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Congress of the United States
House of Representatives
Washington, D.C. 20515

May 12, 1982

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Mr. Carlton Kammerer, Director
Office of Congressional Affairs
Nuclear Regulatory Commission
1717 H Street, N.W.
Washington, D.C. 20505

Dear Mr. Kammerer:

I am enclosing for your review and comment a letter from a Washington State legislator who is one of my constituents. An identical letter was mailed to me but apparently never arrived.

I would appreciate your comments on the points raised by the letter and its attachment, which appears to have been prepared by the staff of the Washington Public Power Supply System.

Sincerely,



Don Bonker
Member of Congress

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F10
State of
Washington
House of
Representatives

October 8, 1981

The Honorable Slade Gorton
United States Senator
127 Russell Senate Bldg.
Washington, D.C. 20510

Dear Senator Gorton,

For many months the Washington State Legislative Budget Committee has attempted to determine what state and federal rules and regulations are hampering the construction progress of WPPSS. ✓

Recently, we received a response from WPPSS, which is enclosed. The cost impact of over \$1 million per day additional costs because of Nuclear Regulatory Commission delays is absurd. I hope that you will assist the ratepayers of this area by attempting to act on the attached problem.

If I may be of any further assistance, please let me know.

Cordially,

Bob Williams
State Representative

BW:jh

cc: The Honorable George Bush
VicePresident of the United States

Members, Washington State Delegation

David Stevens, Governor's Office

FEDERAL REGULATORY AND LICENSING PROBLEMS

LICENSING DELAYS

Problem:

NRC Staff safety reviews are not scheduled and completed in a timely fashion. The public hearing process is inefficient and excessively lengthy.

Impacts:

In their reports to the House Appropriations Subcommittee on Energy and Water Resources, NRC has projected an expanding pattern of delays as summarized below:

	<u>No. of Plants</u>	<u>Total Months Delay</u>
April 17, 1980 testimony	3	10
November 1980 report	5	29
December 1980 report	7	36
January 1981 report	11	79
February 1981 report	issuance delayed to mid-March	

The cost of such delays to consumers and rate payers is enormous. In the Northwest, where replacement power costs are relatively low compared to other region of the country, we estimate the cost of delaying one of our plants is on the order of \$1 million per day. On a national scale, a total delay of 90 months has been estimated to have a financial impact of between \$2.7 and \$3.6 billion.

In addition to the financial cost, the projected delays will result in substantial increases in oil usage. In a February 13, 1981 report to the Subcommittee, DOE estimated the delay will result in consumption of 42 million barrels of oil more than might have otherwise been consumed.

Although none of the Supply System's facilities are currently among those projected by NRC to be delayed by licensing, we believe that unless there are substantial and fundamental changes in the licensing process, our facilities will join the growing list of impacted plants.

Potential Recommendations:

- (1) Appointment of fifth Commissioner and a strong Chairman so that the currently deadlocked Commission can begin to function and make decisions. This has just recently been accomplished.
- (2) Improved NRC management, including reallocation of manpower resources and priority on licensing case work, goal setting, planning, performance measurement, and workable decision-making processes.

Enclosure (2)

FEDERAL REGULATORY AND LICENSING PROBLEMS

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- (3) Fundamental reforms in the NRC Staff review process to avoid unnecessary involvement of NRC Staff in design detail and over regulation.
- (4) Strong Commission guidance to Hearing Boards to expedite hearings under existing law and to confine the scope of adjudicatory proceedings to the resolution of matters in dispute among parties rather than treating the hearing process as another layer of technical review.
- (5) Reinstatement of the immediate effectiveness rule which provides for issuance of license upon decision by the Hearing Board.
- (6) Revise Commission policy of December 18, 1980, which allows litigation in individual proceedings on new post-TMI requirements.
- (7) Grant (through legislation) authority to the Commission to issue interim operating licenses on completion of plant construction, and favorable NRC Staff review prior to completion of the public hearing when such action is deemed essential.

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ENFORCEMENT POLICY

Problem:

NRC implementation of their new enforcement policies are excessively punitive and concerned primarily with literal compliance with regulation without appropriate perspective regarding the actual safety significance of the violations and the overall effect the enforcement action may have on licensee performance and plant safety.

Impacts:

The policy which establishes categories of violations and related pre-determined fines even when utilities identify their own problem, tends to discourage self-regulation by the utility and we believe has a negative effect on safety. It is precisely this type of regulation which was criticized by the report of the President's Commission on Three Mile Island, which (at p.9) stated that the NRC was incorrectly obsessed with detailed regulations at the expense of a proper overall perspective of the objective of public health and safety.

Based on experience with the interim Enforcement Policy to date, the NRC approach seems to be to apply the policy in a very "cookbook", rigid fashion to maximize the civil penalties involved. This "punishes" the utility, or more accurately the ratepayer, and makes NRC look "tough" to the media and oversight groups; but it often does not serve safety and is not the way in which Congress intended the civil penalty authority to be utilized when these provisions were enacted.* In our view, the guiding principle in enforcement policy should be to take those actions which maximize incentives for the utility and plant operators to enhance safety.

Potential Recommendations:

- (1) Modification of the enforcement policy to remove rigid system requiring mandatory fines and to require application of judgment regarding safety significance of violations.
- (2) Improved NRC management of enforcement policy implementation to assure that relevant factors are properly and fairly accounted for.

*The Conferees on the FY1980 NRC Authorization Act noted the need to increase the NRC's civil penalty authority because "a few major NRC licensees have been unresponsive because the financial effect of current NRC penalties are negligible" (emphasis added). Accordingly, the Conferees directed that the NRC "in setting the amount of any penalty, will consider relevant factors such as the gravity of the violation, the financial impact of such fine on the licensee, good faith, and the history of previous violations." Conference Report No. 96-1070 (June 4, 1980), at p. 33-34.

Enclosure (2)

FEDERAL REGULATORY AND LICENSING PROBLEMS
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MAJOR REGULATORY REFORMS

Problem:

In the longer term, in order for the nuclear industry to expand and for nuclear power to become a viable part of our national energy programs, major reforms are needed in the regulatory process.

Potential Recommendations:

- (1) "One stop" licensing prior to plant construction.
- (2) Reorientation of the NRC Staff role away from detailed design control. Safety goals and regulatory criteria should be developed and the industry should be regulated within that framework instead of (as is now the case) trying to specify designs in great detail as part of the regulations.
- (3) Eliminate or reform adjudicatory hearing process which allows delay for the sake of delay.

Enclosure (2)

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RAPIDLY CHANGING REGULATION/BACKFITTING

Problem:

The regulatory atmosphere is unstable with rapidly changing requirements without adequate basis or understanding of their net affect on plant safety. This problem has been especially acute since TMI. When changes occur, plants that are operating or under construction, are often required to "backfit" without clear need or proper cost benefit considerations.

Impact:

As an example, the Emergency Planning requirements have changed radically on several occasions since January 1980. During this period, the Supply System in order to complete emergency facilities in time for scheduled plant operation, has had to commit to multi-million dollar facilities and programs based on highly fluid requirements. The Commission has recently (February 1981) issued still another set of Emergency Planning requirements and it is not clear to the Supply System at this time, whether our current facilities will meet these new rules.

Potential Recommendations:

- (1) The regulatory role needs to be modified. It is our view that the NRC should not be in the business of specifying detailed facility design and location. They should develop functional criteria that are necessary to assure safety and judge adequacy of utility implementation of the criteria.
- (2) Revise the NRC policies and practices on backfitting so that backfitting is only required if necessary to meet established safety goals. The fact that a change may provide an incremental improvement in safety without regard to the current level of safety or the cost of the change should not be a sufficient cause for change.