

May 21, 1982

UNITED STATES OF AMERICA
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

IN THE MATTER OF

PENNSYLVANIA POWER & LIGHT CO.
AND
ALLEGHENY ELECTRIC COOPERATIVE INC.

BERWICK ATOMIC POWER PLANT
SUSQUEHANNA UNITS 1 & 2
DOCKET NOS. 50-387 & 50-388

CITIZENS AGAINST NUCLEAR DANGERS
BRIEF IN SUPPORT OF EXCEPTIONS TO
THE ASLB INITIAL DECISION

As was indicated in the exceptions previously filed by CAND, dated April 21, 1982^(N), the ASLB has failed to comply with the National Environmental Protection Act (NEPA) in its decision making, and therefore the Initial Decision is flawed. The ASLB erred by not evaluating the environmental assessments or considering the alternatives, as required by NEPA.

The ASLB should have elicited this information at the public hearings because the Final Environmental Statement (FES) prepared by the NRC staff was based on inaccurate, outdated, incomplete and misleading environmental data, originally submitted by the Applicants, which the NRC, in turn, and obviously the ASLB, also accepted at face value. This is contrary to the intent and purposes of NEPA, as amended, and relevant federal court rulings. The Applicants did not submit any viable alternatives for inclusion in the FES. Nor did the NRC staff, as required by law, recommend any alternatives in any section or chapter of the FES. The ASLB has the authority to order full compliance with NEPA, but arbitrarily choose not to exercise that authority, as evidenced by this glaring omission in the Initial Decision!

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^(N) The title is hereby corrected to read: "Citizens Against Nuclear Dangers Exceptions To The ASLB Initial Decision." To be deleted are the words: "And Response To Applicants Opposition To Emergency Evacuation Planning."

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Specifically, the ASLB was in error when it neglected to include in its Conclusions of Law and Order (pages 117 and 118 of the Initial Decision) an additional condition, to wit: "The licenses will be subject to a finding by the Director of Nuclear Regulation, in consultation with the U.S. Environmental Protection Agency and the Pennsylvania Department of Environmental Resources, that all provisions of the National Environmental Protection Act have been fully implemented prior to issuance of the operating licenses." The Initial Decision should, therefore, be amended to include this license condition, in compliance with NEPA. The NRC staff had not properly considered all the environmental impacts on human and natural resources in this license case. The ASLB, in cooperation with the EPA, should outline the basic information that the NRC and the Applicants must cover in an updated supplemental environmental impact statement. The NRC must assess not only the admitted contentions but weigh the impact against the asserted benefits of the overall operation of the Berwick reactors.

It would appear from the conduct of the public hearings and the refusal on the part of some government agencies to comply with the discovery interrogatories of the interveners that the NRC and the DER may have both played major roles in concealing facts about the natural resources that the public is entitled to know under federal laws.

It would also appear that agencies promoting nuclear power generation, such as the NRC and the state Bureau of Radiation, may have withheld crucial data about the environmental impacts of the Berwick reactors. During the course of these proceedings the agencies probably ignored pertinent information received from environmental and wildlife agencies (such as the Pa. Fish Commission), and officials presumably kept from public view detailed studies on aquatic life, etc., carried out by their own consultants, that would have proven damaging to

the Applicants case.

In addition, some of the presentations in the FES appear to have manipulated the environmental data in a misleading fashion. In the opinion of CAND, it has been demonstrated beyond any question that there has been a failure on the part of the NRC and the DER to comply with their legal disclosure obligations. The NRC and the DER were obligated under NEPA to publicly disclose this information. They did not do so. Instead they apparently acquiesced in the urgings of the promoters of Berwick to withhold certain information. Such action was discriminatory towards the public interest interveners. It also prevented the ASLB access to this vital information, and, because it was not submitted it was not evaluated. This means that the ASLB Findings of Fact and Conclusions of Law and Order contained in the Initial Decision, Dated April 12, 1982, is based on incomplete and inconclusive evidence.

Respectfully submitted

Thomas J. Halligan
Correspondent

Dated: May 21, 1982

CERTIFICATE OF SERVICE

I hereby certify that copies of Citizens Against Nuclear Dangers Brief In Support Of Exceptions To The ASLB Initial Decision have been served on all parties to this proceeding by deposit in the U.S. mail, first class, this 21st day of May, 1982.