have no objection to such briefings, in fact, we encourage them so long as all parties are given reasonable notice and the opportunity to attend, as NRC practice routinely provides.

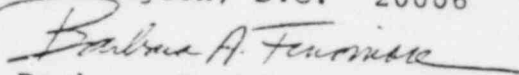
In conclusion, NRDC believes that Deputy Secretary Davis's letter indicates the formal beginning of DOE's efforts to revive this proceeding. The Licensing Board and the parties

are entitled to notice of DOE's intentions in this regard at the earliest possible time. Therefore, NRDC requests that the Board direct DOE to 1) inform the parties of its view of the current status of this proceeding and the steps which it intends to take to re-open the licensing case including the schedule for those steps; 2) serve all future communications with the NRC on the parties to the proceedings; 3) provide reasonable advance notice of any planning briefings to the parties.

Very truly yours,



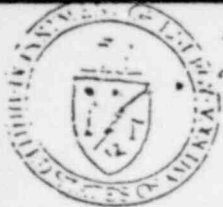
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Barbara A. Finamore  
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Enclosure

cc: Each Commissioner  
CRBR service list



THE SECRETARY OF ENERGY  
WASHINGTON, D.C. 20585

ADVANCE COPY

August 13, 1981



Dr. J. N. Palladino  
U.S. Nuclear Regulatory Commission  
Washington, D.C. 20555

Dear Dr. Palladino:

The Clinch River Breeder Reactor Plant (CRBRP) project is a key step in the development of the Liquid Metal Fast Breeder Reactor (LMFBR) and is a vital element in fulfilling the Department of Energy's nuclear mission. The extremely high priority attached to this project by the Administration was recently confirmed and endorsed by the Congress in the Omnibus Reconciliation Act. Congress has stated its intent that the CRBRP should be constructed in a timely and expeditious manner as set forth in the existing project arrangements. In light of this clear mandate to proceed, I am focusing on what is needed to accelerate the first major project milestone, namely commencing site preparation.

An essential step in proceeding with CRBRP is to reestablish interaction between the Project Office and the NRC staff on the review of project safety documentation. The Project Office is prepared to respond to all the safety issues summarized by NRC in a letter dated November 9, 1978. If NRC requires additional information or wishes to identify further residual issues, it is crucial for us to know at the earliest possible date.

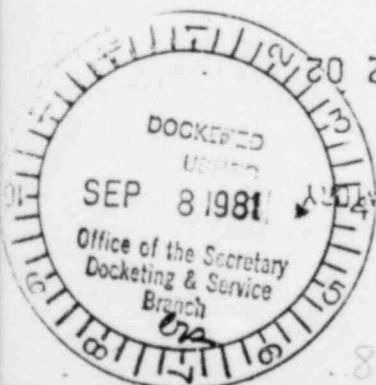
I know that forming a knowledgeable, experienced staff will be a challenge in light of the urgent priority of licensing light water reactors. If there is anything we can do to help in that regard please do not hesitate to ask. We stand ready to provide extensive briefings for NRC staff and to loan expert laboratory personnel. I hope you can designate an NRC representative as soon as possible who can interact with the Department of Energy to plan for an efficient safety review of the project.

Thank you very much for your attention to this matter. We can work together responding to the Administration and Congressional mandate to complete construction of the Clinch River Reactor.

Sincerely,

*W. Kenneth Davis*

W. Kenneth Davis  
Deputy Secretary



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U.S. NUCLEAR REGULATORY COMMISSION

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